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Thursday
September 2, 1982

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Environmental Protection Agency

Aviation Safety
Federal Aviation Administration

Citizenship and Naturalization
Immigration and Naturalization Service

Classified Information
Nuclear Regulatory Commission

Forests and Forests Products
Land Management Bureau

Imports
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Income Taxes
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Coast Guard

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Navigation (Air)
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Pipelines
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Land Management Bureau

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

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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 JUSTICE

Immigration and Naturalization Service

8 CFR Part 332c

Photographic Studios; Establishment of Studios

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule further delegates oversight responsibility to the Service's regional commissioners for photographic studios operated by sponsoring organizations at Service district offices. The rule change relates solely to Service organization and management and has no impact upon the public.

EFFECTIVE DATE: September 1, 1982.

FOR FURTHER INFORMATION CONTACT: Stanley J. Kieszkiel, Acting Instructions Officer, Immigration and Naturalization Service, 425 Eye Street, N.W., Washington, D.C. 20536, Telephone: (202) 633-3048).

SUPPLEMENTARY INFORMATION: This rule delegates oversight responsibility to the Service's regional commissioners and operational supervision to the district directors for photographic studios which are operated by sponsoring organizations, without profit, in facilities of the Service. The former rule provided for oversight responsibility by the Commissioner. The change is solely administrative, and relates to Service organization and management. Section 332(g) of the Immigration and Nationality Act (8 U.S.C. 1443(c)) provides for the establishment of photographic studios in Service facilities for the benefit of persons seeking to comply with the requirements of the immigration and nationality laws.

Compliance with 5 U.S.C. 553 as to notice of proposed rule making and delayed effective date is not necessary since the rule involves Service organization and has no adverse impact upon the public.

In accordance with 5 U.S.C. 605(b) the Commissioner of Immigration and Naturalization certifies that this rule will not have a significant economic impact on a substantial number of small entities since it is limited to Service organization.

The rule is exempt from the requirements of E.O. 12291 as provided by section 1.(a)(3) of the Executive Order because it relates solely to Service organization and management.

List of Subjects in 8 CFR Part 332c

Citizenship and naturalization.

PART 332c—PHOTOGRAPHIC STUDIOS

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

Section 332c.1 is revised to read as follows:

§ 332c.1 Establishment of photographic studios.

District directors shall after investigation recommend to the appropriate regional commissioner the establishment and operation without profit, of photographic studios by sponsoring organizations solely for the benefit of persons seeking to comply with the requirements of the immigration and naturalization laws. Such studios must be in a building occupied by the Service and be conducted under the supervision of the district director. Each sponsoring organization shall submit an annual accounting of the conduct of each studio to the regional commissioner through the district director.

(Secs. 103, 332(g) of the Immigration and Nationality Act; 8 U.S.C. 1103, 1443(g)).

Dated: August 26, 1982.

Perry A. Rivkind,

Associate Commissioner, Management, Immigration and Naturalization Service.

[FR Doc. 82-24089 Filed 9-1-82; 8:45 am]
BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 82-059]

Importation of Horses From Canada

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the requirements for importation of horses from Canada to allow entry when accompanied by certification that negative results were obtained from official Agar-gel immunodiffusion (AGID) tests, commonly known as a "Coggins test", for equine infectious anemia (EIA) for which blood samples were drawn within 180 days of the date that the horses are offered for entry or return to the United States.

This action is necessary because the present requirement is an unnecessary barrier to the importation of horses from Canada. The intended effect of this action is to allow horses entering or returning to the United States from Canada to enter the United States under adequate but less restrictive requirements.

EFFECTIVE DATE: September 2, 1982.

FOR FURTHER INFORMATION CONTACT: Dr. Mark Dulin, USDA, APHIS, VS, Room 818, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been reviewed in conformance with Executive Order 12291, and has been determined to be not a "major rule." This rule will not result in any significant effect on the economy; any major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities because it will reduce the frequency of one inexpensive test for one species of animal from one country. Over the past five years (Fiscal Years 1976–1980), on the average, 19,148 horses have entered or returned to the United States annually from Canada. The aggregate amount received by individual veterinarians and laboratories for testing these animals is not a significant part of their incomes.

Alternatives

The alternatives considered in making this decision were (1) continue the present requirement that Canadian horses must be tested for EIA within 60 days from the date of importation, (2) to remove the test requirement and permit Canadian horses to enter the United States without a Coggins test for EIA, (3) to extend the test requirement from the current 60-day period to a 1-year period, and (4) to extend the test requirement from the current 60-day period to a 180-day period.

Alternative No. 1 causes confusion to United States importers because the Canadian Coggins test requirement for United States horses is valid for a period of 6 months. The current United States import requirements for Canadian horses require the Coggins test to be conducted within 60 days prior to importation. This test requirement was extended to 90 days for returning horses which entered Canada for exhibition purposes.

Alternative No. 2, removing the EIA test requirement, would be an unacceptable health risk and be inconsistent with State EIA control programs.

Alternative No. 3, extending the current test requirement from 60 days to 1 year, was unacceptable because the risk of importing an EIA-affected horse is greater than would occur if all horses were tested within 6 months prior to importation. Also, similar to Alternative No. 1, a one year period would be different from Canada's test requirement and could cause confusion to importers.

Alternative No. 4 would allow horses that had a negative Coggins test to be eligible for importation provided the horse was tested within 6 months prior to importation. This 6-month period offers a minimal risk of importing a horse affected with EIA. Additionally, horse importers would save an average of $20 per test. Because test results would be valid for an additional 4 months, or two-thirds longer, there could be as much as a two-thirds savings to United States importers. The 6-month EIA test requirement would be consistent with what is required by most States for the interstate movement of United States horses.

Alternative No. 4 was selected because it offers a reasonable amount of protection at less cost to United States importers.

Background

On March 8, 1982, a document was published in the **Federal Register** (47 FR 9854–9855) which proposed to amend the regulations in 9 CFR 92.24(a) and 92.25(b) by allowing the importation of horses from Canada when accompanied by certification that negative results were obtained from official tests for equine infectious anemia (EIA) for which blood samples were drawn within 180 days of the date that the horses are offered for entry or return to the United States. A comment period of 60-days was provided which expired on May 10, 1982. Eight comments were received and all were in favor of the proposed changes.

The existing certification requirements for importation of horses from Canada, § 92.24(a), include evidence of a negative EIA-test report that has been performed within the last 60 days prior to the animals being offered for entry at our border port. Ninety days is presently allowed for testing exhibition animals that have entered Canada from the United States and are returning to the United States. (§ 92.25(b)). The Department has been strongly urged to reconsider its present requirements in the light of standards of international movement.

EIA is a viral disease of horse. It is transmitted by the bite of bloodsucking insects or use of unsterilized, contaminated surgical instruments, such as hypodermic needles. The disease is found in most countries of the world where there are horses.

The Canadian government has actively pursued an EIA-control program since February 1971. Animals suspected of the disease are tested by the Agar-gel immunodiffusion (AGID) method. Any reactors are disposed of or permanently quarantined. The incidence of the disease in Canada is low because there is less intermingling among herds than in the United States and the insect vector season is shorter than in the United States, thus reducing the opportunities for transmission of the EIA virus. Information provided by the Department's scientific advisors further discloses that there is a small horse population in Canada, that Canada enforces a mandatory EIA test for all horses that are publicly raced, which provides a continuous monitoring of EIA in a representative sampling of the Canadian horse population, and that Canada has a program whereby persons are paid for reporting EIA in horses, which encourages the reporting of EIA reactors. All of the information provided suggests that there would be no significant increase in risk of EIA by extending the time period prior to entry into the United States within which horses from Canada must have been tested for the disease.

Therefore, the Department is amending § 92.24(a) and § 92.25(b) to require negative results from official tests for EIA for which samples were drawn within 180 days of the date that the horses are offered for entry or return to the United States. The regulation specifies that a test for EIA is only valid since the day the blood sample is drawn, regardless of when the sample is processed by an approved laboratory, because the results of the test are only valid as to the true health status of the animal on the day the blood sample is drawn.

The Department is also amending the regulation to allow the blood samples to be tested not only in laboratories approved by the Canada Department of Agriculture, but also laboratories approved by this Department. This Department sets the standards for which approval may be granted to a laboratory located in the United States. Canada requires those same standards to be met before it will grant approval to a laboratory. Therefore, a test conducted in an approved laboratory, whether located in the United States or Canada, would be acceptable so long as the blood sample was drawn and tested within 180 days prior to entry of the horse into the United States.

Further, Dr. John K. Atwell, Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, has determined, in accordance with the provisions of 5 U.S.C. 553, that good cause exists to make this final rule effective upon publication. Namely, the summer months are when the greatest volume of horses move between the United States and Canada. This rule would facilitate the movement of horses between the two countries by easing the current restrictions and should be made effective immediately to be of maximum benefit to affected persons.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Livestock and livestock products,

Quarantine, Transportation, Equine infectious anemia (EIA).

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended in the following respects:

§ 92.24 [Amended]

1. In § 92.24(a), the phrase, "conducted during the 60 days preceding exportation in a laboratory approved by the Canada Department of Agriculture" is amended to read "for which blood samples were drawn during the 180 days preceding exportation to the United States and which test was conducted in a laboratory approved by the Canada Department of Agriculture or the United States Department of Agriculture;".

§ 92.25 [Amended]

2. In § 92.25(b), the phrase, "which were conducted within 90 days of the date", is amended to read: "for which blood samples were drawn within 180 days of the date".

(Sec. 2, 32 Stat. 792, as amended; secs. 4 and 11, 76 Stat. 130, 132; (21 U.S.C. 111, 134c, 134f); 37 FR 28464, 28477; 38 FR 19141)

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

G. J. Fichtner,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-23977 Filed 9-1-82; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 10, 11, 25, and 95

Revision and Clarification of Criteria and Procedures for Determining Eligibility for Access to Restricted Data or National Security Information or an Employment Clearance and Conforming Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to clarify and update the criteria and procedures used for determining the eligibility of an individual for access to Restricted Data or national security information, or an employment clearance. The amendments are in response to an indepth study and analysis to determine and recommend necessary amendments. The amendments will improve the timeliness for reviewing cases by using individual Hearing Examiners and Hearing Review Examiners, clearly distinguishing "access authorization" review procedures in a more logical, clear, and concise manner. This amendment also makes conforming changes to other parts of the Commission's regulations.

EFFECTIVE DATE: October 2, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Martin J. King, Chief, Personnel Security Branch, Division of Security, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 427-4474.

SUPPLEMENTARY INFORMATION: On May 7, 1982, the Commission published in the **Federal Register** (47 FR 19703) for public comment, proposed amendments to 10 CFR Part 10 of its regulations. Comments were invited, but none were received. No changes have been made to the proposed revisions since publication in the **Federal Register** on May 7, 1982.

As discussed in the statement of considerations that accompanied the proposed rule the Nuclear Regulatory Commission adopted the former Atomic Energy Commission's 10 CFR Part 10 in March 1975. Minor clarifying and corrective amendments were made by the Nuclear Regulatory Commission in 1977.

Staff review subsequently indicated that many of the criteria were outdated and in need of revision. Also, during the rulemaking proceeding on 10 CFR Part 11 some commenters were critical that the rule contained criteria regarding homosexuality and refusal to serve in the armed forces. As a result of these and other comments, a study was undertaken to provide an overall assessment of both the criteria and the procedures for Part 10. Based on the study, the following revision to Part 10 is being proposed.

Access authorization and employment clearance have been defined separately to permit an individual to continue employment even though it may be necessary to suspend the individual's access authorization pending resolution of derogatory information which rasises a question concerning the individual's access eligibility.

The two separate categories of derogatory information criteria, "A" and "B", have been combined in § 10.11 with determination as to eligibility for access authorization and/or employment clearance based upon a comprehensive common-sense judgment, made after consideration of all relevant information, favorable and unfavorable.

The number of criteria listed as examples for consideration in determining eligibility have been reduced from 22 to 13 by combining several of the criteria and eliminating others. Criteria concerning "homosexuality," "refusal to serve in the Armed Forces," and family relatives "residing in a nation whose interest may be inimical to the United States" have been deleted. Also, reference to activities of the spouse have been deleted from the criteria.

Procedures for administrative review hearings have been rewritten and revised. Most significantly, the Personnel Security Board has been replaced by a single Hearing Examiner. Also, the Personnel Security Review Board was eliminated in favor of three Hearing Review Examiners who will individually and independently consider the case under review. Implementation of this system is expected to improve the timeliness in which cases are administratively reviewed under Part 10. As a result of these amendments, conforming amendments to Parts 11, 25, and 95 are also being made.

Regulatory Flexibility Statement

This rule will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b). This rule contains modifications to the criteria and procedures for determining the eligibility of individuals for access to Restricted Data, national security information, or an employment clearance. It should not result in any increased costs to licensees.

Paperwork Reduction Act Statement

This final rule contains no new or amended requirements for record-keeping, reporting, plans or procedures, applications, or any other type of information collection.

List of Subjects in 10 CFR Part 10

Administrative practice and procedure, Classified information, Government employees, Security measures.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Section 553 of Title 5 of the United States Code, notice is hereby given of the adoption of the following revision to 10 CFR Parts 10, 11, 25, and 95.

The authority citation for Part 10 is presented in the revision of that part. The authority for the amendments to Parts 11, 25, and 95 is Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201).

1. Part 10 is revised to read as follows:

PART 10—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO RESTRICTED DATA OR NATIONAL SECURITY INFORMATION OR AN EMPLOYMENT CLEARANCE

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10.3 [Reserved]
10.4 Policy
10.5 Definitions.

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Authority: Sec. 145, 68 Stat. 942, as amended; 42 U.S.C. 2165; sec. 161, 68 Stat. 948, as amended; 42 U.S.C. 2201, sec. 201(f) 88 Stat. 1243, 42 U.S.C. 5841; E.O. 10450, 3 CFR 1949–1953 comp., p. 936, as amended; E.O. 10865, 3 CFR 1059–1963 comp., p. 398, as amended, 3 CFR, Chap. IV.

Subpart A—General Provisions

§ 10.1 Purpose.

This part establishes the criteria, procedures, and methods for resolving questions concerning: (a) The eligibility of individuals who are employed by or applicants for employment with NRC contractors, agents, and licensees of the NRC, individuals who are NRC employees or applicants for NRC employment, and other persons designated by the Executive Director for Operations of the NRC, for access to Restricted Data pursuant to the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, or for access to national security information ; and (b) the eligibility of NRC employees, or the eligibility of applicants for employment with the NRC, for employment clearance. This part is published to implement such Statutes and Executive Orders 10865, 25 FR 1583 (February 24, 1960), and 10450, 18 FR 2489 (April 27, 1954).

§ 10.2 Scope.

The criteria and procedures in this part shall be used in determining eligibility for NRC access authorization and/or employment clearance involving:

(a) Employees (including consultants) of contractors and agents of the Nuclear Regulatory Commission and applicants for employment;

(b) Licensees of the NRC and their employees (including consultants) and applicants for employment; and

(c) NRC employees (including consultants) and applicants for employment;

(d) Any other person designated by the Executive Director for Operations of the Nuclear Regulatory Commission.

§ 10.3 [Reserved]

§ 10.4 Policy.

It is the policy of the Nuclear Regulatory Commission to carry out its responsibility for the security of the nuclear energy program in a manner consistent with traditional American concepts of justice. To this end, the Commission has established criteria for determining eligibility for access authorization and/or employment clearance and will afford those individuals described in § 10.2 the opportunity for administrative review of questions concerning their eligibility for access authorization and/or employment clearance.

§ 10.5 Definitions.

As used in this part:

(a) "Access authorization" means an administrative determination that an individual (including a consultant) who is employed by or an applicant for employment with the NRC, NRC contractors, agents, and licensees of the NRC, or other person designated by the Executive Director for Operations, is eligible for a security clearance for access to Restricted Data or national security information.

(b) "Hearing Examiner" means a qualified attorney appointed by the Director, Office of Administration, to conduct a hearing in accordance with this part.

(c) "Hearing Counsel" means an NRC attorney assigned by the Executive Legal Director to prepare and administer hearings in accordance with this part.

(d) "Personnel Security Review Examiners" are persons designated by the Executive Director for Operations to conduct a review of the record in accordance with this part.

(e) "Commission" means the Nuclear Regulatory Commission of five members or a quorum thereof sitting as a body, as provided by Section 201 of the Energy Reorganization Act of 1974, or its designee.

(f) "Employment Clearance" means an administrative determination that an individual (including a consultant) who is an NRC employee or applicant for NRC employment and other persons designated by the Executive Director for Operations of the NRC is eligible for employment or continued employment pursuant to subsection 145 b. of the Atomic Energy Act of 1954, as amended.

(g) "Eligible" or "Eligibility" means both initial eligibility and continued eligibility of an individual for access authorization and/or employment clearance.

(h) "National Security Information" means information that is owned by, produced for or by, or under the control of the United States Government, and that has been determined, pursuant to Executive Order 12356 or antecedent orders, to require protection against unauthorized disclosure, and is so designated.

(i) "Restricted Data" means all data concerning design, manufacture, or utilization of atomic weapons, the production of special nuclear material, or the use of special nuclear material in the production of energy, but shall not include data declassified or removed from the Restricted Data category pursuant to Section 142 of the Atomic Energy Act of 1954, as amended.

Subpart B—Criteria for Determining Eligibility for Access to Restricted Data or National Security Information or an Employment Clearance

§ 10.10 Application of the criteria.

(a) The decision as to access authorization and/or employment clearance is a comprehensive, common-sense judgment, made after consideration of all the information, favorable or unfavorable, relevant to whether the granting of access authorization and/or employment clearance would not endanger the common defense and security and would be clearly consistent with the national interest.

(b) The criteria in § 10.11 set forth a number of the types of derogatory information used to assist in making determinations of eligibility for access authorization and/or employment clearance. These criteria are not exhaustive but contain the principal types of derogatory information which create a question as to the individual's eligibility for access authorization and/or employment clearance. While there must necessarily be adherence to such criteria, the NRC is not limited to them, nor precluded from exercising its judgment that information or facts in a case under its cognizance are derogatory although at variance with, or outside the scope of, the stated categories. These criteria are subject to continuing review and may be revised from time to time as experience and circumstances may make desirable.

(c) When the reports of investigation of an individual contain information reasonably tending to establish the truth of one or more of the items in the criteria, such information shall be regarded as derogatory and shall create a question as to the individual's eligibility for access authorization and/or employment clearance. A question concerning the eligibility of an individual for access authorization and/or employment clearance shall be resolved in accordance with the procedures set forth in § 10.20 *et seq.*

(d) In resolving a question concerning the eligibility or continued eligibility of an individual for access authorization and/or employment clearance, the following principles shall be applied by the Director, Division of Security, Hearing Examiners, and Personnel Security Review Examiners:

(1) Information reasonably tending to establish the truth of one or more of the items in the criteria shall be the basis for recommending denial or revocation of access authorization and/or employment clearance unless evidence to support faith in the individual's reliability and trust-worthiness is affirmatively shown.

(2) When deemed material to the deliberations, the extent of the activity, conduct, or condition, the period in which they occurred or existed, the length of time which has since elapsed, and the attitude and convictions of the individual shall be considered in determining whether the recommendation will be adverse or favorable.

§ 10.11 Criteria.

(a) The criteria for determining eligibility for access authorization and/or employment clearance shall relate, but not be limited, to the following where an individual:

(1) Committed, attempted to commit, aided, or abetted another who committed or attempted to commit any act of sabotage, espionage, treason, sedition, or terrorism.

(2) Publicly or privately advocated actions that may be inimical to the interest of the United States, or publicly or privately advocated the use of force or violence to overthrow the Government of the United States or the alteration of the form of government of the United States by unconstitutional means.

(3) Knowingly established or continued a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, terrorist, or revolutionist, or with an espionage agent or other secret agent or representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the Government of the United States or the alteration of the form of government of the United States by unconstitutional means.

(4) Joined or engaged in any activity knowingly in sympathy with or in support of any foreign or domestic organization, association, movement, group, or combination of persons which unlawfully advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the United States or any State or any subdivisions thereof by unlawful means, or which advocate the use of force and violence to overthrow the Government of the United States or the alteration of the form of government of the United States by unconstitutional means. (Ordinarily, criteria (3) and (4) will not include chance or casual meetings or contacts limited to normal business or official relations.)

(5) Deliberately misrepresented, falsified or omitted relevant and material facts from or in a personnel security questionnaire, a personal qualifications statement, a personnel security interview, or any other information submitted pursuant this part.

(6) Willfully violated or disregarded security regulations or was grossly negligent with respect thereto to a degree which could endanger the common defense and security; or by intention or gross carelessness disclosed Restricted Data or national security information to any person not authorized to receive it.

(7) Has any illness or mental condition which in the opinion of competent medical authority may cause significant defect in the judgment or reliability of the individual.

(8) Has been convicted of crimes indicating habitual criminal tendencies.

(9) Has been convicted of a crime, or has a background, where the facts, circumstances, or conduct are of a nature indicating poor judgment, unreliabilty, or untrustworthiness.

(10) Is a user of alcohol habitually and to excess, or has been such without adequate evidence of rehabilitation.

(11) Has been, or is, a user of a drug or other substance listed in the schedules of Controlled Substances established pursuant to the Controlled Substances Act of 1970 (such as amphetamines, barbiturates, narcotics, etc.), except as prescribed or administered by a physician licensed to dispense drugs in the practice of medicine, without adequate evidence of rehabilitation.

(12) Refused, without satisfactory explanation, to answer questions before a congressional committee, Federal or state court, or Federal administrative body including the NRC regarding charges relevant to the individual's eligibility for access authorization and/or employment clearance.

(13) Engaged in any other conduct or is subject to any other circumstances which tend to show that the individual is not reliable or trustworthy, or which furnishes reason to believe that the individual may be subject to coercion. influence, or pressures which may cause the individual to act contrary to the national interest.

§ 10.12 Interview and other investigation.

(a) The Director, Division of Security, Office of Administration, may authorize the granting of access authorization and/or employment clearance on the basis of the information in the possession of the NRC or may authorize the conduct of an interview with the individual, if the individual consents to be interviewed, or such other investigation as the Director deems appropriate. On the basis of such interview and/or investigation, the Director may authorize the granting of access authorization and/or employment clearance.

(b) The individual may elect on constitutional or other grounds not to participate in an interview or other investigation; however, such refusal or failure to furnish or authorize the furnishing of relevant and material information is deemed to be derogatory information pursuant to § 10.11(a)(5) and (12).

(c) If the director, Division of Security, cannot make a favorable finding

regarding the eligibility of an individual for access authorization and/or employment clearance, the question of the individual's eligibility shall be resolved in accordance with the procedures set forth in § 10.20 *et seq.*

Subpart C—Procedures

§ 10.20 Purpose of the procedures.

These procedures establish methods for the conduct of hearings and administrative review of questions concerning an individual's eligibility for access authorization and/or employment clearance pursuant to the Atomic Energy Act of 1954, as amended, and Executive Orders 10450 and 10865, when a resolution favorable to the individual cannot be made on the basis of the interview or other investigation.

§ 10.21 Suspension of access authorization and/or employment clearance.

In those cases where information is received which raises a question concerning the continued eligibility of an individual for access authorization and/or employment clearance, the Director, Division of Security, through the Director, Office of Administration, shall forward to the Executive Director for Operations, his or her recommendation as to whether the individual's access authorization and/or employment clearance should be suspended pending the final determination resulting from the operation of the procedures provided in this part. In making this recommendation the Director, Division of Security, shall consider such factors as the seriousness of the derogatory information developed, the degree of access of the individual to classified information, and the individual's opportunity by reason of his or her position to commit acts adversely affecting the national security. An individual's access authorization and/or employment clearance shall not be suspended except by the direction of the Executive Director for Operations.

§ 10.22 Notice to individual.

A notification letter, prepared by the Division of Security, approved by the Office of the Executive Legal Director, and signed by the Director, Office of Administration, shall be presented to each individual whose eligibility for access authorization and/or employment clearance is in question. Where practicable, such letter shall be presented to the individual in person. The letter will be accompanied by a copy of this part and shall state:

(a) That reliable information in the possession of the NRC has created a substantial doubt concerning the individual's eligibility for access authorization and/or employment clearance;

(b) The information that creates a substantial doubt regarding the individual's eligibility for access authorization and/or employment clearance, which shall be as comprehensive and detailed as the national security permits;

(c) That unless the individual files with the Director, Office of Administration, a written request for a hearing within 20 days of the individual's receipt of the notification letter, the Director, Division of Security, through the Director, Office of Administration, will submit a recommendation as to the final action to the Executive Director for Operations on the basis of the information in the possession of the NRC;

(d) That if the individual files a written request for a hearing with the Director, Office of Administration, the individual must file with that request a written answer under oath or affirmation which admits or denies specifically each allegation and each supporting fact contained in the notification letter. A general denial is not sufficient to controvert a specific allegation. If the individual is without knowledge, he or she shall so state and that statement shall operate as a denial. The answer shall also state any additional facts and information that the individual desires to have considered in explanation or mitigation of allegations in the notification letter. Failure to specifically deny or explain or deny knowledge of any allegation or supporting fact shall be deemed an admission that the allegation or fact is true;

(e) That if the individual does not want to exercise his or her right to a hearing, but does want to submit an answer to the allegations in the notification letter, the individual may do so by filing with the Director, Office of Administration, within 20 days of his receipt of the notification letter, a written answer in accordance with the requirements of paragraph (d) of this section;

(f) That the procedures in § 10.24 *et seq.* shall apply to any hearing and review.

§ 10.23 Failure of individual to request a hearing.

(a) In the event the individual fails to file a written request for a hearing pursuant to § 10.22 within 20 days of his receipt of the notification letter, a recommendation as to the final action to be taken shall be made by the Director, Division of Security, through the Director, Office of Administration, to the Executive Director for Operations on the basis of the information in the possession of the NRC, including any answer filed by the individual.

(b) The Director, Office of Administration, may for good cause shown, at the request of the individual, extend the time for filing a written request for a hearing or for filing a written answer to the matters contained in the notification letter.

§ 10.24 Procedures for hearing and review.

(a) Upon receipt of a timely filed request for a hearing and answer complying with the requirements set forth in § 10.22, the Director, Office of Administration, shall forthwith appoint a Hearing Examiner, and Executive Legal Director shall forthwith assign an NRC attorney to act as Hearing Counsel. The Director, Office of Administration, shall promptly notify the individual of the identity of the Hearing Examiner and proposed hearing date, which shall be selected with due regard for the convenience of the parties and their representatives.

(b) Within 72 hours of being notified of the identity of the Hearing Examiner, the individual may request that the Hearing Examiner be disqualified for cause by filing with the Director, Office of Administration, a written statement of the individual's reasons for seeking disqualification. The time for filing the request may be extended by the Director, Office of Administration, for good cause shown. If the Director, Office of Administration, grants the request the procedures of paragraph (a) of this section and this paragraph shall be followed just as though there had been no prior appointment.

(c) The individual shall have the right to appear at the hearing before the Hearing Examiner, to be represented by counsel or other representative, to introduce documentary or other evidence, and to call, examine, and cross-examine witnesses, subject to the provisions and limitations set forth in this part.

§ 10.25 NRC Hearing Counsel.

(a) Hearing Counsel assigned pursuant to § 10.24 shall, prior to the scheduling of the hearing, review the information in the case and shall request the presence of witnesses and the production of documents and other physical evidence relied upon the Director, Division of Security, in making his or her finding that a question exists regarding the eligibility of the individual

for NRC access authorization and/or employment clearance in accordance with the provisions of this part. When the presence of a witness and the production of documents and other physical evidence is deemed by the Hearing Counsel to be necessary or desirable for a determination of the issues, the Director, Division of Security, shall make arrangements for the production of such evidence and for such witnesses to appear at the hearing by subpoena or otherwise.

(b) Hearing Counsel is authorized to consult directly with individual's counsel or representative or the individual, if the individual is not so represented, for purposes of reaching mutual agreement upon arrangements for expeditious hearing of the case. Such arrangements may include clarification of issues and stipulations with respect to testimony and contents of documents and other physical evidence. Such stipulations when entered into shall be binding upon the individual and the NRC for the purposes of this part. Prior to any consultation with the individual, the Hearing Counsel shall advise the individual of his or her rights under this part, of his or her right to counsel or other representation, and of the possibility that any statement made by the individual to the Hearing Counsel may be used in subsequent proceedings.

(c) The individual is responsible for producing witnesses in his or her own behalf and/or presenting other evidence before the Hearing Examiner to support the individual's answer and defense to the allegations contained in the notification letter. When requested, however, Hearing Counsel shall assist the individual to the extent practicable and necessary. The Hearing Counsel may at his or her discretion request the Director, Division of Security, to arrange for the issuance of subpoenas for witnesses to attend the hearing in the individual's behalf, or for the production of specific documents or other physical evidence, provided a showing of the necessity for such assistance has been made.

§ 10.26 Appointment of hearing examiner.

The appointment of a Hearing Examiner, pursuant to § 10.24 of this part, shall be from a list of qualified attorneys possessing the highest degree of integrity, ability, and good judgment. To qualify, an attorney shall have an NRC "Q" access authorization and may be an employee of the NRC, its contractors, agents or licensees. However, no employee or consultant of the NRC shall serve as Hearing Examiner hearing the case of an employee (including a consultant) or applicant for employment with the NRC; nor shall any employee or consultant of an NRC contractor, agent or licensee serve as Hearing Examiner hearing the case of an employee (including a consultant) or an applicant for employment of that contractor, agent, or licensee. No Hearing Examiner shall be selected who has knowledge of the case or of any information relevant to the disposition of it, or who for any reason would be unable to issue a fair and unbiased recommendation.

§ 10.27 Prehearing proceedings.

(a) After the appointment of the Hearing Examiner, he or she shall be furnished the record in the case, which shall consist of the letter of notification, the request for hearing and its supporting answer, and the notice of hearing, if it has been issued, and any stipulations agreed to by the individual and the Hearing Counsel.

(b) The Hearing Examiner may on his or her own motion, or on that of either party, convene a prehearing conference with the Hearing Counsel and the individual and his or her counsel or representative, if any, for the purpose of clarifying the issues, identifying witnesses who may be called, identifying documents and other physical evidence that may be offered into evidence, and entering into stipulations of fact.

(c) The parties will be notified by the Hearing Examiner at least ten days in advance of the hearing of the time and place of the hearing. For good cause shown, the Hearing Examiner may order postponements or continuances from time to time. If, after due notice, the individual fails to appear at the hearing, or appears but is not prepared to proceed, the Hearing Examiner shall, unless good cause is shown, return the case to the Director, Division of Security, who shall make a recommendation on final action to be taken, through the Director, Office of Administration, to the Executive Director for Operations on the basis of the information in the possession of the NRC.

§ 10.28 Conduct of hearing.

(a) The Hearing Examiner shall conduct the hearing in an orderly, impartial and decorous manner. Technical rules of evidence may be relaxed so that a full evidentiary record may be made based on all material and relevant facts. Hearsay evidence may for good cause shown be received at the discretion of the Hearing Examiner and accorded such weight as the circumstances warrant.

(b) The proceedings shall be open only to duly authorized representatives of the staff of the NRC, the individual, his or her counsel or representative, and such persons as may be officially authorized by the Hearing Examiner. Witnesses shall not testify in the presence of other witnesses except that the Hearing Examiner may, at his or her discretion, allow for expert witnesses to be present during testimony relevant to their own testimony.

(c) Witnesses, including the individual, shall be examined under oath or affirmation by the party who called them and may be cross-examined by the other. The Hearing Examiner shall rule on all evidentiary matters, may further examine any witness, and may call for additional witnesses or the production of documentary or other physical evidence if, in the exercise of his or her discretion, such additional evidence is deemed necessary to the resolution of an issue.

(d) If it appears during the hearing that Restricted Data or national security information may be disclosed, the Hearing Examiner shall assure that disclosure is made only to persons authorized to receive it.

(e) The Hearing Examiner may, at any time during the hearing, permit the Hearing Counsel to amend the notification letter to add or modify allegations to be considered. In the event of such an amendment to the notification letter, the individual shall be given an opportunity to answer the amended allegations. If the changes are of such a substantial nature that the individual cannot answer the amended allegations without additional time, the Hearing Examiner shall grant such additional time as he or she deems necessary.

(f) The Hearing Examiner may receive and consider evidence in the form of depositions or responses to interrogatories upon a showing that the witness is not available for good reason such as death, serious illness or similar cause, or in the form of depositions, interrogatories, affidavits or statements with agreement of the parties. The Hearing Examiner may take official notice at any stage of the proceeding, where appropriate, of any fact not subject to reasonable dispute in that it is either (1) generally known within the United States or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking such official notice. In the absence of prior notification the

request may be made after notice is taken.

(g) Hearing Counsel shall examine and cross-examine witnesses and otherwise assist the Hearing Examiner in such a manner as to bring out a full and true disclosure of all facts, both favorable and unfavorable, having a bearing on the issues before the Hearing Examiner. In performing these duties, the Hearing Counsel shall avoid the attitude of a prosecutor and shall always bear in mind that the proceeding is an administrative hearing and not a trial.

(h) Hearing Counsel shall not participate in the deliberations of the Hearing Examiner, and shall express no opinion to the Hearing Examiner concerning the merits of the case. Hearing Counsel shall also, during the course of the hearing, advise the individual of his or her rights under these procedures when the individual is not represented by counsel or other representative.

(i) The individual shall be afforded an opportunity to cross-examine persons who have made oral or written statements adverse to the individual relating to a controverted issue except that any such statement may be received and considered by the Hearing Examiner without affording such opportunity in either of the following circumstances:

(1) The head of the department or agency supplying the statement certifies that the person who furnished the information is a confidential informant who has been engaged in obtaining intelligence information for the Government and that disclosure of the informant's identity would substantially harm the national interest or would endanger the well-being of the informant.

(2) The Commission has determined, after considering the information furnished by the investigative agency concerning the reliability of the person who furnished the information and the accuracy of the statement concerned, that the statement appears to be reliable and material, and that failure of the Hearing Examiner to receive and consider such statement would, in view of the fact that access authorization and/or employment clearance is being sought, be substantially harmful to the national security and that the person who furnished the information cannot appear to testify due to death, serious illness, or similar cause.

(j) (1) Whenever the procedure under paragraph (i)(1) of this section is used, the individual shall be given a summary of the information which shall be as comprehensive and detailed as the national security permits. (2) Whenever the procedure under paragraph (i)(2) is used, the individual shall be provided the identity of the person and the information to be considered. (3) In both paragraph (i) (1) and (2) procedures, appropriate consideration shall be accorded to the fact that the individual did not have an opportunity to cross-examine such informant or person.

(k) Records provided by investigative agencies that were compiled as a regular or routine procedure by the business or agency from which obtained, or other physical evidence other than investigative reports, may be received and considered subject to rebuttal without authenticating witnesses, provided that the investigative agency furnished such information to the NRC pursuant to its responsibilities in connection with assisting the NRC in determining the individual's eligibility for access authorization and/or employment clearance.

(l) Records compiled in the regular course of business, or other physical evidence other than investigative reports, relating to a controverted issue which, because they are classified, may not be inspected by the individual, may be received and considered provided that:

(1) The Commission has made a determination that such records or other physical evidence appears to be material;

(2) The Commission has made a determination that failure to receive and consider such records or other physical evidence would, in view of the fact that access authorization and/or employment clearance is being sought, be substantially harmful to the national security; and

(3) To the extent that national security permits, a summary or description of such records or other physical evidence is made available to the individual. In every such case, information as to the authenticity and accuracy of such physical evidence furnished by the investigative agency shall be considered.

(m) If the Hearing Examiner determines that additional investigation of any material information is required, he or she shall request in writing that the Director, Office of Administration, arrange for the investigation and shall specify those issues upon which more evidence is requested and identify, where possible, any persons or sources that might provide the evidence sought.

(n) A written transcript of the entire proceeding shall be made by a person possessing appropriate NRC access authorization and/or employment clearance and, except for portions containing Restricted Data or national security information, or other lawfully withholdable information, a copy of such transcript shall be furnished the individual without cost.

§ 10.29 Recommendation of the Hearing Examiner.

(a) The Hearing Examiner's findings and recommendation shall be based upon the entire record consisting of the transcript of the hearing, the documentary and other evidence adduced therein, and the letter of notification and answer. The Hearing Examiner shall also consider the circumstances of the receipt of evidence pursuant to § 10.28, the individual's record of past employment, and the nature and sensitivity of the job the individual is or may be expected to perform.

(b) The Hearing Examiner shall make specific findings on each allegation in the notification letter including the reasons for his or her findings, and shall make a recommendation as to the action which should be taken in the case.

(c) The Hearing Examiner's recommendation shall be predicated upon his or her findings. If, after considering all the factors in light of the criteria in this part, the Hearing Examiner is of the opinion that granting or continuing access authorization and/or employment clearance to the individual will not endanger the common defense and security and will be clearly consistent with the national interest, a favorable recommendation shall be made; otherwise, an adverse recommendation shall be made.

(d) The Hearing Examiner shall submit his or her findings and recommendation in a signed report together with the record of the case to the Director, Office Administration, with the least practical delay.

(e) The Hearing Examiner shall not consider the possible impact of the loss of the individual's services upon the NRC program.

§ 10.30 New evidence.

After the close of the hearing, in the event the individual discovers new evidence not previously available or known to him or her, the individual may petition the Hearing Examiner if the Hearing Examiner's recommendation has not yet been issued, or thereafter, the Director, Office of Administration, to reopen the record to receive that evidence. If the Hearing Examiner or the Director, respectively, deem it material and appropriate, the record may be reopened to accept the evidence either by stipulation, with the agreement of the

Hearing Counsel, or in a reconvened hearing.

§ 10.31 Actions on the recommendations.

(a) Upon receipt of the findings and recommendation from the Hearing Examiner, and the record, the Director, Office of Administration, shall forthwith transmit it to the Executive Director for Operations who at his or her discretion may return the record to the Director, Office of Administration, for further proceedings by the Hearing Examiner with respect to specific matters designated by the Executive Director for Operations;

(b)(1) In the event of a recommendation by the Hearing Examiner that an individual's access authorization and/or employment clearance be denied or revoked, the Executive Director for Operations shall immediately notify the individual in writing of the Hearing Examiner's findings with respect to each allegation contained in the notification letter, and that the individual has a right to request a review of his or her case by NRC Personnel Security Review Examiners and of the right to submit a brief in support of his or her contentions. The request for a review shall be submitted to the Executive Director for Operations within five days after the receipt of the notice. The brief shall be forwarded to the Executive Director for Operations, for transmission to the NRC Personnel Security Review Examiners, not later than 10 days after receipt of such notice.

(2) In the event the individual fails to request a review by NRC Personnel Security Review Examiners of an adverse recommendation within the prescribed time, the Executive Director for Operations may at his or her discretion request a review of the record of the case by NRC Personnel Security Review Examiners. The request shall set forth those matters at issue in the hearing on which the Executive Director for Operations desires a review by the NRC Personnel Security Review Examiners.

(c) Where the Hearing Examiner has made a recommendation favorable to the individual, the Executive Director for Operations may at his or her discretion request a review of the record of the case by NRC Personnel Security Review Examiners. If such a request is made, the Executive Director for Operations shall immediately cause the individual to be notified of that fact and of those matters at issue in the hearing on which the Executive Director for Operations desires a review by the NRC Personnel Security Review Examiners. The Executive Director for Operations shall further inform the individual that within 10 days of receipt of this notice, the individual may submit a brief concerning those matters at issue for the consideration of the NRC Personnel Security Review Examiners. The brief shall be forwarded to the Executive Director for Operations for transmission to the NRC Personnel Security Review Examiners.

(d) In the event of a request for a review pursuant to paragraphs (b) and (c) of this section, the Hearing Counsel may file a brief within 10 days of being notified by the Executive Director for Operations that a review has been requested. The brief shall be forwarded to the Executive Director for Operations for transmission to the NRC Personnel Security Review Examiners.

(e) The Hearing Counsel may also request a review of the case by NRC Personnel Security Review Examiners. The request for review, which shall set forth those matters at issue in the hearing on which the Hearing Counsel desires a review, shall be submitted to the Executive Director for Operations within five days after receipt of the Hearing Examiner's findings and recommendation. Within 10 days of the request for review, the Hearing Counsel may file a brief which shall be forwarded to the Executive Director for Operations for transmission to the NRC Personnel Security Review Examiners. A copy of the request for review, and a copy of any brief filed, shall be immediately sent to the individual. If the Hearing Counsel's request is for a review of a recommendation favorable to the individual, the individual may, within 10 days of receipt of a copy of the request for review, submit a brief concerning those matters at issue for consideration of the NRC Personnel Security Review Examiners. The brief shall be forwarded to the Executive Director for Operations for transmission to the NRC Personnel Security Review Examiners.

(f) The time limits imposed by this section for requesting reviews and the filing of briefs may be extended by the Executive Director for Operations for good cause shown.

(g) In the event a request is made for a review of the record by NRC Personnel Security Review Examiners, the Executive Director for Operations shall forthwith send the record, with all findings and recommendations and any briefs filed by the individual and the Hearing Counsel, to the NRC Personnel Security Review Examiners. If neither the individual, the Executive Director for Operations, nor the Hearing Counsel requests such a review, the final determination shall be made by the Executive Director for Operations on the basis of the record with all findings and recommendations.

§ 10.32 Recommendation of the NRC Personnel Security Review Examiners.

(a) The Executive Director for Operations shall designate three NRC Personnel Security Review Examiners to conduct a review of the record of the case. To qualify as a Review Examiner, the person designated shall have an NRC "Q" access authorization and may be an employee of the NRC, its contractors, agents, or licensees. However, no employee or consultant of the NRC shall serve as Review Examiner reviewing the case of an employee (including a consultant) or applicant for employment with the NRC; nor shall any employee or consultant of an NRC contractor, agent or licensee serve as Review Examiner reviewing the case of an employee (including a consultant) or an applicant for employment of that contractor, agent, or licensee. No Review Examiner shall be selected who has knowledge of the case or of any information relevant to the disposition of it, or who for any reason would be unable to issue a fair and unbiased recommenation.

(b) The designated Review Examiners shall individually and independently, without consulting or otherwise communicating with one another, consider the matter under review based upon the record supplemented by any brief submitted by the individual or the Hearing Counsel. Review Examiners may request such additional briefs as any of them deems appropriate, which will be obtained by the Executive Director for Operations and provided to each Review Examiner. When a Review Examiner determines that additional evidence or further proceedings are necessary, the record may be returned to the Executive Director for Operations with a recommendation that the case be remanded to the Director, Office of Administration, for appropriate action, which may include returning the case to the Hearing Examiner and reconvening the hearing to obtain additional testimony.

(c) In conducting the review, Review Examiners shall make individual findings and recommendations as to the eligibility or continued eligibility of an individual for access authorization and/or employment clearance on the record supplemented by additional testimony or briefs as have previously been determined by a Review Examiner(s) as appropriate. When additional testimony is taken by the Hearing Examiner, a written transcript of such testimony shall be made by a person possessing

appropriate NRC access authorization and/or employment clearance and, except for portions containing Restricted Data or national security information, or other lawfully withholdable information, a copy of such transcript shall be furnished the individual without cost.

(d) The Review Examiners shall not consider the possible impact of the loss of the individual's services upon the NRC program.

(e) If, after considering all the factors in light of the criteria set forth in this part, a Review Examiner is of the opinion that granting or continuing access authorization and/or employment clearance to the individual will not endanger the common defense and security and will be clearly consistent with the national interest, the Review Examiner shall make a favorable recommendation; otherwise, the Review Examiner shall make an adverse recommendation. Each Review Examiner shall individually prepare a report of his or her findings and recommendations and submit the report in writing to the Executive Director for Operations, who shall furnish a copy to the individual. The findings and recommendations shall be fully supported by stated reasons supporting the findings and recommendations.

§ 10.33 Action by the Executive Director for Operations.

(a) The Executive Director for Operations, on the basis of the record accompanied by all findings and recommendations, shall make a final determination whether access authorization and/or employment clearance shall be granted, denied, or revoked, except when the provisions of § 10.28 (i), (j), or (l) have been used and the Executive Director for Operation's determination is adverse, the Commission shall make the final agency determination.

(b) In making the determination as to whether access authorization and/or employment clearance shall be granted, denied, or revoked, the Executive Director for Operations or the Commission shall give due recognition to the favorable as well as the unfavorable information concerning the individual and shall take into account the value of the individual's services to the NRC's program and the consequences of denying or revoking access authorization and/or employment clearance.

(c) In the event of an adverse determination, the Executive Director for Operations shall promptly notify the individual through the Director, Office of Administration, of his or her decision that access authorization and/or employment clearance is being denied or revoked and of his or her findings with respect to each allegation contained in the notification letter for transmittal to the individual.

(d) In the event of a favorable determination, the Executive Director for Operations shall promptly notify the individual through the Director, Office of Administration.

§ 10.34 Action by the Commission.

(a) Whenever, under the provisions of § 10.28(i), (j), or (l) an individual has not been afforded an opportunity to confront and cross-examine witnesses who have furnished information adverse to the individual and an adverse recommendation has been made by the Executive Director for Operations, the Commission shall review the record and determine whether access authorization and/or employment clearance shall be granted, denied, or revoked, based upon the record.

(b) When the Commission determines to deny or revoke access authorization and/or employment clearance, the individual shall promptly be notified through the Director, Office of Administration, of its decision that access authorization and/or employment clearance is being denied or revoked and of its findings and conclusions with respect to each allegation contained in the notification letter for transmittal to the individual.

(c) Nothing contained in these procedures shall be deemed to limit or affect the responsibility and powers of the Commission to deny or revoke access to Restricted Data or national security information if the security of the nation so requires. Such authority may not be delegated and may be exercised when the Commission determines that invocation of the procedures prescribed in this part is inconsistent with the national security. Such determination shall be conclusive.

§ 10.35 Reconsideration of cases.

(a) Where, pursuant to the procedures set forth in §§ 10.20 through 10.34, the Executive Director for Operations or the Commission has made a determination granting access authorization and/or employment clearance to an individual, the individual's eligibility for access authorization and/or employment clearance shall be reconsidered only when subsequent to the time of that determination, new derogatory information has been received or the scope or sensitivity of the Restricted Data or national security information to which the individual has or will have access has significantly increased. All new derogatory information, whether resulting from the NRC's reinvestigation program or other sources, will be evaluated relative to an individual's continued eligibility in accordance with the procedures of this part.

(b) Where, purusant to these procedures, the Commission or Executive Director for Operations has made a determination denying or revoking access authorization and/or employment clearance to an individual, the individual's eligibility for access authorization and/or employment clearance may be reconsidered when there is a bona fide offer of employment and/or a bona fide need for access to Restricted Data or national security information and either material and relevant new evidence is presented, which the individual and his or her representatives are without fault in failing to present before, or there is convincing evidence of reformation or rehabilitation. Requests for reconsideration shall be submitted in writing to the Executive Director for Operations through the Director, Office of Administration. Such requests shall be accompanied by an affidavit setting forth in detail the information referred to above. The Executive Director for Operations shall cause the individual to be notified as to whether his or her eligibility for access authorization and/or employment clearance will be reconsidered and if so, the method by which such reconsideration will be accomplished.

(c) Where access authorization and/or employment clearance has been granted to an individual by the Director, Division of Security, without recourse to the procedures set forth in §§ 10.20 through 10.34, the individual's eligibility for access authorization and/or employment clearance shall be reconsidered only in a case where, subsequent to the granting of the access authorization and/or employment clearance, new derogatory information has been received or the scope or sensitivity of the Restricted Data or national security information, to which the individual has or will have access, has significantly increased. All new derogatory information, whether resulting from the NRC's reinvestigation program or other sources, will be evaluated relative to an individual's continued eligibility in accordance with the procedures of this part.

Subpart D—Miscellaneous

§ 10.36 Terminations.

In the event the individual is no longer an applicant for access authorization and/or employment clearance or no

longer requires such, the procedures of this part shall be terminated without a final determination as to the individual's eligibility for access authorization and/or employment clearance.

§ 10.37 Attorney representation.

In the event the individual is represented by an attorney or other representative, the individual shall file with the Director, Office of Administration, a document designating such attorney or representative and authorizing such attorney or representative to receive all correspondence, transcripts, and other documents pertaining to the proceeding under this part.

§ 10.38 Certifications.

Whenever information is made a part of the record under the exceptions authorized by § 10.28 (i), (j), or (l), the record shall contain certificates evidencing that the required determinations have been made.

PART 11—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO OR CONTROL OVER SPECIAL NUCLEAR MATERIAL

2. In § 11.21, paragraphs (c) and (d) are revised to read as follows:

§ 11.21 Application of the criteria.

* * * * *

(c) When the reports of investigation of an individual contain information reasonably falling within one or more of the classes of derogatory information listed in § 10.11, it shall create a question as to the individual's eligibility for special nuclear material access authorization. In such cases, the application of the criteria shall be made in light of and with specific regard to whether the existence of such information supports a reasonable belief that the granting of a special nuclear material access authorization would be inimical to the common defense and security. The Director, Division of Security, may authorize the granting of special nuclear material access authorization on the basis of the information in the case or may authorize the conduct of an interview with the individual and, on the basis of such interview and such other investigation as the Director deems appropriate, may authorize the granting of special nuclear material access authorization. Otherwise, a question concerning the eligibility of an individual for special nuclear material access authorization shall be resolved in accordance with the procedures set forth in §§ 10.20–10.38 of this chapter.

(d) In resolving a question concerning the eligibility or continued eligibility of an individual for special nuclear material access authorization by action of the Hearing Examiner,[4] the following principle shall be applied by the Examiner: Where there are grounds sufficient to establish a reasonable belief as to the truth of the information regarded as substantially derogatory and when the existence of such information supports a reasonable belief that granting access would be inimical to the common defense and security, this shall be the basis for a recommendation for denying or revoking special nuclear material access authorization if not satisfactorily rebutted by the individual or shown to be mitigated by circumstance.

PART 25—ACCESS AUTHORIZATION FOR LICENSEE PERSONNEL

3. In § 25.5 the definition for "Access Authorization" is revised to read as follows:

§ 25.5 Definitions.

"Access authorization" means an administrative determination that an individual (including a consultant) who is employed by or an applicant for employment with the NRC, NRC contractors, agents, and licensees of the NRC, or other person designated by the Executive Director for Operations, is eligible for a security clearance for access to Restricted Data or national security information.

* * * * *

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

4. In § 95.5 the definition for "Access authorization" is revised to read as follows:

§ 95.5 Definitions.

"Access authorization" means an administrative determination that an individual (including a consultant) who is employed by or an applicant for employment with the NRC, NRC contractors, agents, and licensees of the NRC, or other person designated by the Executive Director for Operations, is eligible for a security clearance for access to Restricted Data or national security information.

* * * * *

Dated at Washington, DC, this 18th day of August 1982.

[4] The function of the Hearing Examiner is described in Part 10 of this chapter.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 82-24144 Filed 9-1-82; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-CE-23-AD; Amdt 39-4453]

Airworthiness Directives; Partenavia Costruzioni Aeronautiche S.p.A., Models P68 and P68B Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires inspection and replacement, as necessary, of the control wheel shaft universal joints on Partenavia Models P68 and P68B airplanes. The AD is necessary to prevent failure of the control wheel shaft universal joints, which could result in loss of control of the airplane.

EFFECTIVE DATE: September 13, 1982.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Partenavia Service Bulletin No. 48, dated December 7, 1979, and Partenavia Service Instruction No. 09, dated December 7, 1979, applicable to this AD, may be obtained from Partenavia Costruzioni Aeronautiche S.p.A, Via Cava, Casoria-Napoli, Italy.

A copy of the Service Bulletin and Service Instructions are also contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: C. Christie, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium, Telephone 513.38.30.; or Paul Cormaci, Federal Aviation Administration, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION: The manufacturer reports that interference between the universal joint body sleeves and the adjacent structure may lead to cracking of the control wheel shaft universal joints on Partenavia Models P68 and P68B airplanes. To provide instructions for detection and correction of this condition, the manufacturer issued Partenavia Service Bulletin No. 48, dated December 7, 1979,

and Service Instruction No. 09, dated December 7, 1979. Service Instruction No. 09 provides instructions for inspection of the control wheel shaft universal joints. Service Bulletin No. 48 provides instructions for replacement of the universal joints and directs replacement of any cracked control wheel shaft universal joint before further flight and any universal joint having interference within 200 hours time-in-service. Additionally, it requires that any universal joint having interference be inspected for cracks at 50 hours time-in-service intervals until replaced. The cracks and interference of this type could have an adverse effect on airplane controllability if not discovered and corrected before failure of a control wheel shaft universal joint occurs.

Accordingly, since the condition described herein is likely to exist or develop on other airplanes of the same type design, the FAA is issuing an AD applicable to Partenavia Models P68 and P68B airplanes. This AD will make inspection and replacement, as necessary, of the control wheel shaft universal joints in accordance with Partenavia Service Bulletin No. 48, dated December 7, 1979, and Service Instruction No. 09, dated December 7, 1979, mandatory. Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aircraft, Aviation safety.

Adoption of the Amendment

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

Partenavia, Costruzioni Aeronautiche S.p.A.: Applies to Models P68 and P68B airplanes (serial numbers 1 through 86) certificated in any category.

Compliance

Required as indicated unless already accomplished.

To prevent failure of the control wheel shaft universal joint, accomplish the following:

(a) Within the next 50 hours time-in-service after the effective date of this AD, inspect control wheel shaft universal joints for cracks and interference, in accordance with procedures in "INSPECTION" section of Partenavia Service Bulletin No. 48, dated December 7, 1979.

(b) If cracks are found during the inspection in accordance with paragraph (a) of this AD, replace the control wheel shaft universal joints in accordance with procedures under "Instructions" of Partenavia Service Instruction No. 09, dated December 7, 1979.

(c) If interference is found during the inspection, in accordance with paragraph (a) of this AD, repeat the inspection for cracks prescribed in that paragraph at intervals not exceeding 50 hours time-in-service until the universal joint is replaced. Within 200 hours time-in-service after the effective date of this AD, replace universal joints on which interference is found during the inspection described in paragraph (a) in accordance with procedures of Partenavia Service Instruction No. 09 dated December 7, 1979.

(d) The airplane may be flown in accordance with Federal Aviation Regulation 21.197 to a location where this AD can be accomplished.

(e) An equivalent method of compliance with this AD may be used if approved by C. Christie, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, Brussels, Belgium; Telephone 513.38.30.

This amendment becomes effective on September 13, 1982.

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

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impractical for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket at the location identified under the caption "ADDRESSES." This rule is a final order of the Administrator under the Federal Aviation Act of 1958, as amended. As such, it is subject to review by only the Courts of Appeals of the United States or the United States Court of Appeals for the District of Columbia.

Issued in Kansas City, Missouri, on August 20, 1982.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 23782 Filed 9-1-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-AWA-13]

Establishment of Gambell, AK, Transition Area; Alaska; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: An error was noted in the geographical coordinates of the Gambell, AK nondirectional radio beacon (NDB) published in the **Federal Register** on April 19, 1982 (47 FR 16619) (Airspace Docket No. 81-AAL-15) in conjunction with the establishment of the Gambell AK, transition area. This action corrects that error.

EFFECTIVE DATE: September 2, 1982.

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 14 CFR Part 71

Transition areas.

History

Federal Register Document 82-10578 (Airspace Docket No. 81-AAL-15 was published on April 19, 1982, which established a transition area in the vicinity of the Gambell, AK, Airport. The geographical coordinates published for the location of the Gambell, AK, nondirectional radio beacon (NDB) relative to this action were incorrect.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document 82-10578 (Airspace Docket No. 81-AAL-15), as published in the **Federal Register** on April 19, 1982, is corrected to read:

Gambell, AK [Amended]

By amending the coordinates of the Gambell, AK, NDB to read as follows: (lat. 63°46'57" N, long. 171°44'15" W)

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

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034;

February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that his rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 82-23902 Filed 9-1-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-AWA-11]

Alteration of VOR Federal Airways; Arizona; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: An error was noted in the description of VOR Federal Airway V-528 between Phoenix, AZ, and St. Johns, AZ, published in the **Federal Register** on May 13, 1982, (47 FR 20568) (Airspace Docket No. 82-AWP-1). This action corrects that error.

EFFECTIVE DATE: September 2, 1982.

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 14 CFR Part 71

Federal airways.

History

Federal Register Document 82-13054 (Airspace Docket No. 82-AWP-1) published on May 13, 1982, established a new bypass airway (V-528) between Phoenix, AZ, and St. Johns, AZ, which avoids the recently relocated Williams 4 Military Operations Area (MOA). The VOR radials published to describe V-528 were incorrect.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document 82-13054, as published in the **Federal Register** on May 13, 1982, is corrected to read:

V-528 [Amended]

"From Phoenix, AZ; INT Phoenix 044° and St. Johns, AZ, 268° radials; St. Johns."

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

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

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

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 82-23903 Filed 9-1-82; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 82-ANM-13]

Revised Transition Area; Cortez, Colorado

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The nature of this Federal Action is to designate an additional amount of controlled airspace determined necessary to encompass a new instrument departure procedure for Cortez-Montezuma County Airport, Cortez, Colorado.

EFFECTIVE DATE: October 28, 1982. Comments must be received before September 29, 1982.

ADDRESSES:

Send comments to: Manager, Airspace and Procedures Branch, ANM-530, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The official docket will be available for examination by interested persons in the office of the Regional Counsel, and the informal docket will be available for examination in the Airspace & Procedures Office, during normal business hours at the same address. For further information contact Ted Melland, Airspace and Procedures Specialist, ANM-533. The telephone number is (206) 433-1640.

SUPPLEMENTARY INFORMATION: Development of a new instrument departure procedure requires a minor alteration in the existing transition area to ensure that the procedure will be contained within controlled airspace. Aeronautical charts will depict the area enabling other aircraft to circumnavigate controlled airspace in order to comply with applicable visual flight rules requirements.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Request for Comments on the Rule

Although this action is in the form of a final rule involving a minor alteration of controlled airspace required for aviation safety, it is not considered to have significant impact on other airspace users and, thus, was not preceded by notice and public procedure. Comments are, nevertheless, invited on the rule. The FAA will use comments submitted, together with other available information, to review the regulation. Appropriate changes will be incorporated in the rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., October 28, 1982, as follows:

Cortez, Colorado

In line four by deleting the words, "within 6 miles east," and substituting the words, "within 11 miles east."

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

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

traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington, August 19, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82-23784 Filed 9-1-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ANM-14]

Revised Control Zone; Denver, Colorado

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule; request for comments.

SUMMARY: The nature of this Federal Action is to reduce the amount of controlled airspace in the Denver, Colorado Control Zone. This action will effectively relieve the control zone impact upon flight in visual flight rules conditions.

EFFECTIVE DATE: October 28, 1982. Comments must be received before September 29, 1982.

ADDRESSES:

Send comments to: Manager, Airspace and Procedures Branch, ANM-530, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The official docket will be available for examination by interested persons in the office of the Regional Counsel, and the informal docket will be available for examination in the Airspace & Procedures Office, during normal business hours at the same address. For further information contact Ted Melland, Airspace and Procedures Specialist, ANM-533. The telephone number is (206) 433-1640.

List of Subjects in 14 CFR Part 71

Control zone, Aviation safety.

SUPPLEMENTARY INFORMATION: A review of current needs within the Denver, Colorado Control Zone indicates that the area may be reduced, thereby releasing certain airspace for noncontrolled flight activities.

Request for Comments on the Rule

Although this action is in the form of a final rule involving reducing the amount of controlled airspace required for aviation safety, it will relieve the burden upon VFR flight without adversely affecting flight within controlled airspace and, thus, was not preceded by notice and public procedure. Comments are, nevertheless, invited on the rule. The FAA will use comments submitted, together with other available information, to review the regulation. Appropriate changes will be incorporated in the rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., October 28, 1982, as follows:

Denver, Colorado

"Within a 9 mile radius of Stapleton International Airport (Latitude 39°46'27" N, Longitude 104°52'39" W), and within a 9 mile radius of Buckley Air National Guard Base (Latitude 39°42'36" N, Longitude 104°45'27" W)."

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

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

Issued in Seattle, Washington August 19, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82-23907 Filed 9-1-81; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-AWA-12]

Alteration to VOR Federal Airways Missouri; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: An error was noted in the description of VOR Federal Airway V-506 between Springfield, MO and Vichy, MO, published in the **Federal Register** on May 13, 1982 (47 FR 20566) (Airspace Docket No. 81-AWA-15). This action corrects that error.

EFFECTIVE DATE: September 2, 1982.

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 14 CFR Part 71

Federal airways.

History

Federal Register Document 82-12901 (Airspace Docket No. 81-AWA-15) was published on May 13, 1982, which revoked two alternate VOR Federal Airways and renumbered segments of certain other airways. The VOR radial from Vichy, MO, describing V-506 southwest of the Vichy VOR was incorrect.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, **Federal Register** Document 82-12901 (Airspace Docket No. 81-AWA-15), as published in the **Federal Register** on May 13, 1982, is corrected as follows:

V-506 [Amended]

"From Tulsa, OK, INT Tulsa 044° and Neosho, MO, 255° radials; Neosho; INT Neosho 074° and Springfield, MO, 210° radials; Springfield; INT Springfield 043° and Vichy, MO, 254° radials; Vichy."

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

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034;

February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 82-23904 Filed 9-1-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ANM-6]

Alteration of Transition Areas; Bozeman and Butte, Montana

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action provides for alteration of the 1200 foot transition areas of Bozeman and Butte, Montana, to allow arriving aircraft at Butte, executing the ILS Rwy 15 approach with a Whitehall (HIA) transition, to utilize the minimum transition altitude of 11,000 feet in controlled airspace.

EFFECTIVE DATE: October 28, 1982.

FOR FURTHER INFORMATION CONTACT: William H. Dickson, Airspace & Procedures Specialist, ANM-531, Airspace & Procedures Branch, Air Traffic Division, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; telephone (206) 433-1640.

SUPPLEMENTARY INFORMATION:

History

On June 14, 1982, a Notice of Proposed Rulemaking was published in the **Federal Register** (47 FR 25536) stating that the Federal Aviation Administration proposed to alter transition areas at Bozeman and Butte, Montana. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. No comments were received objecting to the proposal.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

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 (46 FR 540) is amended, effective 0901 G.m.t. October 28, 1982, as follows:

§ 71.181 Bozeman, Montana

Is amended as follows:

Delete lines 4, 5, 6 and 7 in their entirety.

§ 71.181 Butte, Montana

Is amended as follows:

Delete all words following "* * * 11 miles northwest of the VORTAC," and insert "* * * and that airspace extending upward from 1200 feet above the surface beginning at (latitude 46°33'00"N, longitude 113°05'00"W) direct to (latitude 46°33'00"N, longitude 112°54'00"W); then bounded on the north by the Helena, Montana 1200 foot transition area and the south edge of V2N; on the east along longitude 110°42'00"W; on the south along latitude 45°35'00"N; on the west along longitude 113°05'00"W to the point of beginning, excluding that airspace within the Dillon and Livingston, Montana 1200 foot transition areas."

(Sec. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(c), and 1510); 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 proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; (4) is appropriate to have a comment period of less than 45 days; and (5) at promulgation, will not have a significant effect on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington, on August 19, 1982.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 82-23783 Filed 9-1-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 82-AAL-4]

Establishment of Area Navigation Route—J814R; Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes Area Navigation Route (RNAV) J814R from North Pacific Route (NOPAC) R20 to Fairbanks, AK. This direct routing saves fuel by bypassing the heavily used jet routes in the Bethel, AK, area, thereby avoiding en route air traffic control delays.

EFFECTIVE DATE: October 28, 1982.

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

SUPPLEMENTARY INFORMATION:

History

On June 7, 1982, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to establish a new Area Navigation Route J814R from NOPAC R20 to Fairbanks, AK, (47 FR 24597). This action saves fuel by bypassing the heavily used jet routes in the Bethel, AK, area, thereby avoiding air traffic control delays. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments were received objecting to the proposal. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 75.400 of Part 75 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

The rule

This amendment to Part 75 of the Federal Aviation Regulations establishes J814R from NOPAC R20 to Fairbanks, AK. This amendment saves fuel by bypassing the heavily used jet routes in the Bethel, AK, area.

List of Subjects in 14 CFR Part 75

Area navigation route.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me § 75.400 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, effective 0901 G.m.t., October 28, 1982, as follows:

J814R [NEW]

Waypoint Name	Location	Reference facility
J814R PANTT, AK, to Fairbanks, AK:		
PANTT	60°36'40"N., 168°00'00"W.	Bethel, AK.
FELAW	62°03'45"N., 162°58'47"W.	Bethel, AK.
JENSU	63°35'43"N., 156°01'27"W.	McGrath, AK.
Fairbanks, AK	64°48'01.8"N., 148°00'34"W.	Fairbanks, AK.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a),

1354(a), and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69))

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

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

B. Keith Potts,

Manager, Airspace and Air Traffic Rules Division.

[FR Doc. 82-23900 Filed 9-1-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 5c

[T. D. 7826]

Temporary Income Tax Regulations Under the Economic Recovery Tax Act of 1981; Transitional Rules Relating to Tax Straddles

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary income tax regulations relating to two elections under sections 508(c) and 509 of the Economic Recovery Tax Act of 1981 (tax straddles). The elections relate to the treatment of certain commodities and futures and forward contracts for purposes of sections 1092 and 1256 of the Internal Revenue Code of 1954. These elections govern all positions, including regulated futures contracts, held by the electing taxpayer. These temporary regulations will be effective until superseded by final regulations.

DATES: These elections relate alternatively to certain positions in personal property, such as futures contracts, held on June 23, 1981, or to regulated futures contracts held during the taxable year beginning before June 23, 1981, and ending after June 22, 1981.

FOR FURTHER INFORMATION CONTACT: Barry L. Wold of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3828).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary income tax regulations relating to two elections under sections 508(c) and 509 of the Economic Recovery Tax Act of 1981. These elections relate to the treatment of certain commodities and futures and forward contracts for purposes of sections 1092 and 1256 of the Internal Revenue Code of 1954. These temporary regulations will remain in effect until superseded by final regulations on this subject.

General Explanation

These regulations describe two of the elections under Title V of the Economic Recovery Tax Act of 1981 that relate to the effective date of Title V. Generally, the provisions of Title V apply to property acquired and positions established after June 23, 1981. The first election, under section 508(c) of the Act, applies those provisions to all positions in personal property, including regulated futures contracts (as defined in section 1256(b) of the Code), held on June 23, 1981. The second election, under section 509 of the Act, affects regulated futures contracts held during a taxable year beginning before June 23, 1981, and ending after June 22, 1981. Tax rates for 1982 apply to the gains or losses attributable to regulated futures contracts that are under the second election. In addition, certain taxpayers that make the second election may opt to defer payment of part of their tax over a period of up to 5 years, with interest. The regulations specify how to make these elections.

The elections govern *all* positions, including regulated futures contracts, held by the electing taxpayer. Positions held by "flowthrough" entities, such as partnerships and trusts, are generally treated as held by the taxpayer, or taxpayers, on whose return the gain or loss therefrom is properly taken into account, unless otherwise provided in regulations. These regulations provide that only elections made by such flowthrough entities govern their positions and that such an election, or failure to elect, does not limit the alternatives available to taxpayers taking such income or loss into account, with respect to all positions held directly. Of course, such taxpayers must treat positions held by the flowthrough entity in accordance with that entity's election or failure to elect.

Although subsequent regulations may provide exceptions for certain flowthrough entities to the general attribution rule, such exceptions will not alter the effect of such entities' elections, or failure to elect, under these regulations.

The Treasury Department expects that additional regulations under Title V of the Economic Recovery Tax Act of 1981 will be promulgated in the near future.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that this temporary regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, the Reguatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule.

Drafting Information

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

List of Subjects in 26 CFR Part 5c

Income taxes, Economic Recovery Tax Act of 1981, Commodities straddles, Capital gains and losses, Income averaging.

Adoption of amendments to the regulations:

PART 5c—TEMPORARY INCOME TAX REGULATIONS UNDER THE ECONOMIC RECOVERY TAX ACT OF 1981

Accordingly, the following amendments are made to Part 5c of Title 26 of the Code of Federal Regulations:

Paragraph 1. Sections 5c.1256-1, 5c.1256-2, and 5c.1256-3 are added in the appropriate place to read as follows:

§ 5c.1256-1 Election with respect to property held on June 23, 1981, under section 508(c) of the Economic Recovery Tax Act of 1981.

(a) *In general.* If a taxpayer elects in accordance with the requirements of

this section, the amendments made by Title V of the Economic Recovery Tax Act of 1981 shall apply to all positions (including regulated futures contracts) held by the taxpayer on June 23, 1981. Such election shall not preclude the taxpayer from income averaging under sections 1301 through 1305.

(b) *Time for making the election.* The election shall be made by the due date (taking extensions into account) of the income tax return for the taxable year which includes June 23, 1981. If the taxpayer has made an election under section 508(c) of the Economic Recovery Tax Act of 1981 that does not conform to the requirements of this section, the taxpayer must conform such election (and the computation of tax) to the requirements of this section on or before November 1, 1982 by filing an amended return.

(c) *Manner of making the election.* The election shall be made on Form 6781 (Gains and Losses from Commodity Futures Contracts and Straddle Positions) which must be completed and attached to the taxpayer's return of income for the taxable year.

(d) *Scope of election.* An election under this section applies to all positions held by the electing taxpayer on June 23, 1981. The election applies to a position only if the electing taxpayer is the person or entity that directly held that position on that date. If a flowthrough entity, as described in section 1092(d)(3)(C), held positions on that date, only the flowthrough entity may make an election under this section or under § 5c.1256–2 for those positions. If the flowthrough entity does not make an election, no other person or entity may make an election for such positions. Thus, for example, if a partnership held positions on June 23, 1981, only the partnership may make the election either under this section or under § 5c.1256–2 for those positions. The partner may not make either election for those positions. The partner may, however, make the election either under this section or under § 5c.1256–2 (or neither election) for positions that the partner held directly on June 23, 1981, without regard to the election that the partnership made for partnership positions.

(e) *Limitations.* The taxpayer may make the election under this section only if—

(1) The taxpayer does not make the election under section 509 of the Economic Recovery Tax Act of 1981 and § 5c.1256–2; and

(2) All persons related to the taxpayer, within the meaning of section 1092(d)(3)(B), also make such election, unless section 1092 does not apply to any positions held by the related person.

(f) *Period for which election is effective.* This election shall be effective for all taxable years ending after June 23, 1981. This election may be revoked only with the consent of the Commissioner. An application for consent to revoke the election shall be filed with the service center with which the election was filed and shall—

(1) Contain the name, address, and taxpayer identification number of the taxpayer,

(2) State that the taxpayer is seeking to revoke the election under section 508(c) of the Economic Recovery Tax Act of 1981 and this section, and

(3) Explain why the taxpayer seeks to revoke the election.

(g) *Definitions*—(1) *Regulated futures contract.* The term "regulated futures contract" shall have the same meaning as ascribed thereto by section 1256(b).

(2) *Position.* The term "position" shall have the same meaning as ascribed thereto by section 1092(d)(2).

§ 5c.1256–2 Election with respect to taxable years beginning before June 23, 1981, and ending after June 22, 1981, under section 509 of the Economic Recovery Tax Act of 1981.

(a) *In general.* If a taxpayer elects in accordance with the requirements of this section, the provisions of section 1256 (other than the provisions of section 1256(e)(2)(C)) shall apply to all regulated futures contracts held by the taxpayer at any time during the taxable year for which the election is made. The election may be made only for the taxable year of the taxpayer beginning before June 23, 1981, and ending after June 22, 1981.

(b) *Time for making the election.* The election under paragraph (a) of this section shall be made by the due date (taking extensions into account) of the return of income for the taxable year which includes June 23, 1981. If the taxpayer made an election under section 509 of the Economic Recovery Tax Act of 1981 that does not conform to the requirements of this section, the taxpayer must conform such election (and the computation of tax) to this section and either § 5c.1256–3 or § 5c.1305–1 (whichever is applicable) on or before November 1, 1982 by filing an amended return.

(c) *Manner of making the election*—(1) *In general.* The election shall be made on Form 6781 (Gains and Losses from Commodity Futures Contracts and Straddle Positions) which must be completed and attached to the taxpayer's income tax return. In addition to providing the information required by such Form and instructions, the taxpayer must also provide the following information:

(i) The amount of pre-transitional year gain or loss (as defined in paragraph (g) of this section),

(ii) A list including—

(A) Each regulated futures contract held by the taxpayer on the first day of the taxable year described in paragraph (a) of this section (excluding those regulated futures contracts described in subparagraph (1)(iii) of this paragraph),

(B) The date each such contract was acquired or entered into and the contract price for each such contract,

(C) The settlement price of each such contract on the last business day of the taxable year preceding the taxable year described in paragraph (a) of this section,

(D) The amount realized with respect to each such contract upon its sale or termination (as defined in section 1256(c)) during the taxable year described in paragraph (a) of this section, or, if it was not sold or terminated, the amount realized by treating it as sold for its settlement price on the last business day of the taxable year described in paragraph (a) of this section, and

(iii) A list including every regulated futures contract that is part of a hedging transaction not subject to section 1256 because it is excluded by reason of section 1256(e)(1) (except that for purposes of this subdivision the rule of section 1256(e)(2)(C) (requiring identification of the contract) shall not apply in determining whether a regulated futures contract acquired on or before December 31, 1981, is excluded by reason of section 1256(e)(1)). This list constitutes an irrevocable identification of all such contracts acquired after December 31, 1981, as part of a hedging transaction as described in section 1256(e)(1).

(2) *Special rule for flowthrough entities.* In addition to the information required by paragraph (c)(1) of this section, a flowthrough entity shall also list the allocation of aggregate gain or loss attributable to regulated futures contracts subject to the election under this section among the persons sharing such gain or loss. The list must be attached to the entity's return of income for the taxable year. The flowthrough entity shall also list the allocation of pre-transitional year gain or loss (as required by paragraph (c)(1)(i) of this section) among the persons sharing such gain or loss. A flowthrough entity must also furnish to each such person a statement of the person's share of such pre-transitional year gain or loss, but is

not required to furnish to such persons the information required by paragraph (c)(1) (ii) or (iii) of this section.

(d) *Scope of election*—(1) *In general.* An election under this section applies to all regulated futures contracts subject to section 1256(a) held by the electing taxpayer during the taxable year which includes June 23, 1981. The election applies to a regulated futures contract only if the electing taxpayer is the person or entity that directly held the regulated futures contract during that taxable year. If a flowthrough entity, as described in section 1092(d)(3)(C), held regulated futures contracts during that taxable year, only the flowthrough entity may make an election under this section or under § 5c.1256–1 for those contracts. If the flowthrough entity does not make either of such elections, no other person or entity may make either of such elections for such contracts. Thus, for example, if a partnership held regulated futures contracts on June 23, 1981, only the partnership may make either the election under this section or under § 5c.1256–1 for those contracts. Even if the partnership makes neither election, the partner may not make either election for those contracts. The partner may, however, make either an election under this section or under § 5c.1256–1 (or neither election) for regulated futures contracts that the partner personally held during that taxable year, without regard to the election that the partnership made for partnership property.

(2) *Settlement price.* Gain or loss on contracts open at the end of the taxable year shall be determined by reference to the settlement price on the last business day of the taxable year, regardless of whether the settlement price was a limit move, and without adjustment for anticipated commissions.

(e) *Limitations.* The taxpayer may make the election under paragraph (a) only if—

(1) The taxpayer does not make the election under section 508(c) of the Economic Recovery Tax Act of 1981 and § 5c.1256–1, and

(2) All persons related to the taxpayer, within the meaning of section 1092(d)(3)(B), also make such election, unless section 1092 does not apply to any positions held by the related person.

(f) *Period for which election is effective.* The election under paragraph (a) shall be effective for the taxable year for which the election is made and for all succeeding taxable years, unless it is revoked. Such election may be revoked only with the consent of the Commissioner. An application for consent to revoke the election shall be filed with the service center with which the election was filed and shall—

(1) Contain the name, address, and taxpayer identification number of the taxpayer,

(2) State that the taxpayer is seeking to revoke the election under section 509 of the Economic Recovery Tax Act of 1981 and this section, and

(3) Explain why the taxpayer seeks to revoke the election.

(g) *Definitions*—(1) *Pre-transitional year gain or loss.* Pre-transitional year gain or loss is the excess of—

(i) Capital gain or loss for the taxable year for which the election is made, over

(ii) Capital gain or loss for the taxable year for which the election is made, except that regulated futures contracts held on the first day of the taxable year and acquired or entered into before the first day of the taxable year shall be treated, for purposes of this computation, as acquired or entered into for a contract price equal to their settlement price on the last business day of the preceding taxable year.

(2) *Regulated futures contract.* The term "regulated futures contract" shall have the same meaning as ascribed thereto by section 1256(b).

§ 5c.1256–3 Computation of tax at 1982 rates and option to defer payment of tax.

(a) *In general.* If a taxpayer (other than a flowthrough entity) makes the election under § 5c.1256–2 or has an interest in a flowthrough entity that makes such an election, the taxpayer must compute the tax in accordance with this section or, if applicable, § 5c.1305–1 (relating to income averaging). Taxpayers described in paragraph (h) of this section also may opt to pay part or all of the deferrable tax (as defined in paragraph (e) of this section) for the taxable year which includes June 23, 1981, in 2 or more, but not more than 5, equal installments in accordance with this section.

(b) *Computation of tax*—(1) *In general.* Except as otherwise provided in subparagraph (2), a taxpayer described in paragraph (a) of this section shall determine its tax for the taxable year which includes June 23, 1981, as follows:

Step (1). Compute tax on all taxable income, excluding gains or losses on regulated futures contracts subject to section 1256(a) and the regulations thereunder, using the rates applicable for such taxable year.

Step (2). Compute tax on all taxable income, including gains or losses on regulated futures contracts subject to section 1256(a) and the regulations thereunder, using the rates applicable to the taxpayer for taxable years beginning in 1982.

Step (3). Compute tax on all taxable income, excluding gains or losses on regulated futures contracts subject to section 1256(a) and the regulations thereunder, using the rates applicable for taxable years beginning in 1982.

Step (4). Subtract the result of Step (3) from the result of Step (2) (This may be a positive or negative number).

Step (5). Add the result of Step (1) to the result of Step (4). This is the tax on taxable income (before allowable credits and other taxes are taken into consideration) for taxpayers described in paragraph (a) of this section.

(2) *Alternative tax for corporations.* A corporation eligible to compute its tax in accordance with section 1201 (relating to alternative tax for corporations) shall apply the rates for 1982 against the portion of line 14 of Schedule D (Form 1120) that includes net short term capital gain from line 4 of Schedule D (Form 1120) attributable to regulated futures contracts subject to an election under § 5c.1256–2.

(c) *Application of alternative minimum tax.* If the election under § 5c.1256–2 is made, the taxpayer shall apply section 102 (b), (c), and (d) of the Economic Recovery Tax Act of 1981 to determine the proper amount of alternative minimum tax (if any) except that gain or loss from any regulated futures contract subject to section 1256(a) shall be deemed to result from a sale or exchange occurring after June 9, 1981.

(d) *Option to pay deferrable tax in installments*—(1) *In general.* Taxpayers described in paragraph (h) of this section may opt to pay part or all of the deferrable tax (as defined in paragraph (e) of this section) for the taxable year which includes June 23, 1981, in 2 or more, but not more than 5, equal installments. A taxpayer opting to defer payment must attach a statement to Form 6781 indicating the computation of deferrable tax, the number of installments in which the taxpayer opts to pay the deferrable tax, and the amount of each such payment.

(2) *Examples.* The application of this paragraph may be illustrated by the following examples:

Example (1). Partnership S makes the election under § 5c.1256–2 and its taxable year including June 23, 1981 ends on November 30, 1981. Partner G makes the election under § 5c.1256–2 and Partner G's taxable year including June 23, 1981 ends on December 31, 1981. Partner G may opt to pay the deferrable tax for contracts under the elections of both Partnership S and Partner G in installments.

Example (2). Partnership T makes the election under § 5c.1256–2 and its taxable year including June 23, 1981 ends on January 31, 1982. Partner H makes the election under § 5c.1256–2 and Partner H's taxable year including June 23, 1981 ends on December 31, 1981. Partner H may opt to pay the deferrable

tax for contracts under the election of Partner H in installments. Partner H may not opt to pay the deferrable tax for contracts under the election of Partnership T in installments, because Partnership T will report those amounts to Partner H at the close of Partnership T's taxable year. These amounts will be reported on Partner H's return for the taxable year ending December 31, 1982. That taxable year does not include June 23, 1981.

(e) *Deferrable tax.* The deferrable tax is the excess of—

(1) The tax for the taxable year for which the election is made computed pursuant to paragraph (b) of this section, over

(2) The tax for the taxable year for which the election is made computed in the same manner as prescribed in paragraph (b) of this section, except that an amount equal to the pre-transitional year gain or loss (as described in § 5c.1256–2(g)) shall not be treated, for purposes of this computation, as gain or loss for the taxable year.

(f) *Rules of application.* The provisions of § 5c.1256–2 (b), (c), (d), (e), and (f) apply in computing the tax and in determining the deferrable tax under this section. Notwithstanding the foregoing, a taxpayer may, without the prior consent of the Commissioner, accelerate payment of deferrable tax to be paid in installments under paragraph (d) of this section. To do this a taxpayer must file a statement with the service center with which the election was filed containing—

(1) The name, address, and taxpayer identification number of the taxpayer,

(2) The information required by subparagraph (g)(1) of this section with respect to the original schedule of payments, and

(3) The accelerated schedule of payment or payments.

(g) *Date for payment of deferrable tax*—(1) *In general.* If a taxpayer opts to defer payment of tax pursuant to paragraph (d) of this section, the first installment shall be paid on or before the due date for filing the return for the taxable year which includes June 23, 1981, and each succeeding installment shall be paid on or before the date which is one year after the last date prescribed for payment of the preceding installment. Each succeeding installment (including accrued interest as determined under paragraph (g)(3) of this section) may only be offset by refundable tax credits or by credits that may be carried back to offset tax liability for the taxable year for which the election was made. Credits which may be carried back to such taxable year reduce the amount of each of the installments by an equal amount.

(2) *Special rule in the case of bankruptcy or insolvency.* If a bankruptcy case or insolvency proceeding involving the taxpayer is commenced before the final installment is paid, the total amount of any unpaid installments shall be treated as due and payable on the day preceding the day on which such case or proceeding is commenced.

(3) *Interest imposed on deferred tax payments.* For purposes of section 6601, the date prescribed for payment of tax under this section shall be the time for payment of such tax, determined without regard to the option to defer payment of such tax under paragraphs (d) and (g) of this section. Therefore, interest accrues on such tax without regard to the right to defer payment of a portion thereof. Interest on each unpaid installment shall accrue from the last day prescribed for payment of the first installment to the date the installment is paid. Interest attributable to each separate installment must be paid when such installment is paid. With respect to chapters 68 and 75 of subtitle F, the last date when such tax (or portion thereof) may be timely paid shall be determined under the rules prescribed by this section.

(4) *Relationship to estimated tax.* The first installment due under paragraph (g) of this section shall be taken into account in determining the taxpayer's estimated tax under section 6015 or 6154. Succeeding installments shall be disregarded in determining estimated tax.

(h) *Taxpayers who may defer payment of tax.* A taxpayer which is not a flowthrough entity (as described in section 1092(d)(3)(C)) may opt to defer payment of tax pursuant to paragraph (d) of this section provided that such taxpayer makes the election under § 5c.1256–2 or has an interest in a flowthrough entity that makes such an election.

(i) *Definition of regulated futures contract.* The term "regulated futures contract" shall have the same meaning as ascribed thereto by section 1256(b) of the Internal Revenue Code of 1954.

(j) *Application of maximum rate on net capital gain.* If the election under § 5c.1256–2 is made, the taxpayer shall apply section 102(a) of the Economic Recovery Tax Act of 1981 (if otherwise eligible to do so) to determine the maximum rate on net capital gain, except that gain or loss from any regulated futures contract subject to section 1256(a) shall be deemed to result from a sale or exchange occurring after June 9, 1981.

(k) *Examples.* The application of this section may be illustrated by the following examples:

Example (1). Partnership N makes the election under § 5c.1256–2. Partner C is one of the partners in Partnership N. Partnership N may not opt to defer payment of tax pursuant to paragraph (d) of this section. Partner C makes the election under § 5c.1256–2 for all regulated futures contracts for which Partner C can make such election. Partner C may opt to defer payment of tax pursuant to paragraph (d) of this section with respect to regulated futures contracts under the elections of both Partnership N and Partner C.

Example (2). Partnership P does not make the election under either § 5c.1256–1 or § 5c.1256–2. Partner D makes the election under § 5c.1256–2 for all regulated futures contracts for which it can make such election. Partner D may opt to defer payment of tax pursuant to paragraph (d) of this section with respect to regulated futures contracts under the election of Partner D, but may not opt to defer payment with respect to contracts held by Partnership P because Partnership P did not make the election under § 5c.1256–2.

Example (3). The facts are the same as in Example (2), except that Partnership P makes the election under § 5c.1256–1. The result is the same as in Example (2).

Example (4). Partnership Q makes the election under § 5c.1256–2. Partner E is one of the partners in Partnership Q. Partner E did not at any time hold any regulated futures contracts subject to the election under § 5c.1256–2. Partner E may opt to defer payment of tax pursuant to paragraph (d) of this section with respect to regulated futures contracts under the election of Partnership Q.

Example (5). Partnership R makes the election under § 5c.1256–2. Partner F, one of the partners in Partnership R, does not make the election under either § 5c.1256–1 or § 5c.1256–2 for positions held directly. Partner F may opt to defer payment of tax pursuant to paragraph (d) of this section with respect to regulated futures contracts under the election of Partnership R, but not with respect to contracts held directly.

Example (6). The facts are the same as in Example (5), except that Partner F makes the election under § 5c.1256–1 for positions Partner F holds on June 23, 1981. The result is the same as in Example (5).

Example (7). J is a single individual with no dependents. She is a calendar year, cash basis taxpayer. She had wages of $260,000 in 1981. In January through May of 1981, she engaged in hedging transactions described in section 1256(e)(1) and had $50,000 of gain on those transactions. In 1981 she also traded in regulated futures contracts for investment purposes. These contracts were not hedging transactions described in section 1256(e)(1). She had a net gain of $600,000 on those transactions, of which $150,000 is pre-transitional year gain or loss (as described in § 5c.1256–2(g)). She had no other income, no credits, no adjustments to income, and does not itemize her deductions. Her tax for 1981 is

$388,187. She may opt to pay in installments (under paragraph (d) of this section) a maximum of $48,000 of the tax due in 1981. If she opts to defer the maximum amount and pay in 5 equal installments, she must pay for 1981 a tax of $349,787.

Example (8). K, L, and M are equal partners in partnership KLM. Partnership KLM files its income tax returns on a calendar year basis, as do partners K, L, and M. During its taxable year that ended December 31, 1981, partnership KLM entered into the following transactions involving regulated futures contracts:

January 5, 1981: Entered into 4 "long" futures contracts for January 1982 delivery (5,000 units per contract) at a contract price of $2.00 per unit.

February 2, 1981: Offset 10 "short" futures contracts for March 1981 delivery (5,000 units per contract) for $3.10 per unit. The offset positions were originally entered into at a contract price of $2.70 per unit on December 2, 1980.

June 1, 1981: Offset 20 "long" futures contracts for June 1982 delivery (5,000 units per contract) at $11.00 per unit. The offset positions were originally acquired on November 4, 1980, at a contract price of $5.00 per unit.

September 10, 1981: Offset the 4 "long" futures contracts acquired on January 5, 1981, at a price of $4.00 per unit.

November 30, 1981: Entered into 10 "long" futures contracts for June 1982 delivery (1,000 units per contract) at a contract price of $400.00 per unit.

At the close of business on December 31, 1981, partnership KLM held only the futures contracts entered into on November 30, 1981. The settlement price for these contracts on December 31, 1981, was $425.00 per unit. On December 31, 1980, the settlement prices for the contracts disposed of during 1981 were as follows:

"Short" position disposed of on February 2: $2.10 per unit

"Long" position disposed of on June 1: $8.00 per unit

Partnership KLM makes the election under § 5c.1256–2. Its gain from positions in regulated futures contracts for the taxable year that ended December 31, 1981 is $870,000, computed as follows:

Positions offset February 2	($20,000)
Positions offset June 1	600,000
Positions offset September 10	40,000
Positions held on December 31	250,000
Total	870,000

Partnership KLM has no other capital gains or losses for its taxable year that ended December 31, 1981. Pursuant to § 5c.1256–2(c)(2), Partnership KLM must furnish the following information to its partners K, L, and M:

Partner	Share of total RFC gains	Pre-transitional year gain under sec. 5c.1256–2(g)
K	$290,000	$110,000
L	290,000	110,000
M	290,000	110,000

Partner K makes the election under § 5c.1256–2 for positions held in K's individual capacity. In computing the amount of tax that K may defer, K must include his full share of 1981 gains from regulated futures contracts in computing the amount under § 5c.1256–3(e)(1) and his full share of pre-transitional year gain in computing the amount under § 5c.1256–3(e)(2). Thus, for purposes of § 5c.1256–3(e)(2), K would reduce the amount of his distributive share of Partnership KLM's gains from regulated future contracts ($290,000) by K's share of the pre-transitional year gain ($110,000).

Example (9). M is a Subchapter S corporation which files its returns on the basis of a taxable year ending November 30. An election under section 1372(a) has been in effect with respect to M in each of its taxable years. M has 4 equal shareholders, D, E, F, and G. During 1981, M enters into the following transactions in regulated futures contracts (as defined in section 1256(b)):

March 26, 1981: Offset 10 "long" futures contracts (100 units per contract) for delivery in May 1981 at $400.00 per unit. The offset contracts were entered into on October 16, 1980, at a contract price of $430.00 per unit. The settlement price of these contracts on November 28, 1980, was $465.00 per unit.

May 1, 1981: Entered into 5 "long" futures contracts (10,000 units per contract) for delivery in December 1981 at a contract price of $3.00 per unit.

November 10, 1981: Offset the 5 futures contracts entered into on May 1 at a price of $3.60 per unit.

November 23, 1981: Entered into 20 "long" futures contracts (25,000 units per contract) for delivery in May 1982 at a contract price of $.60 per unit. The settlement price at the close of business on November 30, 1981, for this contract was $.72 per unit.

M makes an election under § 5c.1256–2 for the taxable year ending November 30, 1981. M's gain from transactions in regulated futures contracts in the year ending November 30, 1981, is $60,000 and the amount of M's pre-transitional gain under § 5c.1256–2(g) is $35,000. In addition to these amounts, M had gross profits from sales of $500,000 (gross receipts of $1 million less cost of goods sold of $500,000) in 1981 and expenses of $450,000, consisting of:

Wages and salaries	$200,000
Rents	50,000
Taxes	90,000
Interest	40,000
Depreciation	70,000
Total	450,000

Pursuant to section 5c.1256–2(c)(2), Corporation M must furnish the following information to each of M's shareholders:

Shareholder	Undistributed taxable income		Pre-transitional year gain under sec. 5c.1256–2	
	Ordinary income	Net long-term capital gain	Ordinary income	Net long-term capital gain
D	18,500	9,000	3,500	5,250
E	18,500	9,000	3,500	5,250
F	18,500	9,000	3,500	5,250
G	18,500	9,000	3,500	5,250

D makes the election under § 5c.1256–2 for positions held in D's individual capacity. In computing the amount of tax that D may defer, D must use the full amount of D's share of M's undistributed taxable income in computing the amount under § 5c.1256–3(e)(1). In computing the amount under § 5c.1256–3(e)(2), D must use the amount of M's pre-transitional year gain as reported to D under § 5c.1256–2(g).

Example (10). The facts are the same as in Example (9), except that M's cost of goods sold for its taxable year ending November 31, 1981 was $600,000. Pursuant to § 5c.1256–2(c)(2), Corporation M must furnish the following information to its shareholders:

Shareholder	Undistributed taxable income		Pre-transitional year gain under sec. 5c.1256–2(g)(1)	
	Ordinary income	Net long-term capital gain	Ordinary income	Net long-term capital gain
D	(6,500)	9,000	3,500	5,250
E	(6,500)	9,000	3,500	5,250
F	(6,500)	9,000	3,500	5,250
G	(6,500)	9,000	3,500	5,250

Par. 2. Section 5c.1305–1 is added in the appropriate place to read as follows:

§ 5c.1305–1 Special income averaging rules for taxpayers otherwise required to compute tax in accordance with § 5c.1256–3.

(a) *In general.* If an eligible individual (as defined in section 1303 and the regulations thereunder) is described in the first sentence of § 5c.1256–3(a), chooses the benefits of income averaging and otherwise complies with the special rules under section 1304 and the regulations thereunder, and has averagable income (as defined in section 1302 and the regulations thereunder) in excess of $3,000, then the individual shall compute the tax under section 1301 as provided in this section. The computation under this section shall be in lieu of the computation under § 5c.1256–3.

(b) *Computation of tax.* The individual shall compute the tax under section 1301 as follows:

Step (1). Compute tax under section 1301 and the regulations thereunder on all taxable income, including gains or losses on regulated futures contracts subject to section 1256(a) and the regulations thereunder, using rates applicable to the taxpayer for the taxable year which includes June 23, 1981.

Step (2). Compute tax under section 1301 and the regulations thereunder on all taxable income, including gains or losses on regulated futures contracts subject to section 1256(a) and the regulations thereunder, using rates applicable to the taxpayer for taxable years beginning in 1982.

Step (3). Compute the percentage of adjusted gross income attributable to all sources except regulated futures contracts subject to section 1256(a) and the regulations thereunder.

Step (4). Compute the percentage of adjusted gross income attributable to regulated futures contracts subject to section 1256(a) and the regulations thereunder. Both the percentage in Step (3) and the percentage in Step (4) are to be rounded to the nearest percent. The sum of both percentages must equal 100 percent.

Step (5). Multiply the result of Step (1) with the result of Step (3).

Step (6). Multiply the result of Step (2) with the result of Step (4).

Step (7). Add the result of Step (5) and the result of Step (6). This is the tax for the individual under section 1301 for the taxable year which includes June 23, 1981.

(c) *Option to defer tax.* If an individual computes the tax under section 1301 as provided in paragraph (a) of this section, the individual may also opt to pay part or all of the deferrable tax under income averaging (as defined in paragraph (d) of this section) for the taxable year which includes June 23, 1981, in 2 or more, but not more than 5, equal installments in accordance with this section. Such individual may not opt to pay part or all of the deferrable tax in installments under § 5c.1256–3. An individual opting to defer payment must attach a statement to Form 6781 indicating the computation of deferrable tax under income averaging, the number of installments in which the individual opts to pay the deferrable tax under income averaging, and the amount of each such payment.

(d) *Deferrable tax under income averaging.* The deferrable tax under income averaging is the excess of—

(1) The tax for the taxable year which includes June 23, 1981, computed pursuant to paragraph (b) of this section, over

(2) The tax for the taxable year which includes June 23, 1981, computed pursuant to paragraph (b) of this section, except that pre-transitional year gain or loss (as described in § 5c.1256–2(g)) is omitted for purposes of recomputing the percentage in Step (4). As computed under this subparagraph (2), the sum of the percentage in Step (3) and Step (4) will not equal 100 percent.

(e) *Rules of application.* The provisions of § 5c.1256–3 (c), (f), (g), (h), (i), and (j) shall apply in computing the tax and in determining the deferrable tax under income averaging under this section.

(f) *Examples.* The application of this section may be illustrated by the following examples:

Example (1). Individual A is a single, calendar year taxpayer with no dependents. A reported the following amounts for the following years on line 34 of Form 1040:

1977—$80,000
1978—$90,000
1979—$100,000
1980—$110,000

A reports the following amounts for the following lines on Form 1040 for 1981:

line 7—$120,000
line 12—$600,000
line 32b—$19,000
line 33—$1,000

The amount on line 12 is computed as follows: $937,500 of gain is attributable to regulated futures contracts subject to section 1256(a). Of that total, 40 percent is short term capital gain ($375,000) and 60 percent is long term capital gain ($562,500). Of the long term capital gain, 40 percent is taxable ($225,000). Therefore, A reports $600,000 on line 12 ($375,000+$225,000).

The result of Step (1) is $464,013.41. The result of Step (2) is $337,051.52. The result of Step (3) is 17 percent. The result of Step (4) is 83 percent. The result of Step (5) is $78,882.28. The result of Step (6) is $279,752.76. The result of Step (7) is $358,635.04. This is A's tax for 1981 under section 1301.

Example (2). The facts are the same as in Example (1), except that $703,125 of the $937,500 gain attributable to regulated futures contracts is pre-transitional year gain or loss (as described in § 5c.1256–2(g)). A's tax for 1981 under section 1301 is $358,635.04. A may opt to pay in installments a maximum of $221,004.68 of the tax due in 1981. If A opts to defer the maximum amount and pay in 5 equal installments, A must pay for 1981 a tax of $181,831.30. Each of the 4 succeeding installments is $44,200.94 plus interest computed in accordance with § 5c.1256–3(g)(3).

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

This Treasury decision is issued under the authority contained in sections 1305 and 7805 of the Internal Revenue Code of 1954 (78 Stat. 110, 26 U.S.C. 1305; 68A Stat. 917, 26 U.S.C. 7805) and in sections 508(c) and 509 of the Economic Recovery Tax Act of 1981 (95 Stat. 333–335).

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

Approved: August 23, 1982.

David G. Glickman,
Acting Assistant Secretary of the Treasury.

[FR Doc 82–23959 Filed 8–27–82; 3:36 pm]
BILLING CODE 4830–01–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 2

[Docket No. 2816–154]

Trademark Applications, Filing Dates

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: This document amends the rules of practice in trademark cases. The amendments are needed to reduce both the special handling required to process and control applications not entitled to a filing date and the delays such handling imposes on other applications. The amendments clarify the requirements for an application and allow the Office to return applications that fail to meet these requirements. The amendments also define with greater specificity the nature of the drawing and specimens which must accompany an application in order for it to be entitled to a filing date.

EFFECTIVE DATE: October 4, 1982.

FOR FURTHER INFORMATION CONTACT: Alan B. Davidson by telephone at (703) 557–3916, or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking concerning the amendment of 37 CFR 2.21, 2.52, 2.54, and 2.57 and the deletion of § 2.55 was published in the **Federal Register** on October 7, 1981 (46 FR 49602). Interested parties were requested to submit written comments on or before January 5, 1982. Comments were received from thirteen individuals and organizations and were given careful consideration.

One commenter suggested that the final sentence of § 2.54, providing for correction of drawings by the Office, should not be deleted. The individual reasoned that minor alterations are more expeditiously handled by sending the drawing to the Office draftsman

rather than returning it to the applicant. The administrative overhead of such a procedure was thought to be more costly than the correction process. This suggestion has not been adopted. Under the existing practice, simple deletions from drawings are made by Examiners and clerical personnel using gummed labels and opaque correction fluid. Due to the lack of facilities, drawings have not been sent to the Drafting Branch for correction for two years.

One commenter questioned whether the proposed revision of paragraph (d) of § 2.52 required a date of first use for applications filed under the provisions of Section 44 of the Lanham Act. The revision was not intended to extend the use date requirement to such applications. Paragraph (d) has been reworded to eliminate any possible confusion.

Three commenters expressed unequivocal support for the proposed amendments. While two other commenters found them to be beneficial both to the Office and to applicants, they expressed some concern as to how the new practice will be implemented. One asked about the availability of proof of the initial date of filing should the papers be improperly returned by the Office. The other directed attention to the possibility that a self-addressed postcard, often submitted by an applicant, would be sent back bearing a mail date stamp and a serial number, and the application papers would be returned subsequently as incomplete.

The procedures that have been developed to implement the proposed changes should eliminate both of these concerns. All papers which constitute an application will be date stamped in the Mail Room prior to a review of their completeness. If an application fails to meet the requirements for receiving a filing date, a second stamp will be added to indicate that the papers are informal. A notation will also be placed on the application to indicate the nature of the omission that resulted in denying a filing date. Should the initial determination prove to be erroneous, reinstating the filing date should be a simple matter. Only applications deemed to be sufficient to receive a filing date will reach the processing stage at which a serial number is assigned and the postcard returned. Hence, there should be no instances in which the papers are returned but the self-addressed postcard indicates they are accepted.

One commenter recommended further revisions to §§ 2.21(a)(6) and 2.52(d). The individual thought an application based on Sections 44(d) or 44(e) of the Lanham Act should be required to include complete information on the foreign application or registration claimed. In addition, the country of origin, the application or registration number, and relevant dates were suggested as required components of the heading of the drawing. These recommendations have not been adopted. Such information, while helpful, is not essential to the initial examination of an application. Much of the information is available from the certification or certified copy of the foreign registration that must accompany the application papers. While placing Section 44 information on the drawing may be of some convenience, it is not needed in order to perform a normal search.

The principal area of concern to commenters involved the revisions of §§ 2.52(d) and 2.21(a)(6) which make the heading on the drawing a requirement for receiving a filing date. The six commenters who addressed themselves to this issue believed the changes placed form over substance and imposed a penalty too severe for a strictly administrative problem. They believed that the potential impact of the new procedure on applicants' substantive rights far outweighed the current inconvenience to the Office. Alternative proposals were advanced for eliminating the problem of clerks interrupting classification work to add or complete headings on drawings. One called for imposing a penalty fee for applications with incomplete drawings. Another would require the Office to hold such applications for a reasonable time while the applicant corrected the deficiency. The original filing date would be awarded once compliance was achieved. One suggestion would allow an application to receive a filing date upon substantial compliance with the drawing requirements.

A survey conducted by the Patent and Trademark Office recently showed additional processing was required to add or complete the headings on the drawings in 14% of all applications. This means remedial action is necessary for approximately 8500 applications annually. Each time an application clerk is required to add or complete the heading on a drawing, processing of other applications is slowed. As a result, the mailing of filing receipts and the filing of copies of the application drawings in the Trademark Search Library cannot be accomplished in the most timely manner.

Inadequate preparation of drawings affects the public as well as the Office. Users of the Trademark Search Room need certain basic information about each new mark in order to identify marks likely to cause confusion with other pending and registered marks. Unless this information is displayed on the drawings, the searcher must attempt to locate the application files, the only alternative source of the information.

The imposition of penalty fees or the establishment of a grace period for correcting deficiencies would not eliminate the potential difficulties for Search Library users. If drawings without complete headings were held pending correction, the search copies of all application drawings received by the Office on a given day would not be filed at the same time in the Search Library. The potential impact on a party making a search could be severe should a conflicting mark bearing a filing date a month or more old appear after a search that should have revealed it has been conducted. For these reasons, the suggestions were not adopted.

One commenter explicitly stated, and others implied, a fear of overzealous enforcement of the amended rules. The Office will make every effort to interpret the rules sensibly. The Office will make every effort to interpret the rules sensibly. For instance, an application will not be denied a filing date because of the absence of a zip code or other non-critical part of an address. No letter-by-letter comparison of an applicant's name appearing on the drawing and in the application will be made. Detailed procedures and guidelines for the Office's clerical personnel should ensure a reasonable and evenhanded approach. The implementation of the rules will be monitored carefully for the first several months.

Environmental and Other Considerations

This rule changes will not have any significant impact on the quality of the human environment or the conservation of energy resources.

These rule changes will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*). The rule changes will clarify application requirements, simplify existing procedures, and expedite procedings before the Patent and Trademark Office.

The Patent and Trademark Office has determined that these rule changes do not constitute major rules as defined in Section 1(b) of Executive Order 12291 (45 FR 13193), since they would benefit trademark applicants and reduce the burdens on the Office.

These rule changes will not impose a burden under the Paperwork Reduction

Act of 1980, 44 U.S.C. 3501 *et seq.*, since no significant additional record keeping or reporting requirements are placed on the public.

List of Subjects in 37 CFR Part 2

Administrative practice and procedure, Trademarks.

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

Amendment to Regulations

In consideration of the comments received and pursuant to the authority of the Commissioner of Patents and Trademarks under 15 U.S.C. 1123, Part 2 of Title 37, Code of Federal Regulations is amended as set forth below.

1. Section 2.21 is revised to read as follows:

§ 2.21 Requirements for receiving a filing date.

(a) Materials submitted as an application for registration of a mark will not be accorded a filing date as an application until all of the following elements are received:

(1) Name of the applicant;

(2) A name and address to which communications can be directed;

(3) A drawing of the mark sought to be registered containing the information required by paragraph (d) of § 2.52;

(4) An identification of goods or services;

(5) At least one specimen or facsimile of the mark as actually used;

(6) A date of first use of the mark in commerce, or a certification or certified copy of a foreign registration if the application is based on such foreign registration pursuant to section 44(e) of the Trademark Act, or a claim of the benefit of a prior foreign application in accordance with section 44(d) of the Act;

(7) The required filing fee for at least one class of goods or services.

Compliance with one or more of the rules relating to the elements specified above may be required before the application is further processed.

(b) The filing date of the application is the date on which all of the elements set forth in paragraph (a) of this section are received in the Patent and Trademark Office.

(c) If the papers and fee submitted as an application do not satisfy all of the requirements specified in paragraph (a) of this section, the papers will not be considered to constitute an application and will not be given a filing date. The Patent and Trademark Office will return the papers and any fee submitted therewith to the person who submitted the papers. The Office will notify the person to whom the papers are returned of the defect or defects which prevented their being considered to be an application.

2. Section 2.52 is amended by revising paragraph (d) to read as follows:

§ 2.52 Requirement for drawings.

* * * * *

(d) *Heading.* Across the top of the drawing, beginning one inch (2.5 cm.) from the top edge and not exceeding one fourth of the sheet, there must be placed a heading, listing in separate lines, applicant's complete name, applicant's post office address, the dates of first use of the mark and first use of the mark in commerce (except for an application filed under section 44 of the Trademark Act), and the goods or services recited in the application or a typical item of the goods or services if a number of items are recited in the application. This heading should be typewritten.

* * * * *

3. Section 2.54 is revised to read as follows:

§ 2.54 Informal drawings.

A drawing not in conformity with § 2.51 or paragraphs (a), (b), (c), or (e) of § 2.52 or § 2.53 may be accepted for purpose of examination, but the drawing must be corrected or a new one furnished, as required, before that mark can be published or the application allowed.

§ 2.55 [Removed]

4. Section 2.55 is removed.

5. Section 2.57 is revised to read as follows:

§ 2.57 Facsimiles.

(a) When, due to the mode of applying or affixing the trademark to the goods, or to the manner of using the mark on the goods, or to the nature of the mark, specimens as above stated cannot be furnished, five copies of a suitable photograph or other acceptable reproduction, not to exceed 8½ inches (21.6 cm.) wide and 13 inches (33.0 cm.) long, and clearly and legibly showing the mark and all matter used in connection therewith, shall be furnished.

(b) A purported facsimile which is merely a reproduction of the drawing submitted to comply with § 2.51 will not be considered to be a facsimile depicting the mark as actually used on or in connection with the goods or in connection with the services.

Dated: August 13, 1982.

Gerald J. Mossinghoff,

Commissioner of Patents and Trademarks.

[FR Doc. 82-24158 Filed 9-1-82; 8:45 am]

BILLING CODE 3510-16-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Circular No. 2512]

43 CFR Parts 5440, 5450 and 5460

Sales of Forest Products; Amendment to Procedures

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking is directed to creating conditions which will make bidding on forest products more responsive to market conditions, and encouraging the regular flow of receipts to the United States and to local governments.

EFFECTIVE DATE: October 4, 1982.

ADDRESS: Any suggestions or inquiries should be sent to: Director (230), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Charles Frost, (202) 653-8864.

SUPPLEMENTARY INFORMATION: A proposed rulemaking to amend the regulations governing the sale of timber from lands administered by the Bureau of Land Management was published in the **Federal Register** on March 19, 1982 (47 FR 12078). This proposed rulemaking would amend the existing regulations in 43 CFR Group 5400, covering the Sale of Timber Products, to: (1) Preclude a defaulter, who failed to complete payment by the expiration date of a timber sale contract, from bidding on another sale until satisfactory arrangements are made to compensate the United States for any damages due; (2) establish a $500,000 ceiling on performance bonds; (3) establish a $50,000 ceiling on installment payments; (4) require a "front-end" deposit of 5 percent of the bid value or one half of an installment payment whichever is less; and (5) require 40 percent of the contract price to be paid by the second anniversary date of a 3-year contract.

The proposed rulemaking was the subject of 18 responses, all of which were from the industry, industry trade associations, and a private individual associated with the industry. All of these comments were given careful consideration during the development of this final rulemaking.

Comments on the provision of the proposed rulemaking precluding bidding by defaulters were generally favorable, and the provision is incorporated in the final rulemaking.

Responses to the proposal to establish a $500,000 ceiling on performance bonds were also favorable. Presently, the Bureau of Land Management does not have a ceiling on the amount of a performance bond. One comment expressed the view that a $500,000 performance bond requirement would create a hardship for small business. Generally, sales with smaller volumes of timber and lower values will continue to require proportionately smaller performance bonds so that this bonding provision should not impose hardships on small purchasers. Bureau of Land Management regulations authorize cutting timber in advance of payment if the purchaser elects to increase a performance bond to cover the value of the timber cut. An exception to the $500,000 ceiling for performance bonds will provide for timber cutting in advance of payment. Accordingly, the final rulemaking places a $500,000 cap on performance bonds with the exception that when a purchaser opts to increase a performance bond to permit cutting prior to payment, there will be no ceiling on an increased performance bond.

Comments were favorable concerning the proposed amendment to place a ceiling of $50,000 on installment payments. An increase in the amount of installments will result in fewer billings by the Bureau of Land Management and fewer payments by timber purchasers. This proposed change is adopted in the final rulemaking.

About one-third of the responders objected to the proposed rulemaking's required "front-end" deposit of 5 percent of the bid value or one-half of a required installment payment. A concern was raised that such an up-front payment would create a hardship for small business by putting a strain on working capital. Requiring a cash deposit may help ease recent extreme bid levels and should be an incentive for timely harvest of timber. Reducing bid levels and increasing timely harvest should have positive effects for small business. To further reduce negative effects, the deposit may be used as part of the 40 percent payment required by the second anniversary of a 3-year contract. However, the 5 percent deposit will be held as the final payment for all contracts. The requirement for a 5 percent deposit or one-half of an installment, whichever is less, has been adopted in the final rulemaking.

About one-third of the responders objected to the requirement in the proposed rulemaking for a 40 percent payment by the second anniversary of a 3-year contract. This requirement was viewed as burdensome to a purchaser's capital reserve. As explained in the preceding paragraph, the required deposit may be used as part of the 40 percent payment requirement. Three responders asked that the value of completed road construction be included as a contribution to the 40 percent payment requirement. Since the completion of road construction is in keeping with the intention of encouraging diligence in completing contracts, encouraging bidding that is reponsive to the market, and encouraging the flow of receipts, the final rulemaking includes the value of complete road construction as a credit towards the 40 percent payment required by the second anniversary of a three-year contract.

The requirement for 40 percent payment by the second anniversary of a 3-year contract has been adopted in the final rulemaking with the provision for crediting the sale deposit and the value of completed road construction based on Bureau of Land Management appraisal allowances.

Among miscellaneous comments was the recommendation that performance bonds be guaranteed at the time of bid. Implementing this recommendation would create administrative burdens for the Bureau of Land Management, the purchaser, and also a burden for small businesses. Therefore, the final rulemaking does not adopt this suggestion.

Other comments stated that the changes made by the proposed rulemaking generally create a hardship on small business and that they should apply only to the Oregon and California Grant Lands in western Oregon since problems with inflationary bidding occur principally on the west coast. To the extent that this rulemaking contributes to bid levels tracking more closely with actual market conditions, effects on small businesses should be positive. Some entities may receive a benefit due to moderation of inflationary forces in the industry. The flow of receipts to local governments should be more even. As written, the final rulemaking relies upon market forces to signal actions to businesses. It is expected that this rulemaking will tend to reduce price fluctuations that are not the result of actual market conditions. This should aid firms in continuing their participation in the market. The number of firms that would refrain from participating in the market because of this rulemaking is not expected to be significant.

All of the changes made in the proposed rulemaking are being implemented in the final rulemaking to achieve diligence in completing contracts, curb inflationary bidding, and increase the flow of receipts from contracts. Additionally, the adoption of changes made by this final rulemaking will bring Bureau of Land Management timber policies and procedures closer to those of other Federal agencies having timber sale programs.

The principal author of this final rulemaking is Charles Frost, Division of Forestry, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

List of Subjects in 43 CFR Parts 5440, 5450, and 5460

Forests and forest products, Government contracts, Public lands, Surety bonds.

Under the authority of the Act of August 28, 1937 (43 U.S.C. 1181(a)) and the Act of July 31, 1947 (30 U.S.C. 601 et seq.), Parts 5440, 5450, and 5460, Group 5400, Subchapter E, Chapter II Title 43 of the Code of Federal Regulations are amended as set forth below.

Dated: July 22, 1982.

Garrey E. Carruthers,

Secretary of the Interior.

PART 5440—CONDUCT OF SALES

1. Section 5441.1 is amended by:

a. Amending paragraph (b) by inserting after the figure "(a)" the words "and (c)"; and

b. Adding a new paragraph (c) to read:

§ 5441.1 Qualification of bidders.

* * * * *

(c) No bidder who has defaulted on a timber purchase contract because of failure to make payment by the expiration date of the contract may bid on any subsequent timber purchase contracts until he/she has made satisfactory arrangements with the authorized officer for payment of damages due the United States.

PART 5450—AWARD OF CONTRACT

§ 5451.1 [Amended]

2. Section 5451.1(a) is amended by revising the first sentence to read:

(a) A minimum performance bond of not less than 20 percent of the total contract price shall be required for all

contracts of $2500 or more, but the amount of the bond shall not be in excess of $500,000, except when the purchaser opts to increase the minimum bond as provided in § 5451.2 of this title.

* * *

* * * * *

3. Section 5451.2 is amended by revising it to read:

§ 5451.2 Performance bonds in excess of minimum.

The purchaser may cut timber before payment of any installment required by § 5461.2(a) of this title by increasing the minimum bond required by § 5461.1(a) of this title by an amount equal to 1 or more installment payments; *provided*, however, that the authorized officer may grant permission to cut timber under this section only when the value of the timber to be cut does not exceed the amount by which the minimum bond has been increased. The purchaser shall secure approval of the adjusted bond by the authorized officer in writing prior to cutting any timber under the adjusted bond.

§ 5451.4 [Amended]

4. Section 5451.4 *Payment Bond* is amended by:

a. Removing from the first sentence the figure "§ 5451.2(b)" and replacing it with the figure "§ 5451.2" and;

b. Replacing the word "second" in the first sentence with the word "first" and;

c. Removing from the fourth sentence the figure "§ 5461.2(a)(4)" and replacing it with the figure "§ 5461.2(c)" and;

d. Adding two new sentences at the end of the section to read:

* * * When operations cease for 60 days or more, the amount of a payment bond may be adjusted downward to an amount equal to the value of the timber cut. Before operations resume, a reduced bond shall be increased to the amount of a full installment.

PART 5460—SALES ADMINISTRATION

5. Section 5461.2 is revised to read:

§ 5461.2 Installment payment requirements.

Contract installment payments shall be determined by the authorized officer as follows:

(a) For sales of less than $500,000, installment payments shall be not less than 10 percent of the total purchase price. For sales of $500,000 or more, installment payments shall be $50,000. A deposit equal to one half of an installment shall be paid prior to, or at the time the authorized officer signs the contract. Such deposit shall be held to satisfy the final payment under the contract. The first installment shall be paid prior to the cutting or removal of the material sold. Each subsequent installment shall be due and payable without notice when the value of material cut or removed equals the sum of all payments not including the deposit, provided however, that in the case of all contracts with a 3-year term, the purchaser shall be required by the second anniversary date to either (1) pay no less than 40 percent of the total purchase price or (2) complete road construction required under the contract the value of which when combined with contract payments is equal to no less than 40 percent of the total purchase price. For the purpose of this section, the value of completed road construction shall be based on the Bureau's appraisal allowance.

(b) Delayed payment of installments shall be allowed if the purchaser furnishes a bond as provided in § 5461.2 of this title. A deposit shall be paid in the same manner as prescribed in paragraph (a) of this section. If cutting is permitted before payment, as prescribed in § 5451.2 of this title, payment by installment shall be made before any timber may be skidded or yarded to a loading point or removed from the contract area. Each subsequent installment shall be due and payable without notice when the sale value of the timber skidded or yarded to a loading point or removed equals the sum of all payments not including the deposit. The unenhanced value of timber allowed to be cut in advance of payment shall be limited to the amount of the increase over and above the required performance bond. Upon payment, the amount of the bond may be applied to other timber sold under the contract to permit its cutting in advance of payment.

(c) Where cutting or removal is permitted under payment bond under § 5451.4 of this title, a deposit shall be paid as provided in paragraph (a) of this section. If cutting and/or removal is permitted before payment, as provided in § 5451.4 of this title, the purchaser shall be billed monthly for timber skidded or yarded to a loading point or removed from the contract area and for any related road maintenance fees unless a lesser period is agreed to by the authorized officer and the purchaser. Payment shall be made within 15 days of the billing date shown on the billing form. The unenhanced value of timber allowed to be cut and/or removed in advance of payment is limited to the amount of the payment bond. Upon payment, the amount of the bond may be applied to other timber.

[FR Doc. 82-24137 Filed 9-1-82; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 179

[Docket No. HM-174; Amdt. No. 179-30]

Specifications for Tank Cars

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Amendment of final rule; extension of the compliance date.

SUMMARY: This document amends the final rule published on January 26, 1981 (46 FR 8005) and revised on August 24, 1981 (46 FR 42678), which established certain construction standards for railroad tank cars used to transport hazardous materials. The amendment extends the compliance date for equipping newly constructed DOT specification 105 tank cars, built to carry ethylene oxide, with a safety valve sized in accordance with 49 CFR 179.106-2(c)(4). The compliance date is extended from September 1, 1982, until September 1, 1983. The extension will permit completion of a study by the Association of American Railroads (AAR) concerning the optimum sizing for the safety valve on cars built to carry ethylene oxide. This action is taken by MTB in response to the AAR's petition for an extension of the compliance date in the final rule.

EFFECTIVE DATE: August 31, 1982.

FOR FURTHER INFORMATION CONTACT: Leavitt A. Peterson (Office of Safety), Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426-0897.

SUPPLEMENTARY INFORMATION: On January 26, 1981, MTB issued a final rule establishing certain construction standards for DOT specification 105 tank cars built to carry specified commodities. The construction standards include a safety valve sizing requirement for DOT specification 105 tank cars built to carry ethylene oxide. The final rule required that after August 31, 1981, each DOT specification 105 ethylene oxide tank car shall be constructed with a safety valve sized in accordance with 49 CFR 179.106-2(c)(4).

After publication of the final rule, MTB received several petitions for reconsideration of the final rule. These petitions addressed, among other things, the safety valve sizing requirement for ethylene oxide. The petitioners argued that the larger safety valve for ethylene oxide would be less safe because of the peculiar commodity characteristics.

They also argued that the valve sizing equation in the rule should not be applied because ethylene oxide is a liquid while the equation is designed for gases.

While MTB and the FRA were not persuaded that these arguments were adequately supported, the compliance date was extended from September 1, 1981 until September 1, 1982 (46 FR 42678). The extension was granted to permit the AAR Tank Committee and other interested parties an opportunity to study the question of safety valve sizing for ethylene oxide and to submit the results for review and consideration.

During the past year, an Ad Hoc Committee of the AAR Tank Car Committee has conducted an extensive study of safety valve sizing. This significant research effort appears to show great promise. An interim report was furnished to MTB and the FRA on August 3, 1982. However, completion of a final report will require additional time. As a consequence, AAR petitioned MTB for an extension of the compliance date for the ethylene oxide safety valve sizing requirement.

MTB is extending the compliance date from September 1, 1982 until September 1, 1983 so that the current research effort can be completed by the AAR and thoroughly evaluated by MTB and the FRA before final action is taken. The evidence now available indicates that the extension is consistent with safety necessary for completion of the report detailing the research conducted over the past year, and warranted to develop data useful in making a final determination about safety valve sizing on ethylene oxide cars. MTB requests that the AAR's final report be submitted not later than February 1, 1983.

The final rule extending the compliance date shall become effective in less than 30 days on August 31, 1982. MTB has determined that this final rule relieves a restriction. MTB has also determined that there is good cause for making the rule effective in less than 30 days since the imposition on September 1, 1982 of the safety valve requirement contained in 49 CFR 179.106–2(c)(4) could disrupt the construction of DOT specification 105 tank cars built to carry ethylene oxide.

List of Subjects in 49 CFR Part 179

Railroad safety.

PART 179—SPECIFICATIONS FOR TANK CARS

In consideration of the foregoing, § 179.102–12(a)(9) of Part 179 of Title 49, Code of Federal Regulations, is amended, effective August 31, 1982, as follows:

§ 179.102–12 [Amended]

* * * * *

(a) * * *

(9) Each tank car built after August 31, 1981, shall be constructed in accordance with class 105J, except that the safety relief valve requirements of § 179.106–2(c)(4) shall not apply. Each tank built after August 31, 1983, shall be constructed in accordance with class 105J.

(49 U.S.C. 1803, 1904, 1808; 49 CFR 1.53, Appendix A to Part 1)

Note.—The Material Transportation Bureau has determined that this document will not result in a "major rule" under the terms of Executive Order 12291 and does not require a Regulatory Impact Analysis, nor does it require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 *et seq.*). I certify that this document will not have a significant economic impact on a substantial number of small entities. The regulatory evaluation and an environmental assessment for the actions taken in HM–174 are available for review in the docket.

Issued in Washington, D.C., on August 26, 1982.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 82–23862 Filed 9–1–82; 8:45 am]

BILLING CODE 4910–60–M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 71–3a; Notice 6]

Federal Motor Vehicle Safety Standards; Rearview Mirror Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice amends Federal Motor Vehicle Safety Standard No. 111 (rearview mirrors) by permitting the use of convex rearview mirrors on the exterior, passenger side of passenger cars and light trucks, to meet the field of view requirements when they are not met by the inside rearview mirror. Previously, only flat (plane) outside mirrors could be used to supplement an inside mirror which did not fully satisfy those requirements This amendment is issued in response to a petition by General Motors. The agency believes that this amendment will result in improved driver rearward visibility, thereby reducing motor vehicle accidents and injuries.

DATE: This amendment becomes effective on September 2, 1982.

FOR FURTHER INFORMATION CONTACT: Kevin Cavey, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, D.C. 20590 (202–426–2153).

SUPPLEMENTARY INFORMATION: Federal Motor Vehicle Safety Standard ("FMVSS") No. 111 establishes requirements for the use, field of view, and mounting of motor vehicle rearview mirrors. With respect to passenger cars, the standard requires that manufacturers mount flat (sometimes referred to as "plane" or "unit magnification") mirrors both inside the vehicle and outside the vehicle on the driver's side. The inside mirror must, except as specified below, have a field of view at least 20 degrees wide and extending to the horizon beginning not more than 200 feet behind the vehicle. In cases where the interior mirror does not meet the specified field of view requirements, a plane, exterior mirror must be mounted on the passenger's side of the car. If a passenger side mirror is required to be used, it must be stably mounted, may not have sharp points or edges which could injure pedestrians, and must be adjustable. Reflectance (image brightness) criteria were also established. (If a manufacturer uses an interior mirror which meets the field of view requirements, and wishes to install an exterior passenger side mirror voluntarily, it may use any type of mirror for that purpose.)

In the case of light trucks, manufacturers may either comply with the passenger car requirement or have flat outside mirrors with reflective surface area of not less than 19.5 square inches on each side of the vehicle.

On May 26, 1976, General Motors Corporation (GM) petitioned the agency to amend FMVSS 111 to permit the use of convex mirrors on the passenger side of cars and light trucks, where the interior mirror did not meet the field of view requirements of the standard. GM pointed out in its petition that convex mirrors would provide a wider field of view than the flat mirrors of the same size. On August 26, 1976, the agency issued a notice of proposed rulemaking to amend the standard as requested by GM, but with certain limitations as to the characteristics of the convex mirrors which could be used. These limitations were considered necessary because some convex mirrors present a distorted image which could cause problems for some drivers.

The 1976 NPRM was incorporated in a proposal for a major upgrading of all the requirements in FMVSS 111. See FR 51657, November 6, 1978. Among the provisions of the 1978 proposal were requirements increasing the minimum field of view of the mirror system, more specific breakaway and shatter resistance requirements, and image luminance (another measure of image brightness) criteria.

The 1978 NPRM also proposed to permit the use of convex outside mirrors which met certain additional requirements. The additional requirements, which were designed to reduce or eliminate problems certain drivers could experience when viewing images in convex mirrors, included specifications of minimum and maximum radii of curvature, maximum variation of the radius of curvature for a given mirror, identification of convex mirrors (through the use of an orange border) and discussions in owner's manuals for passenger cars and light trucks which use convex mirrors regarding the presence of the convex mirrors, the location of the mirrors, and the significance of the orange border.

The agency has determined that it is appropriate to take final action on the portions of the 1978 proposed rule relating to passenger side convex mirrors. The remaining provisions of the 1978 NPRM require further evaluation by the agency and will be addressed in a future notice. Therefore, the agency is amending FMVSS 111 to permit the use of convex mirrors on the passenger side of passenger cars (and also light trucks, since they may comply with FMVSS 111 by meeting the car requirements) subject to the following restrictions.

(1) The radius of curvature of any convex mirror used shall not exceed 65 inches;

(2) The radius of curvature of such a mirror may not be less than 35 inches;

(3) The measured radius of curvature of a convex mirror, as specified in the agency's test procedure, may not vary by more than 12.5 percent from the mean radius of curvature;

(4) Each convex mirror shall be readily identifiable by the following words etched on the lower portion of the glazing surface: "Objects in Mirror Are Closer Than They Appear".

The need for each of these requirements, and the comments received on the proposed convex mirror requirements, are discussed below.

Comments on the NPRM. Several commenters questioned the desirability of permitting the use of convex mirrors on passenger cars and light trucks. Convex automotive mirrors exhibit a number of characteristics which differ from the common plane mirrors now in general use. One is that the image of an object viewed in a convex mirror is smaller than that of the same object viewed in a plane mirror. Therefore, such an object will appear to be farther away than it would when viewed in a plane automotive mirror. A driver who has always used plane mirrors might, when viewing a car to his or her rear in the immediately adjacent lane to the right (such as in a passing maneuver), perceive that that car is further to the rear than it actually is. In that situation, the driver might move to the right and change lanes before it is safe to do so. Some commenters believed that the combination of a plane and convex mirrors, and therefore differing image sizes, on the same car would add to the confusion. Other problems experienced by some users of convex mirrors include double vision, eyestrain, and nausea.

Research by the agency and by the mirror manufacturers indicate that these problems with convex mirrors can be greatly mitigated by certain restrictions and by steps to assure that drivers are aware that the mirror being used is not a standard plane mirror. Image distortion problems, for example, can be substantially reduced by regulating variation in the radius of curvature. The agency's NPRM specified that the radius of curvature of any portion of the mirror may not vary more than 12.5 percent from the mean radius of curvature for the entire mirror. To alert the driver that a convex mirror is being used, the agency is requiring both a statement in the vehicle owner's manual and a clear warning on the mirror itself.

The agency believes that, based on all available research, these safety criteria are necessary to reduce to within acceptable bounds any potential problems which drivers may experience with convex mirrors. In this regard, the agency has relied significantly upon a contract study performed by Vector Enterprises, Incorporated, for the agency, in which various convex mirrors meeting the specifications in the 1978 NPRM were evaluated. The passenger side convex mirror was found to be highly desirable in such maneuvers as moving to the right into an adjacent lane. The main safety benefit of such a system is that it provides an expanded field of view of the right, rear quadrant area adjacent to the vehicle, thus reducing the need of the driver to turn around to view that area directly. The study concluded that minimizing the total time a driver's attention is diverted from the forward area through the addition of a passenger side convex mirror should provide safety benefits. Another finding of that study was that drivers' abilities to use convex mirrors significantly improved with experience.

Several comments were also received on the minimum allowable radius of curvature for convex mirrors. Smaller radius of curvature mirrors provide a wider field of view but have smaller image sizes. The Vector study found that a radius range of 40 to 60 inches provided the best results, and the 1978 proposal specified a 40 inch minimum radius. Donnelly Mirrors stated that mirrors with about 10 percent smaller radii of curvature would still provide acceptable performance, based on several studies it cited. Therefore, in light of the agency's analysis of these studies, the agency is specifying a 35 inch minimum radius of curvature for convex mirrors.

The 1978 proposal also specified a 60 inch maximum radius of curvature for convex mirrors. Several commenters questioned the need for a maximum specification, since plane mirrors have always been permitted on the passenger side of cars and light trucks, and plane mirrors effectively have an infinite radius. Nevertheless, the agency feels that a maximum specification is necessary, to limit the range of convexities and therefore image minification to which drivers are exposed and to assure to the maximum extent possible that drivers are, whenever convex mirrors are used, aware due to image differences that the vehicle is equipped with such a mirror. Consistent with the available studies and to allow greater manufacturing flexibility, a 65 inch maximum radius is being established in this final rule.

The 1978 NPRM established a criterion of 12.5 percent for the maximum permissible variation in the radius of curvature over the surface of a convex mirror, and that criterion is being maintained in the final rule. Some commenters recommended reliance on the European criterion of 15 percent (using a different measuring device and excluding the areas of the mirror close to the edge). However, Donnelly Mirrors built a strong case in its comment on the 1978 NPRM for the need for a stringent distortion criterion. As Donnelly points out, low distortion mirrors reduce many of the problems drivers could experience with convex mirrors (double vision, nausea, dizziness). Further, they point out that mirrors of the quality level specified in the proposed standard are now available commercially at reasonable cost. Therefore, the agency cannot justify reducing that criterion. Variation in the radius of curvature would be measured by the procedure specified in the 1978 NPRM.

The proposed standard specified that convex mirrors must have an orange border to alert drivers that the mirror was not planar. The proposal also asked about other methods, including a written warning on the mirror, to accomplish this purpose. Chrysler Corporation recommended that the former approach not be used, since the orange border might be misinterpreted as being a styling feature and convey no inherent, specific meaning. Rather, several vehicle and mirror manufacturers suggested that the words "Objects in Mirror Are Closer Than They Appear" should be etched along the bottom edge of the mirror, to give a clearer warning. Such a warning is common practice on current convex mirrors, in fact. One European mirror manufacturer suggested that the etched warning would be costly to apply and could impair the image viewed in the mirror. Some vehicle manufacturers suggested that the statement in the owner's manual would provide an adequate warning or that no warning at all was necessary.

Based on the previously discussed research, the agency remains convinced that a warning on the mirror itself is necessary. The fact that a convex mirror image appears different from that of a plane mirror does not, in the agency's view, provide an adequate warning that objects viewed in the convex mirror are closer than they appear. Further, the etched warning would serve as a reminder to the driver with each use and would assist drivers who had not read the owner's manual. Finally, the etched warning conveys a much clearer warning than the rather ambiguous orange border. With regard to the issue of image impairment, the agency's engineering judgment involving convex mirrors having this etched warning indicates that any such impariment caused by relatively small lettering on the bottom edge of the mirror surface is minimal. Further, the fact that such warnings are commonly used on current convex mirrors is a strong indication that the cost is not excessive. Therefore, the agency is requiring that convex mirrors used to comply with FMVSS 111 must have the words mentioned above etched on the bottom edge of the mirror surface in letters 3/16 to 1/4 inch high.

Rolls Royce argued that the agency should not limit the permitted convex mirror surface configurations to spherical surfaces, since spherical mirrors exhibit spherical aberration. Spherical mirrors (which are designed to have a single radius of curvature over the entire mirror surface) are typically used for automotive applications since the more optically correct parabolic mirror surfaces would be prohibitively expensive to manufacture. However, should a manufacturer desire to offer a parabolic convex mirror and demonstrate that the mirror's surface configuration has a degree of accuracy equivalent to that specified in the standard for spherical surfaces, the agency would initiate rulemaking to permit the use of the parabolic mirror.

It should be emphasized that these requirements for convex mirrors do not apply to after-market mirrors or to convex mirrors which are not required to meet the field of view requirements specified in FMVSS 111. However, the agency strongly encourages vehicle and mirror manufacturers to consider using and designing mirrors to comply with the requirements of this standard even where not strictly required by the standard. The agency will continue to study the safety benefits of various rearview mirror systems and may establish requirements applicable to additional mirrors in future rulemaking.

The agency is making the amendment effective immediately upon publication, since the amendment "relieves a restriction" within the meaning of 5 U.S.C. 553(d)(1), by permitting the use of convex mirrors where they were previously unauthorized. The agency also finds that making this amendment effective immediately is in the public interest, in accordance with section 103(c) of the National Traffic and Motor Vehicle Safety Act, since doing so will permit the use of mirrors which provide wider fields of view for the 1983 model year. Also, since the amendment relieves a restriction in FMVSS 111, providing 180 days lead time is unnecessary.

NHTSA has determined that this proceeding does not involve a "major rule" within the meaning of section 1, paragraph (b), of Executive Order 12291 because it is not likely to have an effect on the economy of $100 million or more, to result in a major increase in costs or prices, or to have significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States firms to meet foreign competition. Similarly, this action is not deemed "significant" for purposes of Department of Transportation procedures for internal review of regulatory actions. The economic impacts of this amendment are so minimal as to not warrant preparation of a full regulatory evaluation, since the amendment merely permits the use of certain rearview mirrors which were previously prohibited.

Pursuant to the Regulatory Flexibility Act, the agency has considered the impact of this rulemaking action on small entities. The agency certifies that this action will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required for this action. The agency has concluded that few, if any, manufacturers of rearview mirrors are small entities and that the impacts of this rule on those companies which decide to take advantage of the new alternative method of compliance should be small.

NHTSA has concluded that the environmental consequences of this action will be of limited scope that they clearly will not have a significant effect on the quality of the human environment.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

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

Issued on August 18, 1982.

Raymond A. Peck, Jr.,

Administrator.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, 49 CFR 571.111 is amended as follows:

§ 571.111 [Amended]

1. Section 4 is amended by adding the following new definition:

"Convex mirror" means a mirror having a curved reflective surface whose shape is the same as that of the exterior surface of a section of a sphere.

2. The first sentence of section 5.3 is revised to read as follows:

S5.3 *Outside rearview mirror passenger's side.* Each passenger car whose inside rearview mirror does not meet the field of view requirements of S5.1.1 shall have an outside mirror of unit magnification or a convex mirror installed on the passenger's side.

3. A new section 5.4 is added, reading as follows:

S5.4 *Convex mirror requirements.* Each motor vehicle using a convex mirror to meet the requirements of S5.3 shall comply with the following requirements:

S5.4.1 When each convex mirror is tested in accordance with the procedures specified in S12 of this standard, none of the radii of curvature readings shall deviate from the average

radius of curvature by more than plus or minus 12.5 percent.

S5.4.2 Each convex mirror shall have indelibly etched on the lower edge of the mirror's reflective surface, in letters not less than 3/16 inch nor more than 1/4 inch high, the words "Objects in Mirror Are Closer Than They Appear".

S5.4.3 The average radius of curvature of each such mirror, as determined by using the procedure in S12, shall be not less than 35 inches and not more than 65 inches.

4. A new S12 is added after S11 of the standard reading as follows:

S12 *Determination of Radius of Curvature.*

S12.1 To determine the average radius of curvature of a convex mirror, use a 3-point linear spherometer, which meets the requirements of S12.2, at the 10 test positions shown in Figure 1 and record the readings for each position.

S12.2 The 3-point linear spherometer has two outer fixed legs 1.5 inches apart and one inner movable leg at the mid-point. The spherometer has a dial indicator with a scale that can be read accurately to 0.0001 inches, with the zero reading being a flat surface.

S12.3 The 10 test positions on the image display consist of two positions at right angles to each other at each of five locations as shown in Figure 1. The locations are at the center of the mirror, at the left and right ends of a horizontal line that bisects the mirror and at the top and bottom ends of a vertical line that bisects the mirror. None of the readings are within a 0.25-inch border on the edge of the image display.

S12.4 At each position, the spherometer is held perpendicular to the convex mirror-surface and a record is made of the reading on the dial indicator to the nearest 0.0001 inch.

S12.5 Convert the dail reading data for each of the 10 test positions to radius of curvature calculations using Table I. Consider the change as linear for dial readings that fall between two numbers in Table I.

S12.6 Calculate the average radius of curvature by adding all 10 radius of curvature calculations and dividing by ten.

S12.7 Determine the numerical difference between the average radius of curvature and each of the 10 individual radius of curvature calculations determined in S12.5.

S12.8 Calculate the greatest percentage deviation by dividing the greatest numerical difference determined in S12.7 by the average radius of curvature and multiply by 100.

BILLING CODE 4910-59-M

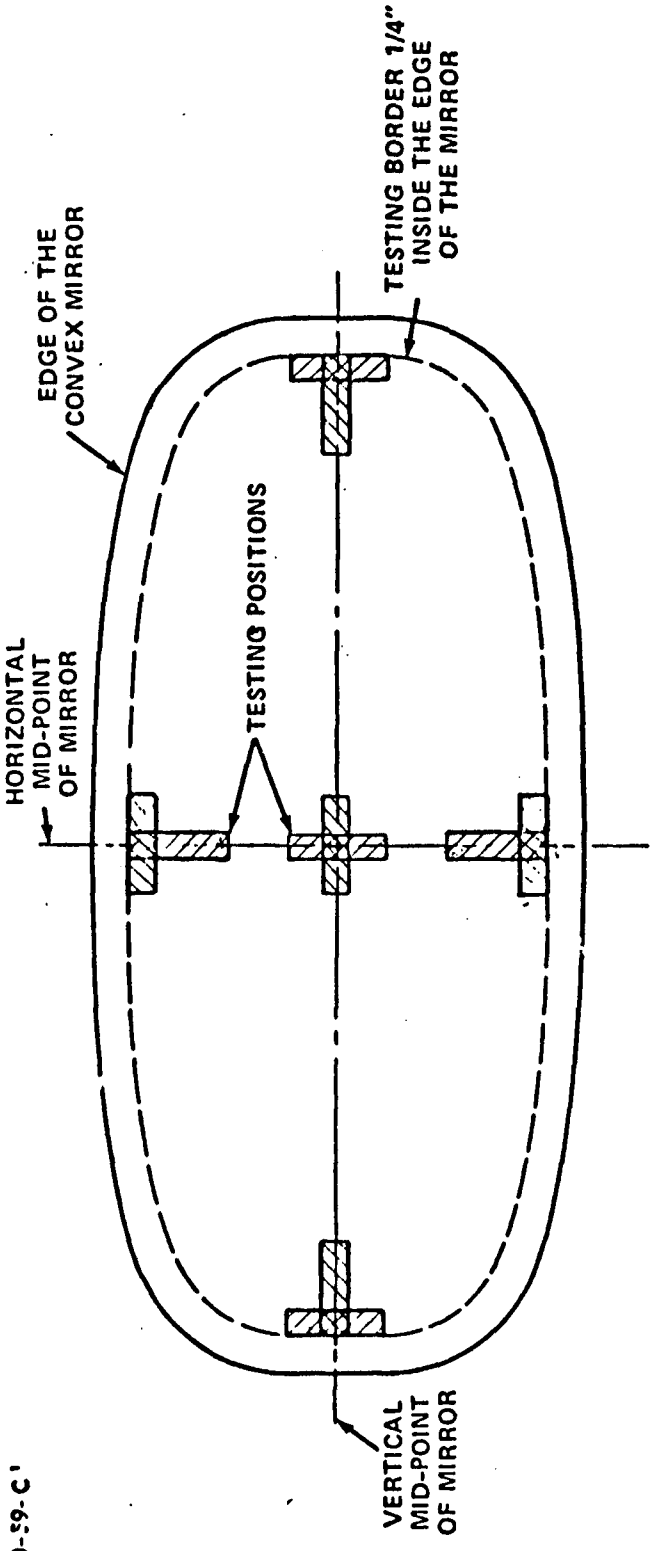

Figure 1 LOCATION OF TEN CONVEX MIRROR TESTING POSITIONS

BILLING CODE 4910-59-C

[4910-59-C]

TABLE I.—CONVERSION TABLE FROM SPHEROMETER DIAL READING TO RADIUS OF CURVATURE

Dial reading	Radius of curvature (in inches)
.00330	85.2
.00350	80.4
.00374	75.2
.00402	70.0
.00416	67.6
.00432	65.1
.00450	62.5
.00468	60.1
.00476	59.1
.00484	58.1
.00492	57.2
.00502	56.0
.00512	54.9
.00522	53.9
.00536	52.5
.00544	51.7
.00554	50.8
.00566	49.7
.00580	48.5
.00592	47.5
.00606	46.4
.00622	45.2
.00636	44.2
.00654	43.0
.00668	42.1
.00686	41.0
.00694	40.5
.00720	39.1
.00740	38.0
.00760	37.0
.00780	36.1
.00802	35.1
.00822	34.2
.00850	33.1
.00878	32.0
.00906	31.0
.00922	30.5
.00938	30.0
.00960	29.3
.00980	28.7
.01004	28.0
.01022	27.5
.01042	27.0
.01060	26.5
.01080	26.0
.01110	25.3
.01130	24.9
.01170	24.0
.01200	23.4
.01240	22.7
.01280	22.0
.01310	21.5
.01360	20.7
.01400	20.1
.01430	19.7
.01480	19.0
.01540	18.3
.01570	17.9
.01610	17.5
.01650	17.1
.01700	16.6
.01750	16.1
.01800	15.6
.01860	15.1
.01910	14.7
.01980	14.2
.02040	13.8
.02100	13.4
.02160	13.0
.02250	12.5
.02340	12.0
.02450	11.5
.02560	11.0
.02680	10.5
.02810	10.0
.02960	9.5
.03130	9.0
.03310	8.5

[FR Doc. 82-24159 Filed 9-1-82; 8:45 am]
BILLING CODE 4910-59-M

Proposed Rules

Federal Register
Vol. 47, No. 171
Thursday, September 2, 1982

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 74

[Docket No. 82-044]

Scabies in Sheep

AGENCY: Animal and Plant Health Inspection Serivce, USDA.

ACTION: Proposed rule.

SUMMARY: The regulations in 9 CFR Part 74, governing the interstate movement and shipment to slaughter of sheep, and other matters concerning sheep scabies, have been reviewed in accordance with the Agency's plan to periodically review existing regulations. As a result of that review, the Agency is proposing to remove Part 74 from the regulations as being unnecessary. Title 9 CFR Part 71 could be used instead to effectively regulate the movement of infected or exposed animals in order to prevent the spread of sheep scabies.

DATE: Comments must be received on or before November 1, 1982.

ADDRESS: Written comments to the Deputy Administrator, USDA, APHIS, VS, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATON CONTACT: Dr. R. L. Rissler, USDA, APHIS, VS, Room 734, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8321.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This proposed rule has been reviewed in conformance with Executive Order 12291 and has been classified as not a "major rule." Based on information compiled by the Department, it has been determined that this action should not have an annual effect on the economy; that this action will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and that this rule will not have a significant adverse effect on competition, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Additionally, Dr. Harry C. Mussman, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a signifiant economic impact on a substantial number of small entities.

This action would remove the regulations which govern the interstate movement of sheep to slaughter, and for other purposes. The United States has been free of sheep scabies since 1973 and import requirements have proven adequate since then to prevent the introduction into the United States of the disease. If an animal did become infected with sheep scabies, control of the animal's movements could be made under the regulations in 9 CFR Part 71. The only other alternative considered was to leave Part 74 as it now is. However, this would have left these unnecessary regulations in place, and this alternative was therefore not chosen.

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that, pursuant to secs. 4-7, 23 STat. 32, as amended; secs. 1, 2, and 3, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130 and 132; (21 U.S.C. 111-113, 114a-1, 115, 116, 117, 120, 122, 123-126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141), the Animal and Plant Health Inspection Service is considering removing Part 74 from Title 9, Code of Federal Regulations, (9 CFR Part 74).

Part 74, 9 CFR, presently provides that no sheep infected with the contagious, infectious, and communicable disease commonly known as scabies shall be shipped, trailed, driven, or otherwise moved interstate for any purpose. Upon discovery of the mange mite, Psoroptic *equi var. ovis*, all infected and exposed sheep are not to be moved interstate without inspection, dipping and such restrictions so as to protect other sheep. Infected animals can be treated for this disease by using proper dipping procedures in an approved pesticide.

The United States had its last reported case of sheep scabies in 1970 and was declared free of that disease in 1973. Additionally, the applicable laws and regulations in 9 CFR 71.2 provide the Secretary of Agriculture with authority to issue quarantines for scabies in sheep if he deems them necessary. Such quarantines should be adequate to control any outbreaks of sheep scabies.

Since import procedures have proven adequate to prevent the entry of sheep scabies, since the United States has been free of sheep scabies for 9 years, and since 9 CFR Part 71 can be used to prevent the movement of infected or exposed animals, the Department is proposing to remove Part 74 from Title 9, Code of Federal Regulations.

List of Subjects in 9 CFR Part 74

Animal diseases, Animal pests, Quarantine, Sheep, Transportation, Scabies, Mites.

PART 74—SCABIES IN SHEEP [REMOVED AND RESERVED]

Accordingly, Title 9, Code of Federal Regulations, would be amended by removing Part 74, and Part 74 would be reserved.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 870, Hyattsville, Maryland 20782, during regular hours of business (8 a.m. to 4:30 p.m. Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

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

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

G. J. Fichtner,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 82-23979 Filed 9-1-82; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Summary Notice No. PR-82-10]

Summary of Petitions Received and Dispositions of Petitions Denied or Withdrawn

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied or withdrawn.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and be received on or before, November 1, 1982.

ADDRESS: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

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

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR RULEMAKING

Docket No.	Petitioner	Description of the rule requested
22824	Piper Aircraft Corp.	*Description of petition:* To add a subparagraph (iii) to § 91.33(d)(3) and to amend § 135.159(a) to allow the use of 360° degree attitude indicators in lieu of gyroscopic rate-of-turn indicators in small airplanes as a backup system as is permitted in large airplanes. *Regulations affected:* 14 CFR §§ 91.33(d)(3) and 135.159(a) *Petitioner's reason for rule:* Based on comments from various operators, petitioner feels that many of the pilots do not remain current and/or proficient at flying "needle, ball and airspeed". Therefore, a rule change to allow the use of a 360° attitude indicator in lieu of the turn bank would be in the public interest. It would not only offer equivalent safety, but in fact enhance safety by providing a back up system which provides a much more meaningful and useable display of aircraft attitude, while also relating more directly to the information displayed on instruments that normally are constantly being monitored by the pilot.
NOTE: This petition was previously published on May 24, 1982, as a petition for exemption (47 FR 22442)		
23222	Northwestern Aircraft Supply, Inc.	*Description of petition:* To amend paragraph (d)(3) of Appendix D to Part 43 to add a requirement to inspect the oil filter element during an annual or a 100-hour inspection. *Petitioner's reason for rule:* Petitioner believes that Safety of Flight is being compromised with the lack of clear regulation to cover the new state of the art in oil filtration methods. The only way to determine that the internal engine does have metal particles or foreign matter in the oil filter is to inspect the element. *Regulations affected:* 14 CFR paragraph (d)(3) of Appendix D to Part 43
23239	GAMA	*Description of petition:* To amend § 23.221 to provide for tests to demonstrate spin-resistant capability as an alternate to one-turn spin demonstration. The intent of the proposal is to give airplane designers a positive means to develop "spin resistant" airplanes rather than those with "spin recovery" capability. To amend § 23.67 from rate of climb of 0.027 VSO^2 to a climb gradient of at least 1.2 percent. The latter proposal is to make the requirement consistent with those for FAR 23 turbine engine powered airplanes and FAR 25 transport category airplanes. *Regulations affected:* 14 CFR §§ 23.221 and 23.67
23071	South Central Chapter of the American Assn. of Airport Executives (AAAE).	*Description of petition:* This petition requests a change to FAR Part 139.51(c). FAR Part 139 is: "Certification and Operations: Land Airports Serving CAB-Certificated Air Carriers." Subpart .51(b) requires that the applicant for an airport operating certificate show that the airport fueling agent; be it the applicant or a tenant, has trained personnel and adequate procedures for safely handling fuel on the airport. The change requested is to relieve the certificate holder (the airport operator) of any responsibility with respect to this subpart unless the airport operator itself is the fueling agent. If fueling operations on a certificated airport were conducted by a tenant (fixed base operator (FBO), concessionaire, etc.), that organization would be totally responsible for safe fueling. *Regulations affected:* 14 CFR § 139.51(b) *Petitioner's reason for rule:* The section 139.51(b) relating to legal liability of the certificated airport by tenant fueling agent operations is beyond the scope of reasonable enforcement of airport operating procedures. To effectively enforce this provision would impose an immense financial burden to provide the staffing and obtain qualified personnel to initiate fueling analysis and instruct and train the FBO personnel. Inasmuch as the airport operator is not held responsible for the quality of aircraft maintenance or flight training of its FBOs, it is difficult to understand why fueling is singled out for Government interference and regulation. *Additional FAA questions for comment:* 1. If the regulatory influence of Part 139 on airport fueling by airport tenants was removed by relieving the airport operator of responsibility (the airport certificate holder is the only entity subject to Part 139), does the public have suggestions for a substitute mechanism to require safe fueling practices, or is none needed? 2. Given the fact that on many airports tenants or concessionaires offer to the public a variety of services with strong safety overtones (flight training, aircraft repair, fueling, etc.), and that the offering of these services is permitted by virtue of agreements with the airport operator, what is the public perception of the responsibility that the airport operator should bear with respect to those services?

PETITIONS FOR RULEMAKING: WITHDRAWN OR DENIED

Docket No.	Petitioner	Description and disposition of the rule requested
None this period.		

[FR Doc. 82-23781 Filed 9-1-82; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 82-ASO-44]

Proposed Alteration of Control Zone, Pensacola, Florida

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Pensacola, Florida, Control Zone, by adding an extension north of the airport. This action will provide additional controlled airspace for aircraft operating in the Pensacola Terminal Radar Service Area (TRSA).

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

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace and Procedures Branch, ASO-530, P.O. Box 20636, Atlanta, Georgia 30320

The official docket may be examined in the Office of Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO-530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Pensacola Control Zone by adding an extension north of the airport. This action will provide additional controlled airspace for aircraft operating at an altitude of less than 1000 feet above the surface within the Pensacola Terminal Radar Service Area (TRSA). Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3 dated January 29, 1982.

List of Subjects in 14 CFR Part 71

Aviation safety, Airspace, Control zone.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Pensacola, Fl—Amended

By deleting the words, "* * * within 3 miles each side of the ILS localizer south course, extending from the 5-mile radius zone to 8.5 miles south of Pickens RBN and * * *", and substituting for them the words, "* * * within 3 miles each side of the Runway 16/34 extended centerlines, extending from the runway thresholds to 6 miles north and 10 miles south of the airport;* * *"

(Ses. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

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

Issued in East Point, Georgia, on August 20, 1982.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 82-23899 Filed 9-1-82; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

Cancellation of Public Hearing on Modified Portions of the New Mexico Permanent Regulatory Program

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

ACTION: Cancellation of public hearing.

SUMMARY: Due to lack of interest OSM is announcing the cancellation of a public hearing on the adequacy of modifications to the New Mexico permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 submitted to OSM by the State for the Director's approval.

This notice cancels the public hearing but does not alter the time and location at which the New Mexico program and proposed amendments are available for public inspection, or the comment period during which interested persons may submit written comments on the proposed program elements.

DATED: The following hearing is cancelled: The public hearing on the proposed modifications to the New Mexico program, September 1, 1982.

ADDRESS: Written comments should be mailed or hand-delivered to: Office of Surface Mining Reclamation and Enforcement, New Mexico Field Office, 219 Central Ave., NW., Albuquerque, New Mexico 87102.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Hagen, Director, New Mexico Field Office, Office of Surface

Mining, 219 Central Ave., NW., Albuquerque, New Mexico 87102, (505) 766-1486.

SUPPLEMENTARY INFORMATION: On July 29, 1982, notice of opportunity for public hearing on the proposed modifications to the New Mexico program was published in the **Federal Register** (47 FR 32738-79). The proposed modifications submitted for approval on July 9, 1982, are intended to satisfy six conditions of the Secretary's approval of the New Mexico program announced December 31, 1980 (45 FR 86459).

The notice stated that any person interested in making an oral or written presentation should contact Mr. Robert Hagen by August 20, 1982, and that if no person contacted Mr. Hagen to express an interest in participating in the hearing by the above date, the hearing would be cancelled.

Because no one expressed an interest in attending the hearing by August 20, 1982, the hearing has been cancelled.

While there is no public hearing, interested persons may still submit written comments on the proposed program element. On August 19, 1982, the comment period on the amendments was extended to September 13, 1982. The comment period was extended to allow the public sufficient time to consider and comment on additional material submitted by New Mexico on July 29, 1982 pertaining to the satisfaction of the six conditions of approval. Written comments must be received on or before 4:00 p.m. on September 13, 1982, to be considered in the Secretary's decision on whether the proposed modifications satisfy the Secretary's conditions of approval.

Written comments should be mailed or hand-delivered to: Mr. Robert Hagen, Director, New Mexico Field Office, Office of Surface Mining Reclamation and Enforcement at the address listed above.

Dated: August 30, 1982.

William B. Schmidt,

Assistant Director, Program Operations and Inspection.

[FR Doc. 82-24157 Filed 8-31-82; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Ch. I

[CGD 80-134]

Operational Visibility From the Navigation Bridge of Commercial Vessels Operating in U.S. Waters

AGENCY: Coast Guard, DOT.

ACTION: Termination of Proposed Rulemaking.

SUMMARY: In the **Federal Register** of May 11, 1981, the Coast Guard published an Advance Notice of Proposed Rulemaking which solicited the public's comments and suggestions identifying constraints on navigation bridge visibility and recommending effective measures to provide adequate bridge visibility. The Coast Guard has decided not to proceed with the proposal at this time and accordingly is terminating this rulemaking. The Coast Guard plans to present its position on navigation bridge visibility before the Safety of Navigation Subcommittee of the International Maritime Organization.

FOR FURTHER INFORMATION CONTACT: LCDR Robert W. Henry or CDR James A. Sanial, Office of Merchant Marine Safety (G-MTH-4/13), Room 1300 U.S. Coast Guard Headquarters; 2100 Second Street SW., Washington, D.C. 20593. (202) 426-2197.

SUPPLEMENTARY INFORMATION: The Advance Notice of Proposed Rulemaking (ANPRM) was published in the **Federal Register** on May 11, 1981 (46 FR 26086). The public comment period, which was originally set to close on August 10, 1981, was later extended to October 12, 1981 (46 FR 39460; Aug. 3, 1981) to allow the public additional time to respond to the ANPRM. The majority of the 47 comments received by the Coast Guard acknowledged that poor visibility from the navigation bridge was a problem. Numerous comments, however, recommended that the Coast Guard should first participate in the international forum, i.e. the International Maritime Organization (IMO; formerly the Inter-governmental Maritime Consultative Organization, IMCO) before pursuing the proposed regulatory effort.

The Coast Guard agrees with this recommendation, and plans to advocate a U.S. position on navigation bridge visibility before the IMO Subcommittee on Safety of Navigation in October, 1982. Because this effort on the international scene will not be completed in the near future, the Coast Guard is terminating the proposed rulemaking under docket number CGD 80-134. Following the conclusion of the international deliberations, however, the Coast Guard may reinitiate further rulemaking action on navigation bridge visibility.

Drafting Information

The persons involved in drafting this termination notice are: Mr. Frank K. Thompson, Regulations Specialist, Office of Merchant Marine Safety; and Mr. Michael Mervin, Project Attorney, Office of Chief Counsel.

List of Subjects in 46 CFR Chapter I

Marine safety, Vessels.

(46 U.S.C. 369, 391a; 49 U.S.C. 1655(b)(1); 49 CFR 1.46)

Dated: August 26, 1982.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 82-24170 Filed 9-1-82; 8:45 am]

BILLING CODE 4910-14-M

46 CFR Part 32

[CGD 87-121]

Aluminum Hatch Covers Aboard Tankships

AGENCY: Coast Guard, DOT.

ACTION: Withdrawal of Proposed Rulemaking.

SUMMARY: In the October 21, 1980 issue of the **Federal Register** the Coast Guard published a Notice of Proposed Rulemaking which would have required U.S. tankships that have aluminum hatch covers on cargo tanks, except vessels carrying liquefied or compressed gas in bulk, to be retrofitted with steel hatch covers. The Coast Guard has decided to withdraw this proposed rulemaking. Further economic analysis following publication of the original notice has shown that retrofitting existing vessels would not be cost-effective.

FOR FURTHER INFORMATION CONTACT: Mr. Donald J. Kerlin, Office of Merchant Marine Safety (G-MTH-4/12); Room 1300, U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, DC 20593, (202) 426-2197.

SUPPLEMENTARY INFORMATION: Beginning in 1965, the Coast Guard allowed aluminum as a material for hatch covers on tankships as an equivalent material to steel under 46 CFR 30.15-1. The determination to allow aluminum was based on perceived safety benefits derived from aluminum's lighter weight and resulting ease of handling. However, the investigation of a collision between a gasoline-laden tankship and another vessel in 1974 determined that aluminum hatch covers melted due to the heat of the fire, permitting the fire to spread from tank to tank. As a result of this investigation the National Transportation Safety Board recommended that the Coast Guard prohibit aluminum and other low melting point metals as the material for

hatch covers on tankships. The Coast Guard no longer accepts aluminum as a material for hatch covers as an equivalent material to steel under 46 CFR 30.15–1. All newly constructed tankships must have steel hatch covers. When the owner or operator of a tankship voluntarily replaces a hatch cover for any reason, the replacement cover must be steel.

On October 2, 1980, the Coast Guard published a Notice of Proposed Rulemaking (45 FR 70918) which would have required each tankship that had aluminum hatch covers to be retrofitted with steel hatch covers at or before its next inspection for certification following the effective date of the final rule. In the economic evaluation accompanying that notice, the total cost of retrofitting all affected vessels was estimated to range from 1.48 to 6.24 million dollars. This cost was offset by the unquantified benefits of reduced fire hazard on tank vessels and resulting increased level of safety.

Before the Coast Guard issued a final rule on this proposal, however, the economic factors were reevaluated under the more rigorous analytical requirements of the then-new Executive Order 12291. The reevaluation did not clearly show that the potential benefits of this proposed regulation exceeded its costs. The benefits associated with the proposed regulation would have accrued only if a ship which had been retrofitted were to suffer a deck fire which would have melted an aluminum hatch cover but not a steel one. There has been only one such incident in the last eighteen years. The loss attributed to the failed hatch cover could not be separated from the loss due to the collision had the hatch cover survived. Considering the age and "life expectancy" of many existing tankers, the objective of the original NTSB recommendation can be achieved without further regulatory action over a somewhat longer period of time with less economic burden on the tankship industry. In consideration of the economic reevaluation, the Coast Guard has decided not to require retrofitting of existing aluminum hatch covers and is therefore terminating this rulemaking.

Drafting Information

The persons involved in drafting this withdrawal notice are Mr. Frank K. Thompson, Regulations Specialist, Office of Merchant Marine Safety, and LCDR William B. Short, Project Attorney, Office of Chief Counsel.

List of Subjects in 46 CFR Part 32

Fire protection, Marine safety, Tank vessels.

(R.s 4417a; 46 U.S.C. 391a; 49 CFR 1.46(n)(4))

Dated: August 26, 1982.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merechant Marine Safety.

[FR Doc. 82-24161 Filed 9-1-82; 8:45 am]

BILLING CODE 4910-14-M

Research and Special Programs Administration

49 CFR Parts 173 and 178

[Docket No. HM-182, Advanee Notice]

Specifications for and Use of Specification 17E Steel Drums, Extension of Comment Period

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Extension of time to file comments.

SUMMARY: On June 10, 1982, the Materials Transportation Bureau (MTB) published an advance notice of proposed rulemaking under Docket HM-182 (47 FR 25167) pertaining to specification requirements for the 17E steel drum to allow certain reductions in head and body thickness provided the drum is manufactured with triple-seamed chimes. The notice request comments on: (1) actual experience of such drums in transportation, (2) safety implications and (3) economic benefits and consequences.

DATE: By this notice, MTB is extending the comment period 90 days, from September 2, 1982, to December 1, 1982.

FOR FURTHER INFORMATION CONTACT: Thomas J. Charlton, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590 (202) 426-2075.

SUPPLEMENTARY INFORMATION: In consideration of a request made by the Packaging Institute U.S.A. for additional time in which it may file comments on this advance notice of proposed rulemaking, MTB is extending the comment period by 90 days. The Packaging Institute requested a 90 day extension so that opinions of its packaging professionals could be expressed in meetings scheduled for its Drum Subcommittee and Chemical Packaging Committee in September and October 1982, respectively, and then be made a part of the Docket for consideration by MTB. Since MTB is interested in comments which are anticipated from the Packaging Institute it believes the request for a 90 day extension to be the public interest.

(49 U.S.C. 1803, 1804, 1808, 49 CFR 1.53, App. A to Part 1 and paragraph (a)(4) of App. A to Part 106)

Note.—The Materials Transportation Bureau has determined, on the basis of limited information currently available, that adoption of the petition presented in this advance notice would not result in a "major rule" under the terms of Executive Order 12291 and DOT procedures (44 FR 11034) nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, et seq.). I certify that the petition presented in this advance notice would not, if adopted, have a significant economic impact on a substantial number of small entities that purchase drums.

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

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 82-23861 Filed 9-1-82; 8:45 am]

BILLING CODE 4910-60-M

Notices

Federal Register
Vol. 47, No. 171
Thursday, September 2, 1982

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Malheur National Forest Grazing Advisory Board; Meeting

The Malheur National Forest Grazing Advisory Board will meet at 7:00 P.M. on October 20, 1982 at Alec Gay Hall, John Day, Oregon 97845.

The Board will meet to discuss allotment management plans and expenditure of Range Betterment funds.

The meeting will be open to the general public. Persons interested in presenting a subject at the meeting may file a request and brief before the meeting with: Forest Supervisor, Malheur National Forest, 139 NE Dayton Street, John Day, Oregon 97845.

Written statements may be filed with the board before or after the meeting.

Dated: August 25, 1982.

Kenneth L. Evans,

Forest Supervisor.

[FR Doc. 82-24121 Filed 9-1-82; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Docket No. 40829]

Aeroamerica, Inc., A. Joel Eisenberg, Enforcement Proceeding; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on September 28, 1982, at 10:00 a.m. (local time) in Room 1012, 1825 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

Dated at Washington, D.C., August 26, 1982.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 82-24151 Filed 9-1-82; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 40813]

Firstair Corp. Fitness Investigation; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge John M. Vittone. Future communications should be addressed to him.

Dated at Washington, D.C., August 30, 1982.

Elias C. Rodriquez,

Chief Administrative Law Judge.

[FR Doc. 82-24150 Filed 9-1-82; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Massachusetts Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Massachusetts Advisory Committee to the Commission will convene at 4:00p and will end at 6:00p, on September 28, 1982, at the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110. The purpose of this meeting will be to discuss program activities for Fiscal Year 1983.

Persons desiring additional information or planning a presentation to the Committee, should contact the Chairperson, Bradford D. Brown, 17 Roberta Jean Circle, Post Office Box 95, East Falmouth, Massachusetts 02536, (617) 548-5123 or the New England Regional Office, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110, (617) 223-4671.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 27, 1982.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 82-24078 Filed 9-1-82; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Stainless Steel Round Wire; Announcement of Fourth Quarter Trigger Prices

AGENCY: International Trade Administration, Commerce.

ACTION: Announcement of the fourth quarter 1982 trigger price levels for stainless steel round wire products.

SUMMARY: The Department of Commerce announces that base prices for fourth quarter 1982 trigger prices of stainless steel round wire products will decline an average of 10.3 percent from the first quarter 1982 levels. Size extra prices of stainless steel round wire and cold drawn bars in various grades have fluctuated from those of first quarter. Price changes range from a decline of 21 percent to an increase of 69 percent.

Each quarter the Department reviews Japanese steel production and delivery costs and revises trigger prices accordingly. The Department uses trigger prices to monitor the prices of imported stainless steel round wire for possible initiation of antidumping or countervailing duty investigations.

The interest component of the delivery charges will decline causing the total landed trigger prices to decline. Ocean freight charges have increased an average of 5.7 percent from first quarter 1982.

The fourth quarter trigger price will apply to stainless steel round wire products and round stainless steel drawn bars in sizes under 0.703 inches in diameter exported to the United States on or after October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Juanita S. Kavalauskas, Agreements Compliance Division, Import Administration, Room 3099, Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-3793.

SUPPLEMENTARY INFORMATION: The Department of Commerce suspended the operation of the steel trigger price mechanism (TPM) on January 11, 1982 (47 FR 2392) in response to the filing of major antidumping and countervailing duty petitions by seven U.S. steel producers against producers in eleven countries.

On April 15, 1982 the Department of Commerce announced its intention to

resume trigger price monitoring of imports of stainless steel round wire products, and notices to this effect were published in the **Federal Register** during the week of April 19, (47 FR 16820 and 47 FR 17102). At that time the Department announced that first quarter 1982 trigger prices for these products would be in effect until October 1, 1982. The decision to resume monitoring of stainless steel round wire products did not affect other products that were covered under the suspended trigger price mechanism.

Trigger price monitoring procedures for stainless steel round wire and small cold drawn bar are the same as those published in the TPM Procedures Manual (46 FR 49928).

Japanese stainless steel wire manufacturers agreed to supply cost of production and transportation information necessary to monitor the import prices. Commerce monitors imports of stainless steel round wire and small cold drawn bar under 0.703 inches in diameter through the use of Special Summary Steel Invoices. In computing the invoice price for comparison to the trigger price, Commerce will use a 16 percent annual rate (1.33 percent per month) when interest must be adjusted and the actual rate is not known.

For its calculation of trigger price levels the yen/dollar exchange rate the Department uses to convert Japanese steel producers' yen denominated production cost to dollars is the average of the 36 months preceding the calculation and publication of the quarter's trigger price levels. The exchange rate used in the Department's fourth quarter 1982 production cost estimate is 228 yen to the dollar (the yen/dollar exchange rate average for August 1979 through July 1982). The 228 yen/dollar exchange rate represents a 3.1 percent decline in dollar denominated costs from the first quarter 1982 exchange rate of 221 yen to the dollar.

Department of Commerce officials and a certified public accountant from an outside accounting firm have visited Japanese stainless steel wire facilities to observe production processing, and have analyzed and confirmed production cost data submitted by Japanese stainless steel wire manufacturers through the Japanese Ministry of International Trade and Industry.

Base prices form stainless steel wire and cold drawn bar declined an average of 10.3 percent from the first quarter 1982 level due to a decline in the purchase price of rod which is used by the Japanese stainless steel wire manufacturers in producing wire products. Size extra prices of stainless steel round wire and cold drawn bars in various grades and series have fluctuated from those of first quarter 1982. Increases range from 0.1 percent to 69.0 percent, while decreases in size extras range from 0.2 percent to 21.0 percent. These variations within the broad array of sizes have been determined on the basis of a review which was more comprehensive and detailed than any of those which had been undertaken since the original calculations of trigger prices for stainless steel wire were made in late 1978. The relationship among costs for various groups and sizes of wire have changed substantially since 1978 due to modifications in production methods as well as the relationship among levels for input prices. Japanese producers experienced increase in labor costs and in the other expenses category which were more than offset by declines in loss of material and contract labor costs.

A new table has been provided which lists the size extra cost of stainless steel cold drawn bar under 0.703 inches diameter. The extra cost of straightening and cut to length for cold drawn bar as well as the negative extra cost for the absence of pickling and annealing, which were listed separately in previous trigger price manuals have been incorporated in this new table. The straightening and cut to length and centerless ground and polished extras for stainless steel round wire have decreased over first quarter 1982 levels.

Metallic coating prices have increased an average of 3.4 percent over the first quarter 1982 trigger prices. Non-metallic coating prices remain unchanged.

Other Charges

Trigger prices are an estimate of the Japanese stainless steel wire manufacturers' production costs plus the cost of transporting and handling in the United States. Thus, charges for freight, interest, handling and insurance must be added to the production costs described above and reflected in trigger price bases and extras. Freight charges increased an average of 5.7 percent from the first quarter 1982 levels. Interest charges, which declined an average of 13.5 percent, have been adjusted to reflect the current level prime interest rate. Handling charges remain unchanged.

A list of the stainless steel round wire and cold drawn bar products subject to trigger price, monitoring and the applicable base prices and extras are contained in the Appendix to this notice.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

APPENDIX.—4th Quarter 1982 Trigger Prices Per Metric Ton Stainless Steel Wire, Round Stainless Steel Drawn Bars in Sizes Under 0.703 Inches

[AISI Categories 20 and 12]

Charges to CIF	Ocean freight	Handling	Interest (percent)
Pacific Coast	$107	$9	3.1
Gulf Coast	131	5	4.0
Atlantic Coast	131	4	4.0
Great Lakes	171	4	4.9

Interest charge equals F.O.B. trigger price including size extra times interest factor.

Insurance 1% of base price + extras + ocean freight.

Extras ($/M.T.):

1. Annealed Wire—Group I.
A. Base Prices Including Grade Extras.
B. Size by Grade Group.
C. Small Bar.
2. Hard/Spring Wire—Group II.
A. Base Prices Including Grade Extras.
B. Size by Grade Group.
3. Soft/Intermediate Wire—Group III.
A. Base Prices Including Grade Extras.
B. Size by Grade Group.
4. Coating.
5. Finish.
A. Centerless Ground.
B. Centerless Ground.
6. Diameter Tolerance.
7. Straightening and Cut to Length.
A. Size Range.
B. Length.
8. Packaging.

Note.—This coverage applies to stainless steel round wire and stainless steel bar under 0.703 inches produced by drawing. Bar, in these sizes, if produced by hot rolling is not covered by published prices.

1. Group I—Annealed Wire: soft wire in which there is no further cold drawing after the last annealing treatment. This wire is made by annealing in open fired furnaces or molten salt followed by pickling, which produces a clean gray matte finish. It is also made with a bright finish by annealing wet, oil or grease drawn wire in a protective atmosphere, and is sometimes described as bright annealed wire.

A. Grades

Grades	Base price
301	1,997
302	1,950
303	2,044
304	1,997

Grades	Base price
305	2,162
310	3,553
314	4,026
316	2,845
316–L	3,010
317	3,317
317–L	3,482
304–L	2,162
17–4PH*	2,303
308	2,139
308–L	2,302
309	2,657
309–L	2,824
321	2,303
302 HQ (18–19LW)**	2,113
347	2,609
384	2,657
409	1,503
410	1,196
416	1,196
420	1,245
430	1,245
430–F	1,455
434	1,547
434–A	1,359
446	1,832

*May also be designated as type 630 or as UNS 17400.
**May also be designated as type 302 CU and as 306.

B. Size*

Size	Grade group		
	300 series and 17–7PH	400 series	17–4PH, 15–5PH
0.574" to 0.703"	362	458	362
0.501" to 0.573"	362	458	362
0.500"	370	458	370
0.375" to 0.499"	400	474	400
0.3125" to 0.374"	408	474	408
0.250" to 0.312"	447	474	447
0.234" to 0.249"	498	497	498
0.216" to 0.233"	521	515	521
0.200" to 0.215"	595	536	595
0.185" to 0.199"	647	585	647
0.170" to 0.184"	654	597	654
0.155" to 0.169"	685	621	685
0.142" to 0.154"	716	659	716
0.128" to 0.141"	729	811	792
0.113" to 0.127"	793	863	705
0.099" to 0.112"	903	966	729
0.086" to 0.098"	960	1,058	735
0.076" to 0.085"	1,024	1,110	775
0.067" to 0.075"	1,061	1,170	992
0.058" to 0.066"	1,126	1,299	1,043
0.051" to 0.057"	1,177	1,359	1,096
0.044" to 0.050"	1,231	1,436	1,150
0.038" to 0.043"	1,313	1,485	1,233
0.033" to 0.037"	1,419	1,655	1,339
0.030" to 0.032"	1,470	1,766	1,470
0.027" to 0.029"	1,570		1,492
0.024" to 0.026"	1,681		1,681
0.021" to 0.023"	1,832		1,833
0.019" to 0.020"	1,915		1,915
0.018"	1,999		1,999
0.017"	2,048		2,048
0.016"	2,079		2,079
0.015"	2,138		2,138
	Size*		

* All intermediate sizes to take next higher price.

* All intermediate sizes to take next higher price.

Size	Grade group		
	300 series and 17–7PH	400 series	17–4PH, 15–5PH
0.014"	2,303		2,303
0.013"	2,432		2,432
0.012"	2,486		2,486
0.011"	2,597		2,597
0.010"	2,767		2,767
0.009"	2,930		2,930
0.008"	3,242		3,242
0.0075"	3,410		3,410
0.007"	3,657		3,657
0.0065"	4,116		4,116
0.006"	4,593		4,593
0.00575"	5,021		5,021
0.0055"	5,991		5,991
0.00525"	6,089		6,089
0.005"	6,290		6,290
0.00475"	6,386		6,386
0.0045"	6,690		6,690
0.00425"	7,147		7,147
0.004"	7,804		7,804
0.00375"	16,168		16,168
0.0035"	18,757		18,757
0.00325"	21,607		21,607
0.003"	24,434		24,434
0.0027"	26,531		26,531
0.0025"	27,758		27,758
0.002"	33,868		33,868

C. Small Bar*: Small cold drawn bar in wire gauges is to be trigger priced as follows:

Size range**

Size range	Grade group		
	300 series and 17–7PH	400 series	17–4PH, 15–5PH
0.574" to 0.703"	326	275	326
0.501" to 0.573"	326	275	326
0.500"	355	303	355
0.375" to 0.499"	355	303	355
0.3125" to 0.374"	397	340	397
0.250" to 0.312"	397	340	397
0.234" to 0.249"	397	340	397
0.216" to 0.233"	474	423	474
0.215" to 0.185"	474	423	474

2. Group II—Hard/Spring Wire: wire drawn in several drafts as required to produce the high tensile strengths required for such products as spring wire.

A. Grades

Grades	Base price
301	1,997
302	1,950
303	2,044
304	1,997
305	2,162
310	3,553

*Annealing and pickling is included in base material cost. Size extras include cost of straightening and cut to length.
**Intermediate sizes to take next higher price.

Grades	Base price
314	4,025
316	2,845
316–L	3,010
317	3,317
317–L	3,482
321	2,303
17–4PH*	2,303
17–7PH***	2,940
308	2,139
308–L	2,302
309	2,657
309–L	2,824
302 HQ (18–19LW)**	2,113
347	2,609
384	2,657
409	1,503
410	1,196
416	1,196
420	1,245
430	1,245
430–F	1,455
434	1,547
434–A	1,359
446	1,832

* May also be designated as type 630 or UNS 17400.
** May also be designated as type 302 CU or 306.
*** May also be designated as type 631 or UNS 17700.

B. Size *

Size	Grade group 300 series and 17–7PH
Over 0.375"	750
0.3125" to 0.374"	750
0.2500" to 0.312"	750
0.234" to 0.249"	750
0.216" to 0.233"	750
0.200" to 0.215"	750
0.185" to 0.199"	750
0.170" to 0.184"	750
0.155" to 0.169"	750
0.142" to 0.154"	724
0.128" to 0.141"	724
0.113" to 0.127"	724
0.099" to 0.112"	760
0.086" to 0.098"	842
0.076" to 0.085"	904
0.067" to 0.075"	981
0.058" to 0.066"	1,089
0.051" to 0.057"	1,310
0.044" to 0.050"	1,505
0.038" to 0.043"	1,587
0.033" to 0.037"	1,741
0.030" to 0.032"	1,834
0.027" to 0.029"	2,209
0.024" to 0.026"	2,409
0.021" to 0.023"	2,645
0.019" to 0.020"	2,959
0.018"	3,580
0.017"	3,888
0.016"	3,986
0.015"	4,104
0.014"	4,295
0.013"	4,450
0.012"	4,765
0.011"	6,094
0.010"	6,254
0.009"	6,497
0.008"	6,719

* All intermediate sizes to take next higher price.

3. Group III—Soft/Intermediate Wire: wire drawn one or more drafts after annealing as required to produce minimum strength or hardness. The properties can be varied between soft temper and those approaching spring temper wire. Wire in this temper is usually produced in a variety of dry

drawn tempers. Cold heading wire belongs in this group.

A. Grades

Grades	Base price
301	1,997
302	1,950
302 (302HQ, 18-9LW)	2,113
303	2,044
304	1,997
305	2,162
310	3,553
314	4,025
316	2,845
316-L	3,010
317	3,317
317-L	3,482
321	2,303
17-4PH*	2,303
308	2,139
308-L	2,302
309	2,657
309-L	2,824
347	2,609
384	2,657
409	1,503
410	1,196
416	1,196
420	1,245
430	1,245
430-F	1,455
434	1,547
434-A	1,359
446	1,832

* May also be designated as type 630 or UNS 17400.

B. Size*

Size	Grade group		
	300 series 17-7PH	400 series	17-4PH, 15-5PH
Over 0.375"	634	499	634
0.3125" to 0.374"	634	499	634
0.2500" to 0.312"	634	499	634
0.2340" to 0.249"	690	546	690
0.2160" to 0.233"	690	546	690
0.200" to 0.215"	690	546	690
0.185" to 0.199"	747	592	747
0.170" to 0.184"	747	592	747
0.155" to 0.169"	747	628	747
0.142" to 0.154"	829	695	829
0.128" to 0.141"	829	813	829
0.113" to 0.127"	885	901	885
0.099" to 0.112"	977	988	997
0.086" to 0.098"	1,100	1,071	1,110
0.076" to 0.085"	1,151	1,122	1,151
0.067" to 0.075"	1,278	1,222	1,278
0.058" to 0.066"	1,386	1,388	1,386
0.051" to 0.057"	1,432	1,568	1,432
0.044" to 0.050"	1,488	1,589	1,488
0.038" to 0.043"	1,616	1,702	1,616
0.033" to 0.037"	1,719	1,816	1,719
0.030" to 0.032"	1,837	1,991	1,837
0.027" to 0.029"	2,006		2,006
0.024" to 0.026"	2,160		2,160
0.021" to 0.023"	2,330		2,330
0.019" to 0.020"	2,489		2,489

* All intermediate sizes to take next higher prices

4. Coating: Material provided uncoated or coated with lime (or equivalent to lime) and /or soap will carry no extra. Other coatings require an appropriate extra where additional costs are involved. Metallic coatings include copper, nickel, and lead. Non-metallic coatings include plastics, molybdenum disulfide, etc.

Size range	Metallic		Non-metallic
	Copper	Nickel	
Over 0.154"	119	36	24
0.099" to 0.154"	178	36	24
0.063" to 0.098"	237	49	31
0.041" to 0.062"		75	49
0.030" to 0.040"		103	65
0.025" to 0.029"		103	65
0.020" to 0.024"		140	92
0.015" to 0.019"		184	123
0.010" to 0.014"		218	148

5. Finish.

Size ranges [1]	Centerless ground	Centerless ground and polished
0.595" to 0.703"	501	630
0.501" to 0.594"	501	630
0.500"	553	700
0.375" to 0.499"	565	723
0.3125" to 0.374"	565	723
0.250" to 0.3124"	565	723
0.234" to 0.249"	868	1,055
0.216" to 0.233"	868	1,055
0.200" to 0.215"	962	1,172
0.185" to 0.199"	1,125	1,359
0.170" to 0.184"	1,323	1,573
0.155" to 0.169"	1,585	1,854
0.142" to 0.154"	1,848	2,116
0.128" to 0.141"	2,174	2,442
0.113" to 0.127"	2,722	3,013
0.093" to 0.112"	5,544	6,103

[1] Intermediate sizes to take next higher price.

These extras are applicable to all grades listed.

Straightening and cut to length extras are included in the above finish extras.

6. Diameter Tolerance.

STANDARD: AISI OR JIS SPECIFICATION

Standard	Extra—Base
Not less than ½ standard	103.
Closer than ½ to ¼ standard	25% of size extra.
Closer than ¼ standard	50% of size extra.

7. Straightening and Cut to Length: Use the sum of the appropriate extras from A and B below to form the total extra.

A. Size range

Size range	Extras
0.595" to 0.703"	104
0.501" to 0.594"	104
0.500"	104
0.375" to 0.499"	132
0.3125" to 0.374"	132
0.170" to 0.3124"	237
0.099" to 0.169"	592
0.051" to 0.098"	1,713
0.032" to 0.050"	1,976

B. Length

Length	Extras
Under 12"	92
12" to under 18"	59
18" to under 24"	59
24" to under 30"	39
30" to under 36"	39
36" to under 48"	39
48" to under 60"	39
60" to under 72"	39
72" to under 120"	33
120" to under 168"	33
168" to under 192"	33
192" to under 216"	33
216" to under 240"	33
240" to under 264"	26
264" to under 288"	26
288" to 316"	26

8. Packaging

Packaging	Extras
Bundle	26
Wooden Boxes	92
Fibre Drums	84
Coil Carriers	26
Spools:	
Sizes under .020"	.165
Both Spools and Wooden Boxes:	
Sizes .020" and greater	92
Sizes under .020"	256

[FR Doc. 82-23914 Filed 9-1-82; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Level for Certain Cotton Textile Products From Pakistan

August 31, 1982.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Granting an increase for swing and carryforward from 18,840,192 numbers to 21,854,623 numbers for cotton terry and other pile towels in Category 363, produced or manufactured in Pakistan and exported during the twelve-month period which began on January 1, 1982.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (47 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654))

SUMMARY: The Bilateral Cotton Textile Agreement of March 9 and 11, 1982, between the Governments of the United States and Pakistan provides, among other things, for percentage increases in certain specific category during an agreement year (swing) and for the borrowing of designated amounts from the succeeding year's level with the amount used being deducted from the

level in the succeeding year (carryforward). Pursuant to the terms of the bilateral agreement, and at the request of the Government of Pakistan, the import restraint level established for Category 363 is being increased to 21,854,623 numbers for the twelve-month period which began on January 1, 1982 and extends through December 31, 1982.

EFFECTIVE DATE: September 1, 1992.

FOR FURTHER INFORMATION CONTACT: Gordana Slijepcevic, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230; (202/377–4212).

SUPPLEMENTARY INFORMATION: On March 26, 1982 there was published in the **Federal Register** (47 FR 13024) a letter dated March 22, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specific categories of cotton textile products, including Category 363, produced or manufactured in Pakistan and exported to the United States during the twelve-month period which began on January 1, 1982 and extends through December 31, 1982. In accordance with the terms of the bilateral agreement and at the request of the Government of Pakistan, the United States Government has agreed to increase the level of restraint for cotton textile products in Category 363 to 21,854,623, numbers. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase that level to the designated amount.

Walter C. Lenahan,

Acting Chairman, Committee for the Implementation of Textile Agreements.

August 31, 1982.

Committee for the Implementation of Textile Agreements.

Commissioner of Customs, Department of the Treasury, Washintgton, D.C. 20229

Dear Mr. Commissioner: On March 22, 1982, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption, or withdrawal from warehouse for consumption, during the twelve-month period beginning on January 1, 1982 and extending through December 31, 1982 of cotton textile products in certain specified categories, produced or manufactured in Pakistan, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjusment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton Textile Agreement of March 9 and 11, 1982, between the Governments of the United States and Pakistan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to increase, effective on September 1, 1982, the twelve-month level of restraint established for cotton textile products in Category 363 to 21,854,623 numbers.[2]

The action taken with respect to the Government of Pakistan and with respect to imports of cotton textile products from Pakistan has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, these directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-24287 Filed 9-1-82; 8:45 am]

BILLING CODE 3510-25-M

[1]The term "adjustment" refers to those provisions of the Bilateral Cotton Textile Agreement of March 9 and 11, 1982, between the Governments of the United States and Pakistan which provide, in part, that: (1) within the aggregate and applicable group limits of the agreement, specific levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

[2]The level of restaint has not been adjusted to reflect any imports after December 31, 1981.

Adjusting the Amount of Imports Charged to the Level of Restraint for Certain Wool Apparel Products From the Socialist Republic of Romania

August 30, 1982

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Reducing by 684 dozen the quantity of imports charged to the level of restraint established for women's, girl's, and infant's wool coats and suits in Category 435/444, produced or manufactured in Romania and exported during the twelve-month period which began on April 1, 1982 and extends through March 31, 1983.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463), August 12, 1980 (45 FR 53506), December 24, 1980 (45 FR 85142), May 5, 1981 (46 FR 25121), October 5, 1981 (46 FR 48963), October 27, 1981 (46 FR 52409), February 9, 1982 (47 FR 5926), and May 13, 1982 (47 FR 20654))

SUMMARY: A comparison of statistical data undertaken pursuant to the terms of the Bilateral Wool and Man-Made Fiber Textile Agreement of September 3 and November 3, 1980, as amended, between the Governments of the United States and the Socialist Republic of Romania, has revealed that a quantity of 684 dozen has been improperly charged to the level of restraint established for wool textile products in Category 435/444 during the agreement year which began on April 1, 1982.

EFFECTIVE DATE: September 3, 1982.

FOR FURTHER INFORMATION CONTACT: Diana Bass, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–4212).

SUPPLEMENTARY INFORMATION: On April 1, 1982, there was published in the **Federal Register** (47 FR 13856) a letter dated March 25, 1982, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of wool and man-made fiber textile products, including Category 435/444, produced or manufactured in Romania and exported to the United States during the twelve month period which began on April 1, 1982 and extends through March 31, 1983. A data discrepancy investigation undertaken pursuant to the terms of the bilateral agreement has revealed that 684 dozen have been improperly charged to the level established for wool textile products in Category 435/444. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to reduce the quantity of imports charged to the category level by 684 dozen.

Walter C. Lenahan,

Acting Chairman, Committee for the Implementation of Textile Agreements.

August 30, 1982.

Committee for the Implementation of Textile Agreements

Commissioner of Customs, Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: To facilitate implementation of the Bilateral Wool and Man-made Fiber Textile Agreement of September 3 and November 3, 1980, as amended, between the Governments of the United States and the Socialist Republic of Romania, it would be appreciated if, effective on September 3, 1982, you would deduct 684 dozen from the charges made to the level of restraint established in the directive of March 25, 1982 for wool textile products in Category 435/444, produced or manufactured in the Socialist Republic of Romania and exported

during the twelve-month period which began on April 1, 1981 and extends through March 31, 1983.

This letter will be published in the **Federal Register.**

Sincerely,

Walter C. Lenahan,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 82-24286 Filed 9-1-82; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

The Department of Defense has submitted to OMB for review the following request for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for the uses to be made of the information collected; (4) Type of Respondent; (5) an estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

New

Resources Comparability Survey of Stateside Public School Districts

Information is required for comparison of staff resources and fiscal expenditures between DODDS and stateside school systems under the Comprehensive Study of DODDS called for by Congress. The findings will be reported to Congress through the Secretary of Defense. Information must be submitted to Congress in May 1983.

Local Education Agencies; 47 respondents; 129 hours.

Forward comments to Mr. Edward Springer, OMB DESK Officer, Room 3235, NEOB, Washington, D.C. 20503, and Mr. John V. Wenderoth, DOD Clearance Officer, OASD(C), DIRMS, IRAD, Room 4B929, Pentagon, Washington, D.C. 20301, telephone (202) 697-1195.

A copy of the information collection proposal may be obtained from Mr. Robert L. Newhart, OASD, MRA&L (PI), Room 3C800, Pentagon, Washington, D.C. 20301, telephone (202) 695-0643. This survey is under contract.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

August 30, 1982.

[FR Doc. 82-24148 Filed 9-1-82; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Forms Under Review by the Office Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: Under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), the Department of Energy (DOE) notices of proposed collections under review will be published in the **Federal Register** on the Thursday of the week following their submission to the Office of Management and Budget (OMB). Following this notice is a list of DOE proposals sent to OMB for approval since August 12, 1982.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The form number; (2) Form title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory; voluntary, or required to obtain or retain benefit; (6) Type of respondent; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to fill out the forms; and (9) A brief abstact describing the proposed collection.

DATE: Last Notice published Thursday, August 19, 1982. (47 FR 36267)

FOR FURTHER INFORMATION CONTACT:

John Gross, Director, Forms Clearance and Burden Control Division, Energy Information Administration, M.S. 1H023, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-2308

Jefferson B. Hill, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503 (202) 395-7340

Vartkes Broussalian, Federal Energy Regulatory Commission Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503 (202) 395-3087

SUPPLEMENTARY INFORMATION: Copies of proposed collections and supporting documents may be obtained from Mr. Gross. Comments and questions about the items on this list should be directed to the OMB reviewer: comments should also be provided Mr. Gross. If you anticipate commenting on a form, but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer of your intent as early as possible.

Issued in Washington, D.C. August 30, 1982.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

DOE FORMS UNDER REVIEW BY OMB

Form No.	Form title	Type of request	Response frequency	Response obligation	Respondent description	Estimated Number of respondents	Annual respondent burden	Abstract
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
EIA-172	Sales of Fuel Oil and Kerosene.	Extension	Annual	Mandatory	Fuel Oil Refiners & Dealers.	7794	24,161	Data are published in the *Petroleum Supply Annual* and are used to evaluate the impact of the fuel oil and kerosene supply on the U.S. economy, by economic sector. Data are used as input to the State Energy Data System for all fuels categorized by State.
FERC-515	Electric License Declaration of Intention.	Extension	On occasion	Required to obtain benefit.	Potential developers of hydropower projects.	10	800	Data are filed in conjunction with a Declaration of Intention filed by a hydropower developer on a stream other than defined U.S. jurisdictional waters. Data are used by the commission to determine whether it has jurisdiction over the proposed project.

DOE FORMS UNDER REVIEW BY OMB—Continued

Form No.	Form title	Type of request	Response frequency	Response obligation	Respondent description	Estimated Number of respondents	Annual respondent burden	Abstract
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
FERC-556	Small Power Production and Cogeneration Facilities Application and Notice Requirements.	Extension	On occasion	Required to obtain benefit.	Any owner/ operator of a qualifying small power or cogeneration facility.	225	1,800	These data are required pursuant to the Public Utilities Regulatory Policies Act. Data are used to determine whether an applicant meets the criteria for qualifying for a small power facility or a qualifying cogeneration facility.

[FR Doc. 82-24142 Filed 9-1-81; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Objection to Proposed Remedial Orders Filed; Week of June 28 Through July 2, 1982

During the week of June 28 through July 2, 1982, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 on or before September 22, 1982. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

August 26, 1982.

Cordele Operating Company, Corsicana, Texas, HRO-0060, crude oil

On June 29, 1982, Cordele Operating Company, P.O. Box 1066, 416 First National Bank Building 75110 filed a Notice of Objection to a Proposed Remedial Order which the DOE Dallas ERA District Office of Enforcement issued to the firm on June 3, 1982.

In the PRO the Southwest District Office found that during the period September 1, 1973 through October 31, 1980, Cordele made incorrect property determinations and incorrect average daily production calculations for purposes of the stripper well exemption. The PRO finds that as a result Cordele violated the regulations of the Cost of Living Council and DOE in its sales of crude oil.

According to the IROIC, the Cordele violation resulted in $2,381,864.17 of overcharges.

Engineered Operating Company, Wichita, Texas, HRO-0068, crude oil

On June 29, 1982, Engineered Operating Company, 200 Parker Square Building, Wichita Falls, Texas 76308, filed a Notice of Objection to which the DOE Dallas ERA District Office of Enforcement issued to the firm on June 3, 1982.

In the PRO, the Dallas ERA District found that during the period September 1, 1973 to June 30, 1980, Engineered Operating Company had with respect to certain crude oil production operations made incorrect property determinations and had incorrectly calculated average daily production levels for purposes of the stripper well exemption. As a result, the PRO concludes that the firm charged prices in first sales of crude oil which exceed the maximum lawful prices permitted under 10 CFR Part 212, Subpart D.

According to the PRO, the Engineered Operating Company violation resulted in $2,229,215.85 of overcharges.

Leclair Operating Company, Abilene, Texas, HRO-0070 crude oil

June 29, 1982, Leclair Operating Company, 1266 Butternut, Abilene, Texas 79602 filed a Notice of Objection to a Proposed Remedial Order which the DOE Crude and NGL Audit and Litigation Support Group issued to the firm on June 3, 1982.

The PRO finds that during the period September 1, 1973 through August 31, 1980, Leclair made sales of crude oil at prices which were in excess of those permitted by 10 CFR Part 212, Subpart D.

According to the PRO, the Leclair Operating Company violation resulted in $405,556.35 of overcharges.

San Joaquin Oil Company, Bakersfield, California, HRO-0071, crude oil

On June 29, 1982, San Joaquin Oil Company and San Joaquin Refining Company filed a Notice of Objection to a Proposed Remedial Order which the San Francisco Office of the DOE Office of Enforcement issued to the firm on June 4, 1982.

In the PRO, the Office of Enforcement found that during the period August 20, 1972, through April 30, 1975, San Joaquin had violated the DOE pricing regulations with regard to the reporting of certain crude costs, the establishment of classes of purchaser and the calculation of the maximum legal selling price for covered products.

According to the PRO, the firm must calculate the full extent of overcharges to each customer during the audit period.

William J. Scott, Long Beach, California, HRO-0066, crude oil

On June 28, 1982, William J. Scott, 2859 Walnut Avenue, Long Beach, California 90806 filed a Notice of Objection to a Proposed Remedial Order which the DOE Economic Regulatory Administration issued to the firm on June 4, 1982.

In the PRO, the Economic Regulatory Administration found that during the period June 1974 to October 1978, William J. Scott charged prices for crude oil which exceeded the maximum lawful price levels permitted by 10 CFR Part 212, Subpart D.

According to the PRO, the William J. Scott violation resulted in $114,441.23 of overcharges.

Walter J. Scott, d.b.a. Scott Oil Company, Long Beach, California, HRO-0067, crude oil

On June 28, 1982, Walter J. Scott, d/b/a Scott Oil Company, 2859 Walnut Avenue, Long Beach, California 90806 filed a Notice of Objection to a Proposed Remedial Order which the DOE Economic Regulatory Administration issued to the firm on June 4, 1982.

The PRO finds that during the period January 1974 through December 1977, Scott Oil Company charged prices for crude oil which were in excess of the maximum lawful price levels permitted by 10 CFR Part 212, Subpart D.

According to the PRO, the Walter J. Scott d/b/a/ Scott Oil Company violation resulted in $218,972.55 of overcharges.

Scott/Agajanian Oil Producers, Long Beach, California, HRO-0065, crude oil

On June 28, 1982, Walter J. Scott, and Benjamin J. Agajanian, Oil Producers, 2859 Walnut Avenue, Long Beach, California 90806 filed a Notice of Objection to a Proposed Remedial Order which the DOE Economic Regulatory Administration issued to the firm on June 4, 1982.

The PRO finds that during the period January 1974 through May 1977, Walter J. Scott and Benjamin J. Agajanian, Oil Producers, charged prices for crude oil which were in excess of the maximum lawful prices permitted by 10 CFR Part 212, Subpart D.

According to the PRO, the Walter J. Scott and Benjamin J. Agajanian, Oil Producers

violation resulted in $124,273.11 of overcharges.

[FR Doc. 82-24084 Filed 9-1-82; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders Filed; Week of July 5 Through July 9, 1982

During the week of July 5 through July 9, 1982, the notices of objection to proposed remedial orders listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of Energy will conduct concerning the proposed remedial orders described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 on or before September 22, 1982. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in these proceedings should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

George B. Breznay,

Director, Office of Hearings and Appeals.

Crown Central Petroleum Corporation, Baltimore, Maryland, HRO-0072, Petroleum

On July 6, 1982, Crown Central Petroleum Corporation, P.O. Box 1168, Baltimore, Maryland 21203 filed a Notice of Objection to a Proposed Remedial Order which the DOE Philadelphia Field Office of the Economic Regulatory Administration issued to the firm on May 26, 1982.

In the PRO, the ERA found that during the period August 19, 1973 through December 31, 1978 Crown (1) failed to establish appropriate classes of purchasers and May 15, 1973 weighted average selling prices, (2) improperly computed its cost recoveries, and (3) failed to maintain records sufficient to demonstrate its compliance with the pricing regulations.

According to the PRO, the Crown Central violation resulted in $34,025,000 of overcharges.

Dalco Petroleum Corporation, Tulsa, Oklahoma, HRO-0074, Crude Oil

On July 6, 1982, Dalco Petroleum Corporation, Tulsa, Oklahoma filed a Notice of Objection to a Proposed Remedial Order which the DOE Tulsa, Oklahoma District Office of Enforcement issued to the firm on April 30, 1982.

In the PRO, the District Office found that during the period March 1976 to September 1978, Dalco miscertified crude oil and overcharged for crude oil.

According to the PRO, the Dalco violation resulted in $8,130,064.46 of overcharges.

FASGO, Incorporated, Philadelphia, Pennsylvania, HRO-0073, Motor Gasoline

On July 6, 1982, Fasgo, Inc., 11 Grandview Avenue, Brookhaven, Pennsylvania 19015 filed a Notice of Objection to a Proposed Remedial Order which the DOE Philadelphia Field Office, District Office of Enforcement issued to the firm on June 21, 1982.

In the PRO the District found that during June 1, 1977 to July 31, 1979, Fasgo sold various grades of motor gasoline at five retail sales outlets to its end-user customers at prices in excess of those calculated pursuant to 10 CFR 212.93(a) of the FEA Mandatory Petroleum Allocation and Price Regulations and was therefore in probable violation of those regulations.

According to the PRO, the Fasgo, Inc. violation resulted in $263,501.30 of overcharges.

Indian Wells Oil Company, Kearney, Missouri HRO-0075, Natural Gas Liquids and Products

On July 8, 1982, Indian Wells Oil Company, Kearney, Missouri filed a Notice of Objection to a Proposed Remedial Order which the DOE Central District Office of Enforcement issued to the firm on June 4, 1982.

In the PRO the Central District found that during September 1973 to September 1976, Indian Wells sold natural gas liquids and natural gas liquid products at prices in excess of those permitted under 6 CFR Part 150, Subpart L and 10 CFR Part 212, Subparts E and K.

According to the PRO, the Indian Wells violation resulted in $1,327,892.44 of overcharges.

[FR Doc. 82-24083 Filed 9-1-82; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 82-22]

Intent To Rescind Certain Portwide Exemptions Pursuant to § 510.33(e) of General Order 4

Notice is hereby given that the Federal Maritime Commission intends to rescind the portwide exemptions which had been granted to the ports of Pensacola, Port Everglades and Tampa, Florida pursuant to § 510.33(e) of Commission General Order 4 (46 CFR 510.33(e)).[1]

Section 510.33(e) prohibits a licensed independent ocean freight forwarder from collecting compensation from an oceangoing common carrier if the carrier or its agent (whether or not the carrier agent is licensed as a forwarder) performs any of the forwarding services at the request of the originating forwarder. This prohibition does not apply if there is no other forwarder at the port of loading willing to perform such services for the originating forwarder. Section 510.33(e) also provides for the grant of an exemption from this prohibition.

The purpose of § 510.33(e) is to enhance competition in outports. It serves to prevent forwarders who are located in large ports, and who control the routing of cargo, from bypassing nonagent forwarders in outports by arranging for the outport carriers or their agents to perform the necessary port-area forwarding services.

Problems arose when the predessor to § 510.33(e) was issued in 1963. In some outports the only forwarders available for forwarding services were also steamship agents. To cure these problems, the portwide exemption provision was incorporated into the rule. The grant of a portwide exemption allows a nondomiciled forwarder to collect compensation even though the completion of the outport forwarder services was performed by a forwarder who was also the agent of the involved carrier. An exemption is granted upon a finding that insufficient forwarding services are being offered by nonagent forwarders in the port of loading.

By Orders served November 28, 1966 the Commission granted the Ports of Pensacola and Tampa, Florida portwide exemptions. Port Everglades, Florida was granted a portwide exemption on May 2, 1967. Conditions that were present when those exemptions were granted appear to have changed substantially in each of the three ports. Specifically, fifty percent (two out of four) of the forwarders domiciled in Pensacola are now nonagent licensees. When the exemption was granted all forwarders in Pensacola (three) wer also steamship agents. When Tampa was granted an exemption there was one nonagent forwarder providing forwarding services, but only on an occasional basis. Presently, of the fourteen forwarders located in Tampa, six are nonagent forwarders. As to Port Everglades, at the time its exemption was granted there were no nonagent forwarders domiciled there. Now, all eight of the forwarders domiciled in the Port Everglades are nonagent forwarders.

In addition, from the nature and amount of cargo moving through the subject ports, it appears that the current nonagent forwarders could adequately service the liner export business generated by the ports. Cargo data available to the Commission disclose that in 1981 Pensacola handled only

[1] Section 510.33(e) superseded § 510.22(a).

106,403 long tons of liner export cargo of which eighty percent consisted of high density cargo, *i.e.*, wheat flour/meal, malt extract, cereal flours/meals and fertilizers. During the same period, Tampa handled an equally small amount of liner export cargo, i.e. 148,892 long tons, eighty-two percent of which consisted of high density cargo, i.e., fertilizers and iron and steel bars/rods. This type of cargo would appear to involve fewer shipments (high weight) and require less service by freight forwarders. As to Port Everglades, while the cargo mix was more pronounced, only 40,165 long tons of liner export cargo were handled. All of the forwarders located in Port Everglades are nonagent forwarders.

The situations upon which the three exemptions were based over fifteen years ago appear to have changed. It would now seem that a sufficient supply of forwarding services is being held out by nonagent forwarders domiciled at each of the three ports. Therefore, the Commission intends to rescind all three portwide exemptions.

Interested parties are requested to submit comments on this matter.

Comments (an original and fifteen copies) may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 4, 1982.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 82-24140 Filed 9-1-82; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 82-38]

Hermann Ludwig, Inc., v. The South African Marine Corp.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Hermann Ludwig, Inc., against the South African Marine Corp. was served August 26, 1982. Complainant alleges that respondent has subjected it to an overcharge of rates for ocean transportation.

This proceeding has been assigned to Administrative Law Judge Joseph N. Ingolia. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 82-24141 Filed 9-1-82; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

August 26, 1982.

Background

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 Paperwork Reduction Act [44 U.S.C. Chapter 35]. Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally the public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a description of the report is published in the **Federal Register**. This information contains the name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number appear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3829).

OMB Reviewer—Richard Sheppard—Officer of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202-395-6880).

Request for Extension With Revision

1. Report title: Monthly Survey of Selected Deposits and Other Accounts.

Agency form number: FR 2042.

Frequency: Monthly.

Reporters: insured commercial banks and mutual savings banks.

SIC Code: 602,603.

Small businesses are affected.

General description of report: approximately 7,896 responses; approximately 10,502 hours needed to complete the form on an annual basis; average response time of 1 hour and 20 minutes; respondent's obligation to reply is voluntary (12 U.S.C. 248(a)); a pledge of confidentiality is not promised; cost to the Federal Government is approximately $50,000 annually; cost to the public is approximately $157,525 annually; 1 form submitted for approval; the report is not being reviewed under Section 3504(h) of Pub. L. 96-511.

These data are used by the Federal Reserve Board (1) to analyze and interpret movements in the monetary aggregates, (2) to observe competitive developments between banks and thrift institutions, and (3) to help monitor the earnings position of depository institutions. These data provide the Federal Reserve Board and the Depository Institutions Deregulation Committee (DIDC) with a factual basis for appraising the effects of interest rate ceilings and for monitoring the impact of the gradual removal of such ceilings.

Board of Governors of the Federal Reserve System, August 26, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-24106 Filed 9-1-82; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank

Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comments 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.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 330 South LaSalle Street, Chicago, Illinois 60690:

1. *Hampton Park Corporation,* Romeoville, Illinois; to acquire at least 80 percent of the voting shares of The Palwaukee Bank, Prospect Heights, Illinois. Comments on this application must be received not later than September 27, 1982.

B. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Meredosia Bancorporation, Inc.,* Springfield, Illinois; to acquire 82.3 percent or more of the voting shares or assets of Farmers & Merchants State Bank, Virden, Illinois. Comments on this application must be received not later than September 27, 1982.

Board of Governors of the Federal Reserve System, August 27, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-24104 Filed 9-1-82; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 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 the date indicated for each application.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp,* New York, New York (consumer finance and credit related insurance activities; New Mexico): To expand the service area of an existing office of its subsidiary, Citicorp Person-to-Person Financial Center, Inc. and to relocate that office in Santa Fe, New Mexico. The previously approved activities in which the office will engage at its new location are as follows: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health or decreasing or level (in the case of single payment loans) term life insurance by licensed agents or brokers, as required; the sale of consumer oriented financial management courses; and the servicing, for any person, of loans and other extensions of credit. The proposed expanded service area of the office would be comprised of the entire state of New Mexico. Credit related life, accident and health insurance may be written by Family Guardian Life Insurance Company, an affiliate of Citicorp Person-to-Person Financial Center, Inc. Comments on this application must be received not later than September 27, 1982.

2. *Citicorp,* New York, New York (consumer finance and credit related insurance activities; Washington): To expand the activities of three existing offices of Citicorp Washington Financial Center, Inc. to include the proposed *de novo* activities of: the making, acquiring and servicing, for its own account and for the account of others, of extensions of credit to individuals secured by liens on residential or nonresidential real estate; and the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans. The proposed service areas for each of the three offices shall be the entire state of Washington. The aforementioned activities will be conducted from offices in the following three locations: Kennewick, Lacey, and Federal Way, Washington. Comments on this application must be received not later than September 27, 1982.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Northern Trust Corporation,* Chicago, Illinois (real estate appraisals; entire United States): To engage, through its subsidiary, Nortrust Farm Management, Inc., in performing appraisals of real estate. These activities are to be performed for the public at offices located in Oak Brook, Illinois. The geographic area to be served will be the entire 50 states of the United States. Comments on this application must be received not later than September 22, 1982.

C. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Boatmen's Bancshares, Inc.,* St. Louis, Missouri (travelers check activities; Missouri, Illinois and Kansas): To engage, through the locations of its banking subsidiaries, in the issuance and sale of its travelers checks in accordance with the Board's Regulation Y. In addition, Applicant will solicit sales of its travelers checks through an unspecified number of correspondent banks and corporate customers located throughout Missouri, the southern half of Illinois and the eastern half of Kansas. Comments on this application must be received not later than September 22, 1982.

D. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Bank Shares Incorporated,* Minneapolis, Minnesota (leasing activities; United States): To engage, through its subsidiary, Marquette Lease Services, Inc., in leasing personal or real

property or acting as agent, broker or advisor in leasing such property in accordance with the Board's Regulation Y. These activities would be conducted from an office in Minneapolis, Minnesota, serving the United States. Comments on this application must be received not later than September 27, 1982.

E. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Security Pacific Corporation*, Los Angeles, California (industrial loan, financing and credit-related insurance activities; California): To engage in financing and industrial loan corporation activities through its subsidiary Security Pacific Finance Money Center Inc., including making, acquiring and servicing loans and other extensions of credit; selling and issuing investment certificates; and acting as agent for the sale of credit-related life, credit-related accident and health and credit-related property insurance, all as authorized by California law. These activities would be conducted from offices of Security Pacific Finance Money Center Inc. in the cities of Cerritos, Torrance and Upland, California, serving the State of California. Comments on this application must be received not later than September 27, 1982.

2. *Security Pacific Corporation*, Los Angeles, California (finance and credit life and credit accident and health insurance activities; New Jersey): To engage through its subsidiary, Security Pacific Finance Corp. in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company of a consumer finance company, and acting as broker or agent for the sale of credit life and credit accident and health insurance. These activities would be conducted from offices of Security Pacific Finance Corp. located in Linwood, New Jersey, serving the State of New Jersey and would constitute a relocation of an existing office of Security Pacific Finance Corp. which is currently located in Ventnor City, New Jersey. Comments on this application must be received not later than September 27, 1982.

Board of Governors of the Federal Reserve System, August 27, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-24101 Filed 9-1-82; 8:45 am]

BILLING CODE 6210-01-M

Florida Coast Banks, Inc.; Proposed Acquisition of Midlantic/Florida Coast Holdings, Inc., and Florida Coast Midlantic Trust Company, N.A.

Florida Coast Banks, Inc.; Pompano Beach, Florida, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Midlantic/Florida Coast Holdings, Inc., Edison, New Jersey, and thereby indirectly acquire Florida Coast Midlantic Trust Company, N.A., Lighthouse Point, Florida.

Applicant states that the proposed subsidiaries would hold shares of Florida Coast Midlantic Trust Company, N.A., which will engage in the activity of acting as a trust company. These activities would be performed from offices of Applicant's subsidiary in Lighthouse Point, Florida, and the geographic areas to be served are Broward and Dade Counties, Florida. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 26, 1982.

Board of Governors of the Federal Reserve System, August 27, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-24103 Filed 9-1-82; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies

The companies listed in this notice have 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 bank holding companies by acquiring voting shares and/or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicted for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. 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.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Central Lakes Bancorporation, Inc.*, Necedah, Wisconsin; to become a bank holding company by acquiring 80 percent of the voting shares of the Necedah Bank, Necedah, Wisconsin. Comments on this application must be received not later than September 27, 1982.

2. *Martinsville Bancshares, Inc.*, Martinsville, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares, less director's qualifying shares, of Martinsville State Bank, Martinsville, Illinois. Comments on this application must be received not later than September 27, 1982.

B. Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551:

1. *Valencia Bancorp*, Santa Ana, California; to become a bank holding company by acquiring 100 percent of the voting shares of Valencia Bank, Santa Ana, California. The application may be inspected at the Federal Reserve Bank of San Francisco. Comments on this

application must be received not later than September 27, 1982.

Board of Governors of the Federal Reserve System, August 27, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-24102 Filed 9-1-82; 8:45 am]

BILLING CODE 6210-01-M

Southern Bancorporation, Inc.; Proposed Acquisition of Continental Credit Corporation

Southern Bancorporation, Inc., Greenville, South Carolina, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Continental Credit Corporation, Greenville, Texas.

Applicant states that the proposed subsidiary would engage in the activities of making direct consumer loans to individuals. These activities would be performed from offices of Applicant's subsidiary in Greenville, Texas, and the geographic area to be served is within a 5 mile radius of Greenville, Texas. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received no later than September 26, 1982.

Board of Governors of the Federal Reserve System, August 27, 1982.

Dolores S. Smith,

Assistant Secretary of the Board.

[FR Doc. 82-24105 Filed 9-1-82; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Statement of Organization, Functions and Delegation of Authority

This notice amends Part A (Office of the Secretary), Chapter AHP (Office of Personnel, Office of the Assistant Secretary for Personnel Administration) 47 FR 4348, January 29, 1982, to abolish the Division of Personnel Investigations within the Office of Personnel Systems Integrity. A major portion of the functions of the division have been transferred to the Office of the Inspector General. The remaining function is the investigation of merit systems (principles) complaints. Therefore, the sub-organization is renamed accordingly; i.e., Merit Systems Investigations Staff. In addition, this notice deletes references to conducting predecision hearings on adverse actions because they are no longer required and reflects other minor changes.

1. Amend Subchapter AHP, Section AHP.20E "Functions", but deleting subparagraph 4 and renumbering subparagraph 3, Division of Personnel Systems Improvement, as subparagraph 4.

2. Establish subparagraph 3 to read as follows:

"3. Merit Systems Investigations Staff receives, assigns investigates and makes recommendations for disposition of complaints involving alleged prohibited personnel practices or merit systems violations."

3. Amend the revised subparagraph 4 to replace "Civil Service Commission" with Office of Personnel Management.

4. Delete from paragraph E, "Office of Personnel Systems Integrity", the following term: "EEO counselor."

5. Delete from subparagraph E.1., the term: "EEO counseling."

6. Delete from subparagraphs E.5. and E.7., the statement that reads: "Conducts predecision hearings on adverse actions."

Dated: August 24, 1982.

Richard S. Schweiker,

Secretary.

[FR Doc. 82-24130 Filed 9-1-82; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6680-B]

Alaska Native Claims Selection

On December 4, 1974, Paug-Vik Incorporated, Limited, for the Native village of Naknek, filed selection application AA-6680-B, as amended, under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of Naknek.

On April 27, 1961, the Corps of Engineers, acting on behalf of the United States Air Force, requested a 44 LD 513 notation for certain lands being used by the Air Force as a refuse disposal area. That request was noted to the records as A-054256. On May 24, 1979, ANCSA Sec. 3(e) case file AA-25575 was established for the unpatented portion of A-054256 (Tract D).

The lands included in AA-25575 are described below:

Seward Meridian, Alaska (Partially Surveyed)

T. 17 S., R. 45 W.,
Sec. 14, S½NE¼NW¼ and SE¼NW¼NW¼.
Containing 30 acres.

On February 17, 1982, the Bureau of Land Management determined the above-described lands to be public lands available for conveyance to Paug-Vik Incorporated, Limited. These lands will be approved for conveyance in this decision and ANCSA Sec. 3(e) case file AA-25575 will be closed of record when this decision become final.

As to the lands described below, application AA-6680-B, as amended, submitted by Paug-Vik Incorporated, Limited, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, containing 30 acres, is considered proper for acquisition by Paug-Vik Incorporated, Limited, and is hereby approved for conveyance pursuant to Sec. 14(a) of ANCSA:

Seward Meridian, Alaska, (Partially Surveyed)

T. 17 S., R. 45 W.,
Sec. 14, S½ NE¼NW¼ and SE¼NW¼NW¼.
Containing 30 acres.

There are no inland water bodies considered to be navigable within the above-described lands.

There are no easements to be reserved to the United States pursuant to Sec. 17(b) of ANCSA.

There conveyance issued for the surface estate of the lands described above shall contain the following reservation to the United States:

The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)).

The grant of the above-described lands shall be subject to:

1. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)(2)) (ANCSA), and valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law; and

2. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Paug-Vik Incorporated, Limited is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of ANCSA. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 105,229 acres. The remaining entitlement of approximately 9,971 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be issued to Bristol Bay Native Corporation when the surface estate is conveyed to Paug-Vik Incorporated, Limited, and shall be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the ANCHORAGE TIMES.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised. However, pursuant to Pub. L. 96-487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have until October 4, 1982 to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

U.S. Department of the Army, Alaska District Corps of Engineers, P.O. Box 7002, Anchorage, Alaska 99510

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7-005, Anchorage, Alaska 99510

Paug-Vik Incorporated, Limited, P.O. Box 61, Naknek, Alaska 99633

Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-24134 Filed 9-1-82; 8:45 am]

BILLING CODE 4310-84-M

[AA-6661-C]

Alaska Native Claims Selection

On June 9, 1949, Public Land Order (PLO) No. 589, as amended, withdrew certain lands in the vicinity of Eklutna for the use of the Department of the Interior for such projects as may be authorized by Congress. Public Law (Pub. L.) 628, as amended, enacted on July 31, 1950, authorized "* * * construction of the Eklutna project, hydro-electric generating plant and transmission facilities * * *" These lands were selected by Eklutna, Inc., for the Native village of Eklutna by application AA-6661-C, filed July 17, 1974, as amended, under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976))(ANCSA).

Section 11(a)(1) of ANCSA withdrew public lands in certain areas for selection by Eklutna, Inc. Section 3(e) of the act defines public lands, in part, as, "* * * all Federal lands and interests therein located in Alaska except: (1) The smallest practicable tract, as determined by the Secretary, enclosing land actually used in connection with the administration of any Federal installation * * *"

Departmental regulation 43 CFR 2655.2 states in pertinent part:

Land subject to determination under section 3(e)(1) of the act will be subject to conveyance to Native corporations if they are determined to be public lands * * * If the lands are determined not to be public lands, they will be retained by the holding agency * * *

A portion of the lands currently withdrawn by PLO 589, which is the subject of Sec. 3(e) application AA-42534, is described as follows:

Seward Meridian, Alaska (Surveyed)

T. 16 N., R. 1 E.

Sec. 13, lots 1 to 7, inclusive, that portion of lot 8 within the SE¼, that portion of lot 9 north of the south boundary of the Glenn Highway, lot 10, that portion of lot 11 north of the south boundary of the Glenn Highway, and NE¼.

T. 16 N., R. 2 E.

Sec. 18, lot 1 to 14, inclusive, that portion of lot 15 north of the south boundary of the Glenn Highway, NE¼NW¼, SE¼SW¼, NE¼SE¼, and S½SE¼;

Sec. 19, NE¼, E½NW¼, lots 1 and 2.

Containing approximately 1,118 acres.

On April 8, 1982, the Bureau of Land Management determined that the following described lands are the smallest practicable tracts enclosing lands actually used in connection with the administration of the Eklutna project:

Seward Meridian, Alaska (Surveyed)

T. 16 N., R. 2 E.
Sec. 18, lot 9, S½ of lot 10*, lot 11, SE¼SW¼, NE¼SE¼, S½SE¼;
Sec. 19, W½NW¼NE¼NE¼NE¼, N½NW¼NE¼NE¼, N½S½NW¼NE¼NE¼, N½NW¼NW¼NE¼, N½N½ of lot 1,[1] E½NE¼NE¼NW¼NE¼.
Containing approximately 243 acres.

Therefore, these lands will be retained by the Alaska Power Administration (APA).

The remaining lands in Sec. 3(e) case file AA–42534 have been determined to be public lands and are herein approved for conveyance to Eklutna, Inc. No further Sec. 3(e) determination is required for lands within case file AA–42534.

As to the lands described below, application AA–6661–C, as amended, submitted by Eklutna, Inc., is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) of ANCSA, aggregating approximately 865 acres, is considered proper for acquisition by Eklutna, Inc., and is hereby approved for conveyance to Sec. 14(a) of ANCSA:

Seward Meridian, Alaska (Surveyed)

T. 16 N., R. 1 E.
Sec. 13, lot 1, lots 3 to 7, inclusive, that portion of lot 9 north of the south boundary of the Glenn Highway, lot 10, that portion of lot 11 north of the south boundary of the Glenn Highway, and NE¼.
Containing approximately 342 acres.

T. 16 N., R. 2 E.
Sec. 18, lot 1, lots 3 to 8, inclusive, N½ of lot 10*, lots 12, 13, and 14, that portion of lot 15 north of the south boundary of the Glenn Highway, and NE¼NW¼;
Sec. 19, E½NE¼NE¼NE¼, E½NW¼NE¼NE¼NE¼, SW¼NE¼NE¼NE¼, S½S½NW¼NE¼, W¼NE¼, NE¼S½NE¼NE¼, W½NE¼NE¼NW¼NE¼, NW¼NE¼NW¼NE¼, S½N½,NW¼NE¼, S½NW¼NE¼, S½NE¼, E½NW¼, S½N½ of lot 1[2], S½ of lot 1,[2] and lot 2.
Containing approximately 523 acres.
Aggregating approximately 865 acres.

The Knik River is excluded from this decision pending a final navigability determination.

The conveyance issued for the surface estate of the lands described above shall contain the following reservation to the United States:

The subsurface estate therein, and all rights, privileges, immunities, and appurtenances of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)).

There are no easements to be reserved pursuant to Sec. 17(b) of ANCSA.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent after approval and filing by the Bureau of Land Management of the official supplemental plat of survey confirming the boundary description and acreage of the lands hereinabove granted;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. 6(g))), contract, permit, right-of-way, or easement, and right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. An easement for highway purposes, including appurtenant protective, scenic and service areas, extending 150 feet on each side of the centerline of the Glenn Highway, as established by Public Land Order (PLO) 1613 (23 FR 2376), pursuant to the Act of August 1, 1956, (70 Stat. 898) and transferred to the State of Alaska pursuant to the Alaska Omnibus Act, Pub. L. 86–70 (73 Stat. 141), as to Sec. 13, T. 16 N., R. 1 E., Seward Meridian and Sec. 18, T. 16 N., R. 2 E., Seward Meridian;

4. An easement and right-of-way, 50 feet in width (25 feet on each side of the centerline, conveyed to RCA Alaska Communications, Inc. by Easement Deed dated January 10, 1971, Serial No. AA–6187, pursuant to the Alaska Communications Disposal Act (40 U.S.C. 771 et seq.) as to Sec. 13, T. 16 N., R. 1 E., Seward Meridian and Sec. 18, T. 16 N., R. 2 E., Seward Meridian; and

5. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Eklutna, Inc., is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 11,727 acres. The remaining entitlement of approximately 80,433 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be granted to Cook Inlet Region, Inc. when conveyance is granted to Eklutna, Inc., for the surface estate, and shall be subject to the same conditions as the surface conveyance.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 510 L Street, Suite 100, Anchorage, Alaska 99501.

The time limits for filing an appeal are:

1. Parties receiving service of this decision shall have 30 days from receipt of this decision to file and appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, and parties who failed or refused to sign the return receipt shall have unitl October 4, 1982 to file an appeal.

[1] One-half designations refer to an east-west line that when drawn, would divide the lot into equal halves and quarters, by area.

[2] One-half designations refer to an east-west line that when drawn, would divide the lot into equal halves and quarters, by area.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

U.S. Department of Interior, Alaska Power Administration, Eklutna Project, Route B, Box 7785, Palmer, Alaska 99645.

Eklutna Inc., 840 K Street, Suite 202, Anchorage, Alaska 99501.

Cook Inlet Region, Inc., P.O. Drawer 4-N, Anchorage, Alaska 99509.

Ann Johnson,

Chief, Branch of ANCSA Adjudication.

[FR Doc. 82-24135 Filed 9-1-82; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Savery Coal Draft Environmental Impact Statement in Carbon County, Wyoming and Routt County, Colorado, Availability of Draft Environmental Statement and Public Hearing Schedule

August 26, 1982.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of Draft Environmental Impact Statement and Public Hearing Schedule.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Act of 1969, notice is hereby given that the Bureau of Land Management, U.S. Department of the Interior, has prepared the Savery Coal Draft Environmental Impact Statement on coal leasing in Carbon County, Wyoming and Routt County, Colorado, and will have copies of the document available for public review and comment on September 20, 1982. In addition, notice is given that public hearings will be held at the following locations: Baggs, Wyoming, in the music room of District #1 School on October 20 from 7 to 9 p.m., and Rawlins, Wyoming in the Rawlins District Office, Bureau of Land Management, 1300 Third Street, Rawlins, Wyoming on October 21 from 7 to 9 p.m.

DATES: Written comments on the proposed action and alternatives contained in the draft environmental impact statement will be accepted up to and including November 15, 1982 at the Rawlins District Office, Bureau of Land Management, P.O. Box 670, Rawlins, Wyoming 82301.

ADDRESSES: Written comments on the proposal in the document are to be addressed to Gene Kolkman, Bureau of Land Management, Rawlins District Office, P.O. Box 670, Rawlins, Wyoming 82301.

The draft environmental impact statement will be available on September 20, 1982 for inspection at the Rawlins District Office, Bureau of Land Management, 1300 Third Street, Rawlins, Wyoming.

The draft statement can be obtained from Gene Kolkman, Rawlins District Office, Bureau of Land Management, P.O. Box 670, Rawlins, Wyoming 82301.

SUPPLEMENTARY INFORMATION: The draft statement analyzes the environmental impacts that would result from the development alternative and the no development alternative.

Oral testimony of 10 minutes duration will be accepted from each witness at the hearings. The 10 minute limitation will be strictly enforced by the presiding officer. Written texts of prepared speeches may be filed at the hearing whether or not the speaker has been able to complete oral delivery in the allotted 10 minutes.

Speakers will be heard in the order established on the witness register. After the last registered witness has been heard, the presiding officer will consider the request of any other person present who desires to testify. Any person present at the hearing may testify; however, only one witness will be allowed to represent the viewpoints of an organization.

Persons wishing to testify may preregister by submitting a written request to the Rawlins District Office of the Bureau of Land Management at the above address prior to close of business (4:30 p.m., MST) on October 15, 1982. Requests should identify the organization presented by the individual (if any) and should be signed by the prospective witness. Individuals who do not preregister may register at the hearing location prior to and during each session of the hearing.

Comments on the draft environmental impact statement, whether written or oral, will receive equal consideration in preparation of a final environmental impact statement.

David J. Walter,

District Manager.

[FR Doc. 82-24145 Filed 9-1-82; 8:45 am]

BILLING CODE 4310-84-M

[CA 1702 WR]

California; Order Providing for Opening of Public Land

August 27, 1982.

1. In an exchange of lands made under the provision of Section 8 of the Act of June 28, 1934, 48 Stat. 1269, 1272, as amended and supplemented, 43 U.S.C. 315g (1964), the following described land has been reconveyed to the United States:

Mount Diablo Meridian

T. 28 N., R. 3 W.,

Parcel 1

Section 10: Beginning at the Southeast corner of Section 10, Township 28 North, Range 3 West; thence West along the line between Sections 10 and 15 in said township and range 15.0 chains; thence at right angles North to the Sacramento River; thence Northeasterly along said river to the section line between Sections 10 and 11 in said township and range; thence South along said last named line to the place of beginning.

Section 11: All, lying South and East of the Sacramento River.

Section 13: All of the Northwest quarter lying North of the South bank of Paynes Creek.

Section 14: ALL EXCEPT The Northeast quarter of the Northeast quarter and EXCEPT all that portion lying South of the South bank of Paynes Creek.

Section 15: All that portion of the South half lying East and South of the Sacramento River and North of the South bank of Paynes Creek.

Beginning at a point 20.0 chains East of the center of Section 15, Township 28 North, Range 3 West; thence North 10.0 chains; thence East 5.0 chains; thence North 30.0 chains to the line between Sections 10 and 15 in said township and range; thence East 15.0 chains to the Northeast corner of said Section 15; thence South along the line between Sections 14 and 15 in said township and range 40.0 chains; thence West 20.0 chains to the place of beginning.

Section 22: All of the North half of Section 22, Township 28 North, Range 3 West, Mount Diablo Meridian, EXCEPTING the following: The South half of the Southeast quarter of the Northwest quarter, a tract of land

containing 47.62 acres known as the Reservoir, described as: Beginning at the quarter section corner between Sections 15 and 22; thence South 80-¾° West 30.50 chains to a cedar post; thence South 0° 9' West 15.10 chains to a cedar stake; thence East 25 chains to a cedar stake; thence North 15° 30' East 20.74 chains to the place of beginning; the Southwest quarter of the Southwest quarter of the Northeast quarter, and EXCEPT that portion lying South and East of the center of Paynes Creek.

Also excepting therefrom any portion thereof lying within the southerly 98 acres of that portion of the East half of the West half of the Northeast quarter; the East half of the Northeast quarter; the East half of the Northwest quarter of the Southeast quarter and the Northeast quarter of the Southeast quarter of Section 22, Township 28 North, Range 3 West, Mount Diablo Merdian, lying Northerly and Westerly of the center of Paynes Creek (the North line of said 98 acres is to be parallel with the North line of the section).

Parcel 2

That portion of Section 22, Township 28 North, Range 3 West, Mount Diablo Meridian described as follows:

The Southerly 98 acres of that portion of the East half of the West half of the Northeast quarter; the East half of the Northeast quarter; the East half of the Northwest qurter of the Southeast quarter and the Northeast quarter of the Southeast quarter of Section 22, Township 28 North, Range 3 West, Mount Diablo Meridian, lying Northerly and Westerly of the center of Paynes Creek (the North line of said 98 acres is to be parallel with the North line of the Section).

The tract as described contains 1,665 acres more or less in Tehema County.

2. At 10:00 a.m. on October 9, 1982, the land shall be open to operation of the general public land laws, subjects to valid existing rights, the provisions of existing withdrawals, and the requirement of applicable law. All valid applications received at or prior to 10 a.m. on October 9, 1982, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on October 9, 1982, the land shall be open to location under the United States mining laws and to applications and offers under the mineral leasing laws.

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

Walter F. Holmes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 82-24115 Filed 9-1-82; 8:45 am]

BILLING CODE 4310-84-M

[Colorado 27132-R&PP]

Colorado; Conveyance

Notice is hereby given that, pursuant to the Recreation and Public Purposes Act of June 14, 1926 (44 Stat. 741), as amended and supplemented (43 U.S.C. 869, 869-1 to 869-4), a patent issued to the County of Rio Blanco, State of Colorado, on August 27, 1982, for public land in Rio Blanco County, Colorado, described as follows:

Sixth Principal Meridian, Colorado

T. 1 N., R. 101 W.,
Sec. 5: Lot 6 of Tract 39, Tract 40, NE¼SW¼NW¼, N½SE¼NW¼, N½SE¼ SE¼NW¼, N½SW¼NE¼, and N½S½ SW¼NE¼.

The lot contains 107.53 acres. The purpose of this Notice is to inform and give constructive notice to the public and interested State and local governmental officials of the issuance of conveyance documents to the County of Rio Blanco, State of Colorado.

Harold Martin,

Chief, Division of Operations.

[FR Doc. 82-24117 Filed 9-1-82; 8:45 am]

BILLING CODE 4310-84-M

Information Collection Submitted for Review

The proposal for collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. Jeffrey Hill, at (202) 395-7340.

Title: Geologic and Hobby Mineral Materials-Collecting, 43 CFR 3630
Bureau Form Number: NONE
Frequency: Semiannually; annually
Description of Respondents: Individuals, research institutions, governmental entities, commercial collectors
Annual Responses: 79
Annual Burden Hours: 233
Bureau clearance officer: Linda Gibbs (202) 653-8853

August 27, 1982.

James M. Parker,

Associate Director.

[FR Doc. 82-24111 Filed 9-1-82; 8:45 am]

BILLING CODE 4310-02-M

[M 53441]

Montana Realty Action—Exchange

August 25, 1982.

AGENCY: BLM—Lewiston District Office, Interior.

ACTION: Notice of Realty Action M 53441—Exchange of public and private lands, Valley County, Montana.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Principal Meridian

T. 30 N., R. 36 E.,
Sec. 7, Lot 4.
Containing 37.90 acres of public land.

In exchange for these lands, the United States Government will acquire the surface estate in the following described land:

Principal Meridian

T. 30 N., R. 35 E.,
Sec. 11, SE¼NE¼.
Containing 40.00 acres of private land.

DATES: For a period of 45 days from the date of first publication of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, Airport Road, Lewistown, Montana 59457. Any adverse comments will be evaluated by the State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of this Department.

FOR FURTHER INFORMATION CONTACT: Information related to this exchange, including the environmental assessment and land report, is available for review at the Valley Resource Area Office, Route 1-775, Glasgow, Montana 59230, or the Lewistown District Office, Airport Road, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The purpose of the exchange is to acquire Valley County lands for enhancement of the Bureau's grazing, wildlife, and recreation programs and to remove the Bureau from administration responsibilities of the Hinsdale Sanitary

Landfill. The exchange is consistent with the Bureau's planning for the lands involved and has been discussed with those persons or entities concerned. The public interest will be well served by making the exchange.

The exchange will be subject to:

1. A reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States in accordance with 43 U.S.C. 945, for the lands being transferred out of Federal ownership.

2. The reservation to the United States of all minerals in the lands being transferred out of Federal ownership.

3. All valid existing rights (e.g. rights-of-way, easements, and leases of records).

4. Value equalization by cash payment or acreage adjustment.

5. The exchange must meet the requirements of 43 CFR 4110.4-2(b).

Michael J. Penfold,

State Director.

[FR Doc. 82-24113 Filed 9-1-82; 8:45 am]

BILLING CODE 4310-84-M

Nevada Redelegation of Authority

SUMMARY: Section 1.1(a)(2) of Bureau Order No. 701 dated July 23, 1964, as amended by notice published at 45 FR 6177 on Friday, January 24, 1980, (FR Doc. 80-2428 filed 1/24/80; 8:35 a.m.) authorizes the Bureau of Land Management State Directors the opportunity to redelegate the authority to grant, renew, reassign or revoke rights-of-way under Title I, Section 28 of the Mineral Leasing Act of 1920, as amended, and under the Federal Land Policy and Management Act of 1976 to Bureau of Land Management District and Area Managers.

That authority is hereby redelegated to the Las Vegas District Manager.

This notice has no other effect on the provisions of FR Doc. 80-2428.

EFFECTIVE DATE: This redelegation will become effective October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Mike Moran, Nevada State Office, Bureau of Land Management, Post Office Box 12000, Reno, Nevada 89520.

Roger J. McCormack,

Acting State Director, Nevada.

[FR Doc. 82-24114 Filed 9-1-82; 8:45 am]

BILLING CODE 4310-84-M

Utah; General Call for Expression of Interest for Mineral Leasing; Solicitation of Public Comments

AGENCY: Bureau of Land Management, Interior.

ACTION: Solicitation of Public Comments.

SUMMARY: This notice announces the opportunity for private industry, organizations and individual citizens to identify areas of public land for possible mineral leasing or protection from mineral leasing within the Bookcliff Resource Area, Vernal District. This notice pertains to all leasable minerals except combined hydrocarbons located in Special Tar Sand Areas.

The Bookcliff Resource Area includes the public lands in Uintah County, Utah that are located to the south and east of the Green River including the Federal mineral estate within the Hill Creek Extension of the Uintah and Ouray Indian Reservation. Expressions of interest will not be considered for lands that are within Dinosaur National Monument, or that have existing mineral patent applications on them.

The information submitted will be used as a starting point for a planning process (Resource Management Plan and Environmental Impact Statement) which will eventually culminate in a Multiple Use oriented competitive mineral leasing program.

This request for general information will be followed by a site specific call for expressions of interest in the spring of 1983.

Proprietary data should not be sent with any expression of interest.

DATE: Responses to this notice will be accepted through October 15, 1982.

ADDRESS: Responses should be sent to: Bureau of Land Management, Bookcliffs Area Manager, Attn: RMP Team, 170 South 500 East, Vernal, Utah 84078.

FOR FURTHER INFORMATION CONTACT: Curtis G. Tucker, RMP Team Leader at the address above. Telephone: (801) 789-1362.

SUPPLEMENTARY INFORMATION: This is to advise all interested parties that the official call for general expressions of interest in Federal mineral leasing (excluding combined hydrocarbons in Special Tar Sand Areas) interest will be accepted for lands where the Federal Government owns the leasable minerals with the following exceptions: Any lands within Dinosaur National Monument, or lands that have existing mineral patent applications on them.

Maps which indicate the areas open for general expressions of interest may be obtained by contacting Curtis Tucker at the Vernal District Office.

Submissions should not include any proprietary information because the date will be used in preparation of public documents.

This call for general expressions of interest is the first step in the planned process which will culminate in a Resource Management Plan and Environmental Impact Statement. General expressions of interest allow potential lessee's an opportunity to participate in the planning process by identifying mineral areas which should be considered for future lease sales. General calls also allow citizens to identify areas which should not be considered for mineral leasing. It is important to note that availability of data will be an important factor in delineating areas most likely to receive consideration for leasing.

An expression of leasing interest is not an application. The size and/or location of a proposed area may be modified or changed if there is sufficient reason to do so. Areas may also be prioritized based upon the existence of resource conflicts. Examples of the types of concerns that may make such action necessary include: access needs, mining efficiency, future development potential, resource conservation, State preferences and environmental concerns.

Those wishing to express areas of leasing interest should include the following data:

1. Location—Delineations should be made on a map with a scale not less than ½ inch to the mile.

2. Mineral of Interest—List the mineral or minerals of interest for leasing.

3. Method of Extraction—List the general technological process to be used (not a detailed plan).

Those wishing to express interest in non-development areas should provide the following information:

1. Location—Delineations should be made on a map with a scale not less than ½ inch to the mile.

2. Reasons for Non-development.

3. Other Pertinent Information.

This general call for expressions of interest will be followed by a call for site specific expressions of interest in the spring of 1983. Combined hydrocarbons located in Special Tar Sands Areas will be included in the specific call. At that time, industry will be asked to provide site specific and detailed data for use in development of leasing alternatives for the Bookcliff RMP/EIS.

Following completion of the planning, the Government could potentially hold competitive leasing beginning in December, 1984.

Notice of the preparation of the Bookcliff Resource Management Plan was given in the **Federal Register,**

Volume 45, Number 47, page 14931 dated Friday, March 7, 1980.

Public inputs are invited to identify additional issues related to mineral leasing so that they may be given consideration in the preparation of the Bookcliff RMP. Comments will be accepted until October 15, 1982. Any data or other inputs received after that date will be reviewed; however, inclusion of the data into the plan cannot be assured. Other public participation activities will be conducted in accordance with 43 CFR Part 1601. Dates, times, and locations will be announced through local media and mailings to interested parties.

Documents relative to the RMP/EIS process may be reviewed at the Vernal District Office during regular office hours.

Dated August 27, 1982.

Floyd Ferguson,

District Manager.

FR Doc. 82-24116 Filed 9-1-82; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Mines

Bureau Survey Form Submitted for Review

The extension for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Officer of Management and Budget reviewing official, Mr. William T. Adams, at 202-395-7340.

Title: Mine Information Supplement

Bureau Form No. 6-1017-A, Frequency: Annual

Description of Respondents: Mining Companies

Annual Responses: 2,250, Annual Burden Hours: 1,125

Bureau Clearance Officer: Robert L. Miller, 202-634-1125

Dated: August 18, 1982.

James F. McAvoy,

Acting Director, Bureau of Mines.

[FR Doc. 82-24107 Filed 9-1-82; 8:45 am]

BILLING CODE 4310-53-M

Bureau Survey Form Submitted for Review

The extension for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. William T. Adams, at 202-395-7340.

Title: Forecast of Lead and Zinc Production, Imports and Consumption

Bureau Form Number: 6-1173-A and B

Frequency: Annual

Description of Respondents: Producers of Lead and Zinc

Annual Responses: 24

Annual Burden Hours: 12

Bureau Clearance Officer: Robert L. Miller, 202-634-1125

Dated: August 18, 1982.

James F. McAvoy,

Acting Director, Bureau of Mines.

[FR Doc. 82-24108 Filed 9-1-82; 8:45 am]

BILLING CODE 4310-53-M

Bureau Survey Form Submitted for Review

The extension for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, Mr. William T. Adams, at 202-395-7340.

Title: Ferrous Metals Surveys

Bureau Form Number: 6-1066-M E.T. A.L.

Frequency: Monthly/Annual

Description of Respondents: Producers and Consumers of Ferrous Metals

Annual Responses: 14,435

Annual Burden Hours: 7,661

Bureau Clearance Officer: Robert L. Miller, 202-634-1125

Dated: August 18, 1982.

James F. McAvoy,

Acting Director, Bureau of Mines.

[FR Doc. 82-24109 Filed 9-1-82; 8:45 am]

BILLING CODE 4310-53-M

Fish and Wildlife Service

Intent To Prepare an Environmental Impact Statement for the Comprehensive Conservation Plan for Yukon Flats National Wildlife Refuge

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) and a comprehensive conservation plan for the Yukon Flats National Wildlife Refuge in interior Alaska. Public meetings regarding preparation of this plan and the EIS also will 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 November 30, 1982.

Public meetings regarding the Yukon Flats National Wildlife Refuge plan and EIS will be held at:

Fort Yukon—the Community Center, 7:00 pm, October 12, 1982

Fairbanks—the North Star Borough Library Auditorium, 1215 Cowles Street, 7:30 pm, October 28, 1982.

In addition, public meetings will be held at Beaver, Stevens Village, Birch Creek, Chalkitsyk, Venetie, Circle City, during the period October 13-22, weather permitting.

ADDRESS: Comments should be addressed to: Regional Director, U.S. Fish and Wildlife Service; 1011 E. Tudor Road; Anchorage, Alaska 99503.

FOR MORE INFORMATION CONTACT: Mike Evans, Public Affairs Specialist, Refuge Planning, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503.

SUPPLEMENTARY INFORMATION: This comprehensive conservation plan is being prepared to fulfill requirements of the Alaska National Interest Lands Conservation Act of 1980, section 304 g. The environmental review of the project

will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371 et seq.), Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), other appropriate Federal regulations, and FWS procedures for compliance with those regulations.

We estimate the Draft Environmental Impact Statement and plan will be made available to the public by April 1984.

Dated: August 24, 1982.

LeRoy W. Sowl,

Acting Regional Director.

[FR Doc. 82-24126 Filed 9-1-82; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of environmental documents prepared for OCS mineral pipeline rights-of-way applications on the gulf of Mexico OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal Regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related environmental assessments (EAs) and findings of no significant impact (FONSIs), prepared by the MMS for the following oil and gas pipeline rights-of-way applications proposed on the Gulf of Mexico OCS. This listing includes all proposals for which environmental documents were prepared by the Gulf of Mexico OCS Region in the 3-month period preceding this Notice.

Activity operator	Location	FONSI date
Transcontinental Gas Pipe Line Corporation, OCS-G 4976.	Brazos Area, S.A., Block A-76 to Brazos Area, Block 538 (30.15 miles of 30" gas).	June 30, 1982.
Tenneco Inc., OCS-G 4977.	West Delta Area, Block 76 to Block 61 (4.94 miles of 4" gas).	May 25, 1982.
Exxon Pipeline Company, OCS-G 4979.	South Pass Area, S. & E.A., Block 93 to West Delta Area, Block 73 (27.93 miles of 12" oil, petroleum, and/or gas).	May 25, 1982
Southern Natural Gas Company, OCS-G 4980.	Mustang Island Area, Block 755 to Block 738 (9.39 miles of 10" gas).	May 25, 1982.
Exxon Corporation, OCS-G 5121.	High Island Area, S.A., Block A-570 to Block A-571 (1.95 miles of 6" oil).	May 13, 1982.
Chevron U.S.A. Inc., OCS-G 5123.	West Cameron Area, Block 81 to Block 116 (7.01 miles of 3" oil, gas, and condensate).	May 23, 1982.
ODECO Oil & Gas Company, OCS-G 5125.	Main Pass Area, Block 59 to Block 41 (3.89 miles of 4½" oil).	June 1, 1982.
Gulf Oil Corporation, OCS-G 5127.	Main Pass Area, S. & E.A., Block 313 to South Pass Area, S. & E.A., Block 62 (3.92 miles of 8" fluids, oil, condensate, water and gas).	June 30, 1982.
Texas Eastern Transmission Corporation, OCS-G 5128.	West Delta Area, Block 86 to Block 87 (3.51 miles of 12" gas).	June 30, 1982.
Texas Eastern Transmission Corporation, OCS-G 5130.	Vermillion Area, S.A., Block 369 to East Cameron Area, S.A. Block 312 (20.45 miles of 12" gas).	June 22, 1982.
Gulf Oil Corporation, OCS-G 5132.	South Timbalier Area, Block 192 to Block 173 (2.10 miles of 8" gas).	June 17, 1982.

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EAs and FONSIs prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT: Deputy Minerals Manager, Offshore Operations Support, Gulf of Mexico OCS Region, Minerals Management Service, Post Office Box 7944, Metairie, Louisiana 70010, 504/837-4720.

SUPPLEMENTAL INFORMATION: The Minerals Management Service prepares EAs and FONSIs for proposals which relate to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS. The EAs examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. EAs are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA section 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

John L. Rankin,

Acting Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-24122 Filed 9-1-82; 8:45 am]

BILLING CODE 4310-MR-M

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of environmental documents prepared for OCS mineral development/production proposal on the Gulf of Mexico OCS.

SUMMARY: The MMS, in accordance with Federal Regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related environmental assessments (EAs) and findings of no significant impact (FONSIs), prepared by the MMS for the following oil and gas development/production activity proposed on the Gulf of Mexico OCS. This listing includes all proposals for which environmental documents were prepared by the Gulf of Mexico OCS Region in the 3-month period preceding this Notice.

Activity/Operator	Location	FONSI date
Anadarko Production Company, EA No. 504, Plan Control No. S-0798.	High Island Area, East Addition, South Extension, Blocks A-365 and A-376; (115 mi. southeast of Pelican Island, Galveston, Texas).	Apr. 1, 1982.

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EAs and FONSIs prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT: Deputy Minerals Manager, Offshore Operations Support, Gulf of Mexico OCS Region, Minerals Management Service, Post Office Box 7944, Metairie, Louisiana 70010, 504/837-4720.

SUPPLEMENTAL INFORMATION: The Minerals Management Service prepares EAs and FONSIs for proposals which relate to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS.

The EAs examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. EAs are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA section 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Lowell G. Hammons,

Minerals Manager, Gulf of Mexico OCS Region.

[FR Doc. 82-24124 Filed 9-1-82; 8:45 am]

BILLING CODE 4310-MR-M

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Pacific Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of environmental documents prepared for OCS mineral exploration proposals on the Pacific OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related environmental assessments (EA's) and findings of no-significant impact (FONSI's), prepared by the Minerals Management Service for the following oil and gas exploration activities proposed on the Pacific OCS. This listing includes all proposals for which environmental documents were prepared by the Pacific OCS Region in the six-month period preceding this notice.

Activity/operator	Location	FONSI date
Exxon Company, U.S.A.	Leases OCS-P 0404, P 0405, P 0410 and P 0411 (20 miles west of Point Sal, California).	Feb. 12, 1982.
Chevron U.S.A. Inc.	Lease OCS-P 0450 (7 miles southwest of Point Arguello, California).	Feb. 19, 1982.
	Lease OCS-P 0443 (10 miles west of Point Arguello, California).	Mar. 3, 1982.
ARCO Exploration Company.	Leases OCS-P 0420, P 0425, and P 0430 (9 miles west of Point Purisma, California).	Apr. 7, 1982.
Phillips Petroleum Company.	Leases OCS-P 0396 and P 0402 (13 miles northwest of Point Sal, California).	Apr. 14, 1982.
Shell Oil Company.	Lease OCS-P 0361 (5 miles south of Ventura, California).	May 5, 1982.
Phillips Petroleum Company.	Leases OCS-P 0397 and P 0403 (10 miles northwest of Point Sal, California).	June 2, 1982.
Chevron U.S.A. Inc.	Leases OCS-P 0451, P 0452 and P 0453 (4 miles northwest of Point Conception, California).	June 3, 1982.
Oxy Petroleum, Inc.	Leases OCS-P 0409 (7 miles west of Point Sal, California).	June 11, 1982.
Union Oil Company.	Lease OCS-P 0203 (15 miles south of Ventura, California).	June 16, 1982.

The documents are available for inspection in the public information room at the Pacific OCS Region office. Persons interested in obtaining information about EA's and FONSI's proposed for activities on the Pacific OCS are encouraged to contact one of the Minerals Management Service offices in the Pacific OCS Region.

FOR FURTHER INFORMATION CONTACT:

Deputy Minerals Manager, Field Operations, Pacific OCS Region, Minerals Management Service, 1340 West Sixth Street, Suite 160, Los Angeles, California 90017, (213) 688-2846

District Supervisor, Ventura District, Pacific OCS Region, Minerals Management Service, 145 N. Brent Street, Suite 202, Ventura, California 93003, (805) 648-5131

SUPPLEMENTARY INFORMATION: The Minerals Management Service prepares EA's and FONSI's for proposals which relate to exploration for oil and gas resources on the Pacific OCS. The EA's examine the potential environmental effects of activities described in the proposals and present Minerals Management Service's conclusions regarding the significance of those effects. EA's are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA section 102(2)(C). A FONSI is prepared in those instances where the Minerals Management Service finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA regulations.

Reid T. Stone,

Acting Minerals Manager, Pacific OCS Region.

[FR Doc. 82-24123 Filed 9-1-82; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf Official Protraction Diagrams; Availability

Notice is hereby given that the following OCS Official Protraction Diagrams, approved on the dates indicated, are on file and available in the New York Office, Minerals Management Service, New York, New York. In accordance with Title 43, Code of Federal Regulations, these protraction diagrams are the basic record for the description of mineral and oil and gas lease offers in the geographic areas they represent.

OUTER CONTINENTAL SHELF OFFICIAL PROTRACTION DIAGRAMS

Description	Approval date
NK 19-3	May 27, 1982.
NK 19-6	May 27, 1982.
NK 20-4	May 27, 1982.
NK 20-7 (Fundian Rise)	May 27, 1982.
NK 19-12 (Eastport)	May 27, 1982.

Protraction Diagrams may be purchased at $2.00 a copy. Remittance payable to the Bureau of Land Management must accompany all requests. Requests should be mailed to: U.S. Department of the Interior, Minerals Management Service, Atlantic OCS Region, New York Office, Federal Building, Suite 32-120, 26 Federal Plaza, New York, New York 10278.

Dated: August 25, 1982.

Richard B. Krahl,

Acting Minerals Manager, Atlantic OCS Region.

[FR Doc. 82-24125 Filed 9-1-82; 8:45 am]

BILLING CODE 4310-84-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** On December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. Applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later become unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.— All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP2-201

Decided: August 25, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 9812 (Sub-23), filed August 16, 1982. Applicant: C. F. KOLB TRUCKING CO., INC., Route #1, Box 294, Mt. Vernon, IN 47620. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602, (502) 227-2254. Transporting (1) *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI), and (2) for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S. (except AK and HI).

Volume No. OP5-178

Decided: August 25, 1982.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 162248 (Sub-1), filed August 12, 1982. Applicant: D.D.F. TRANSPORTATION, INC., 6495 Transit Rd., Bowmansville, NY 14026. Representative: William J. Hirsch, 64 Niagara St., Buffalo, NY 14202, 716-853-0200. As a *broker* of *general commodities* (except household goods) between points in the U.S. (except AK and HI).

MC 163299, filed August 6, 1982. Applicant: BRUCE W. KOPICZ, Rd #1 Box 80M, Mohrsville, PA 19541. Representative: Bruce W. Kopicz (same address as applicant), (215) 926-4710. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 163388, filed August 13, 1982. Applicant: COWLITZ DELIVERY SERVICE, 935 23rd Ave., Longview, WA 98632. Representative: Kenneth G. Lutz (same address as applicant), 206-425-9100. Transporting *shipments weighing 100 pounds as less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-24092 Filed 9-1-82; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

The following applications, filed on or after February 9, 1981, are governed by Special Rule of the Commission's Rules of Practice, see 49 CFR 1100.251. Special Rule 251 was published in the **Federal Register** of December 31, 1980, at 45 FR 86771. For compliance procedures, refer to the **Federal Register** issue of December 3, 1980, at 45 FR 80109.

Persons wishing to oppose an application must follow the rules under 49 CFR 1100.252. A copy of any application, including all supporting evidence, can be obtained from applicant's representative upon request and payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated a public need for the proposed operations and that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the

human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract".

Please direct status inquiries to the Ombudsman's Office, (202) 275-7326.

Volume No. OP2-202

Decided: August 25, 1982.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 150422 (Sub-1), filed July 27, 1982, published in the **Federal Register** issue of August 10, 1982, and republished as corrected, this issue. Applicant: CONAGRA TRANSPORTATION, INC., 5440 West Channel Rd., Catoosa, OK 74015. Representative: Peter A. Greene, 1920 N. St. NW., Washington, DC 20036, 202-331-8800. Transporting *general commodites* (except household goods and classes A and B explosives), between points in the U.S. (except AK and HI), under continuing contract(s) with Ralston Purina Co., of St. Louis, MO. The purpose of this republication is to correct the commodity description.

MC 150783 (Sub-27), filed August 16, 1982. Applicant: SCHEDULED TRUCKWAYS, INC., P.O. Box 757, Rogers, AR 72756. Representative: James H. Berry, P.O. Box 32, Wesley, AR 72773, 501-456-2453. Transporting *such commodities* as are dealt in or used by discount, variety and department stores, between points in Kay, Pottawatomie, and Tulsa Counties, OK and Benton, Crawford and Washington Counties, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 153582 (Sub-1), filed August 16, 1982. Applicant: ALLEN PANCOST TRUCKING, 815 Beattie Circle Sterling, CO 80751. Representative: Richard S. Mandelson, 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264, (303)-861-4028. Transporting (1) *food and related products,* (2) *rubber and plastic products,* (3) *glass containers,* and (4) *such commodities* as are dealt in or used by restaurants, between points in the U.S. (except AK and HI).

MC 153723 (Sub-10), filed April 28, 1982, published in the **Federal Register** issue of May 26, 1982, and republished, as corrected, this issue. Applicant: A & M ENTERPRISES, INC., P.O. Box 884, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72702, 501-521-8121. Transporting *wire, plastic and metal products,* between points in Benton and Washington Counties, AR, and Noble County, IN, on the one hand, and, on the other, points in the U.S. (except AK and HI), and *tape and wire recorders, and household appliances,* between Portsmouth, VA, and points in Pulaski County, AR, Caddo Parish, LA, Jefferson County, KY, Howard County, MD, Tulsa and Oklahoma Counties, OK, Bexar, Dallas and Tarrant Counties, TX, on the one hand, and, on the other, points in the U.S. (except AK and HI). The purpose of this republication is to correct the commodity description.

MC 153933 (Sub-3), filed August 16, 1982. Applicant: BESTWAY ENTERPRISES, INC., P.O. Box M-A, Hoboken, NJ 07030. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168, (703)-629-2818. Transporting *furniture and fixtures,* between points in NC, on the one hand, and on the other, (1) points in AR, AZ, CA, IL, LA, NV, OK, TX, and (2) those points in the U.S., in and east of MI, IN, KY, TN and MS.

MC 162643, filed August 16, 1982. Applicant: PARRISH & LAWSON HAULING, INC., Route 1, Box 156 F, Goochland, VA 23063. Representative: Calvin F. Major, 200 West Grace St., P.O. Box 5010, Richmond, VA 23220, (804) 649-7591. Transporting *coal,* between points in Nicholas County, WV, and Richmond, VA, under continuing contract(s) with University of Richmond, of Richmond, VA.

MC 163442, filed August 17, 1982. Applicant: NORTHERN TOURS, INC., 32840 Five Mile Rd., Livonia, MI 48154. Representative: Roger J. Silvi (same address as applicant), (313) 261-1995. As a *broker,* at Livonia, MI, in arranging for the transportation, by motor vehicle, of *passengers and their baggage,* beginning and ending at points in Wayne, Oakland, Macomb, and Washtenaw Counties, MI, and extending to points in the U.S. (except AK and HI).

Volume No. OP5-177

Decided: August 25, 1982

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

FF-29 (Sub-2), filed August 18, 1982. Applicant: FLORIDA-TEXAS FREIGHT, INC., 11405 NW 36th Ave., Miami, FL 33167. Representative: S. S. Eisen, 370 Lexington, Ave., New York, NY 10017, 212-532-5100. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

FF-428 (Sub-1), filed August 17, 1982. Applicant: MITCHELL OVERSEAS MOVERS, INC., 7120 Hart St., P.O. Box 3-338, Anchorage, AK 99501. Representative: Dennis E. White, 929 North 130th St., P.O. Box 33546, Seattle, WA 98133, 206-363-9449. Transporting *used household goods* and *unaccompanied baggage,* between points in the U.S.

MC 93318 (Sub-22), filed July 20, 1982. Previously published in the **Federal Register.** (republication) on August 10, 1982. Applicant: JOE D. HUGHES, INC., P.O. Box 96469, Houston, TX 77013. Representative: J. Marshall Forsyth (same address as applicant), 713-678-1556. Transporting (1) *Mercer commodities,* (2) *earth drilling equipment,* (3) *those commodities which because of their size or weight require the use of special handling or equipment,* (4) *lumber and wood products,* (5) *chemicals and related products,* (6) *metal products,* (7) *machinery* (8) *building materials,* between points in the U.S. (except AK and HI).

Note.—This application is republished to expand the commodity description.

MC 96328 (Sub-9), filed May 24, 1982. Previously published in the **Federal Register** (republication) on June 11, 1982. Applicant: J. AND W. CORPORATION, 3525 S. Leavitt St., Chicago, IL 60609. Representative: Robert J. Gill, First Commercial Bank Bldg., 410 Cortez Rd., West, Bradenton, FL 33507, 813-758-4153. Transporting *hospital and medical supplies, toilet preparations, and agricultural products,* between points in Cook County, IL, on the one hand, and, on the other, points in IL, IN, IA, MI, MO, OH, and WI.

Note.—This application is republished to include MI.

MC 116448 (Sub-2), filed August 16, 1982. Applicant: WOODSON'S TRUCKING SERVICE, INC., 611 Maple, Wellsville, MO 63384. Representative: Herman W. Huber, 101 East High St., Jefferson City, MO 65101, (314) 636-9131. Transporting *soybean products* between points in Audrain County, MO, on the one hand, and, on the other, St. Louis, MO, and points in Morgan County, IL, and Pike County, MO.

MC 124078 (Sub-1044), filed August 16, 1982. Applicant: SCHWERMAN TRUCKING CO., 611 So. 28th St., Milwaukee, WI 53201. Representative: Richard H. Prevette (same address as applicant) (414) 671-1600. Transporting (1) *gilsonite* between points in Uintah County, UT, on the one hand, and, on the other, points in CO, LA, MS, MT, NM, ND, OK, TX, UT, and WY, (2) *bentonite* between points in Big Horn County, WY, on the one hand, and, on the other, points in CO, LA, MS, MT, NM, ND, OK, TX, UT, and WY, (3) *chemicals* between points in Lea County, NM, on the one hand, and, on the other, points in CO, LA, MS, MT, NM, ND, OK, TX, UT, and WY, and (4) *potassium chloride* between points in Eddy County, NM, on the one hand, and, on the other, points in CO, LA, MS, MT, NM, ND, OK, TX, UT, and WY.

MC 134668 (Sub-3), filed August 20, 1982. Applicant: MARINE TERMINALS, INC., 1775 N. W. 70th Ave., Miami, FL 33126. Representative: William Sembler, One World Trade Center, Suite 1035, New York, NY 10048, (212) 432 1700. Transporting *general commodities* (except classes A and B explosives and household goods) between points in the U.S., under continuing contract(s) with American Atlantic Shipping, Inc., Chilean Line, Inc. (Cia. Sud Americana de Vapores), and Moore McCormack Lines, Inc., all of New York, NY and Linea Naviera Panatlantica, S. A., of San Jose, Costa Rica.

MC 144678 (Sub-44), filed August 16, 1982. Applicant: AMERICAN FREIGHT SYSTEM, INC., 9393 West 110th St., Overland Park, KS 66210. Representative: Harold H. Clokey (same address as applicant), (913) 648-5540. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Minnesota Mining and Manufacturing Company (3M), of St. Paul, MN.

MC 146248 (Sub-4), filed August 19, 1982. Applicant: QUALITY HAULERS, INC., 606 Hilda St., Jefferson City, MO 65101. Representative: Thomas P. Rose, P.O. Box 205, Jefferson City, MO 65102, 314-636-2321. Transporting *paper and related products,* between points in IL, MO, and KS, under continuing contract(s) with Alton Packaging Corporation of Alton, IL.

MC 146568 (Sub-13), filed August 17, 1982. Applicant: PHOENIX BIRD, INC., Neshaminy Plaza, Suite 118, Bensalem, PA 19002. Representative: Don Williams (same address as applicant), (215) 256-1080. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 147378 (Sub-7), filed August 18, 1982. Applicant: BAMA TRANSPORTATION COMPANY, INC., 5247 East Pine, Tulsa, OK 74115. Representative: Jack R. Anderson, Suite 305, Reunion Center, 9 East Fourth St., Tulsa, OK 74103, 918-583-9000. Transporting *general commodities* (except classes A and B explosives, household goods), between points in the U.S. (except AK and HI).

MC 152368 (Sub-4), filed August 2, 1982. Applicant: D. L. WILLIAMS TRUCKING, INC., P.O. Drawer 818, Hillsboro, TX 76645. Representative: James W. Hightower, Suite 301, Allied Bank-Southwest Bldg., 5801 Marvin D. Love Freeway, Dallas, TX 75237-2385, 214-339-4108. Transporting (1) *metal products,* between points in Hill County, TX, on the one hand, and, on the other, points in AL, ID, MS, NM, and UT; and (2) *lumber and wood products,* between points in CA, WA, OR, ID, and MT, on the one hand, and, on the other, points in AR, LA, MO, MS, NM, OK, and TX.

MC 153028 (Sub-2), filed August 16, 1982. Applicant: CABAR SYSTEMS, INC., P.O. Box 807, Greenwood, IN 46142. Representative: Daniel L. Bogard (same address as applicant), 317-882-8524, 800-428-3045. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Viviano Macaroni Company of Carnegie, PA, Exide Company, Inc. of Horsham, PA, Carrier Corporation of Syracuse, NY, Jenn-Air Corporation and Master-Fit Corporation both of Indianapolis, IN.

MC 153119 (Sub-2), filed August 12, 1982. Applicant: ROBERT FLEEGE d.b.a. FLEEGE DISTRIBUTING CO. R. R. 2, Box 273, Foley, MN 56329. Representative: John B. Van de North, Jr., 2200 First National Bank Bldg., St. Paul, MN 55101, (612) 291-1215. Transporting (1) *lumber, wood produots and home appliances,* between points in MN, WI, and IA, on the one hand, and, on the other, points in WI, IA, IL, IN, MO, NE, ND, SD, KY, WY, CO, MT, MI, TN, OR, VA, AR, UT, WA, and ID, and (2) *petroleum products* between points in Lake County, IN, on the one hand, and, on the other, points in MN.

MC 153489 (Sub-1), filed August 9, 1982. Applicant: TEX-WEST ENTERPRISES, INC., 1817 Tidwell Lane, Houston, TX 77093. Representative: C. Jack Pearce, Suite 1200, 1000 Connecticut Ave., NW., Washington, DC 20036, (202) 785-0048. Transporting (1) *iron and steel articles,* (2) *fabricated metal products,* (3) *lumber,* (4) *building materials,* and (5) *commodities, which because of their size or weight require the use of special equipment,* between points in the U.S. (except AK and HI).

MC 155438 (Sub-1), filed May 11, 1982. Initially published in the FR on June 11, 1982. Applicant: PAUL D. CHURCH & IRENE A. CHURCH d.b.a. CHURCH TRUCKING, INC. 3126 S.E. Washington St., Milwaukie, OR 97222. Representative: Paul D. Church (same address as applicant), (503) 654-1821. Transporting *lift trucks, machinery, and machinery parts,* between Portland and Eugene, OR, and points in Jackson County, OR, on the one hand, and, on the other, San Francisco, Sacramento, and Fresno, CA, and points in Alameda, Los Angeles, Santa Clara, Stanislaus, Humboldt, Sonoma, Monterey, Siskiyou, Kern, Modoc, Lassen, and Shasta Counties, CA. Condition: Any certificate issued in this proceeding is subject to the prior or coincidental cancellation of the certificate issued in MC-155438 Sub 1 on August 6, 1982.

Note.—Republication includes points in Alameda County, CA.

MC 155679 (Sub-1), filed August 6, 1982. Applicant: W. C. DAY TRUCKING CO., INC. 9028 Town & Country Blvd., Ellicott City, MD 21043. Representative: W. C. Day (same address as applicant), (301) 465-7699. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between Dallas, TX, and points in Baltimore County, MD, Cook and Vermilion Counties, IL, DeKalb County, GA, Ocean County, NJ, and Providence County, RI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 155778 (Sub-1), filed August 19, 1982. Applicant: ALWAYS TRANSIT, INC., 23363 CR 6, Elkhart, IN 46514. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240, (317) 846-6655. Transporting *transportion equipment and modular structures*

between points in the U.S. (except AK and HI).

MC 156768 (Sub-1), filed August 5, 1982. Applicant: SHEL TRANSPORT, INC., 17140 Robert, Southfield, MI 48075. Representative: Keith Fishman, 26764 Franklin Pt. Dr., Southfield, MI 48034, (313) 872-0537. Transporting *food and related products,* between Boston, MA, Detroit, MI, and points in Hudson, Passaic, and Union Counties, NJ.

MC 157909, filed August 19, 1982. Applicant: MIDLAND-RAIL-WATER TRANSPORT, INC., 3014 S. Laramie St., Chicago, IL 60650. Representative: Stephen H. Loeb, 2777 Finley Rd., Suite 4, Downers Grove, IL 60515, (312) 953-0330. Transporting *general commodities* (except classes A and B explosives and household goods), between Chicago, IL, on the one hand, and, on the other, points in IA, IL, IN, MI, MN, OH, PA, WI, and WV.

MC 159769, filed August 17, 1982. Applicant: L & F TRUCKING, INC., P.O. Box 116, Mills, WY 82644. Representative: Eric A. Distad, Suite 305, 120 West 1st. St., P.O. Box 2314, Casper, WY 82602, 307-266-4245. Transporting *Mercer commodities,* between points in WY, CO, UT, ID, MT, ND, SD, NE, NM, AZ, CA, NV, OR, and WA.

MC 160089, filed August 16, 1982. Applicant: R & W TRUCKING, INC., P.O. Box 124, Cowdrey, CO 80434. Representative: R. L. Fallon, 12927 N 107th, Longmont, CO 80501, (303) 776-6045. Transporting *coal and coal products,* between points in Jackson County, CO, on the one hand, and, on the other, points in NE, WY, and CO.

MC 161539, filed August 17, 1982. Applicant: HAMILTON CARGO TRANSIT LIMITED, 177 Plains Rd. West, Burlington, Ontario, CD L7T 1G1. Representative: William J. Hirsch, 1125 Convention Tower, 43 Court St., Buffalo, NY 14202, (716) 853-0200. Transporting *clay, concrete, glass or stone products,* between points in the U.S., under continuing contract(s) with Decor Precast Company Limited of Stoney Creek, Ontario, CD.

MC 162289, filed August 17, 1982. Applicant: VALLEY COACH COMPANY, P.O. Box 155, Fayetteville, NC 28302. Representative: John W. McLaurin, Route 1, Box 135, Fayetteville, NC 28301, 919-483-7398. Transporting *passengers and their baggage* in the same vehicle with passengers, in charter operations, beginning and ending at points in Cumberland, Sampson, Harnett, and Robeson Counties, NC and extending to points in FL, GA, NY, SC, TN, VA, NV, and DC.

MC 162969, filed July 12, 1982. Applicant: C & M ENTERPRISES, 1712 6400 Rd., Montrose, CO 81401. Representative: Nancy P. Bigbee, 745 E. 18th Ave., #101, Denver, CO 80203, (303) 839-0057. Transporting *metal products* between points in the U.S. (except AK and HI), under continuing contract(s) with Delta Incorporated of Arkansas, of Jonesboro, AR.

MC 163209, filed August 19, 1982. Applicant: MILK TRANSPORT, INC., P.O. Box 550, Cranberry Rd., Grove City, PA 16127. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471-1800. Transporting *cheese* between points in Lawrence County, PA, on the one hand, and, on the other, those points in the U.S. in and east of WI, IL, KY, TN, MS, and LA.

MC 163428, filed August 16, 1982. Applicant: PIERCE PACKING COMPANY, P.O. Box 30177, Billings, MT 59101. Representative: Jerome Anderson, 100 Transwestern I Bldg., Billings, MT 59101, 406-248-2611. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CA, WA, OR, ID, UT, and CO, on the one hand, and, on the other, points in MT, WY, SD, OR, WA, and ID.

MC 163429, filed August 16, 1982. Applicant: GENE TRIPP, JR., AND DAVID SAUERBIER, d.b.a. BEARMOUTH EXPRESS, Highway 10 East, P.O. Box 7103, Missoula, MT 59807. Representative: William E. Seliski, 2 Commerce St., P.O. Box 8255, Missoula, MT 59807, (406) 543-8369. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Lutz Tire Co., of Portland, OR; Harrington Co., d/b/a Harrington Bottling Co., of Butte, MT; Montana Tuff Cure, Inc., of Black Eagle, MT; and Tom Sherry Tire, Inc.; Missoula Bottling Co., Inc., d/b/a Pepsi-Cola Bottling Co. of Missoula; Neff Animal Specialties; and Joseph Industries, Inc., all of Missoula, MT.

MC 163439, filed August 17, 1982. Applicant: FREDERICK M. FULTZ d.b.a. COACH TOURS, P.O. Box 185, Whitehouse, NJ 08888. Representative: Frederick M. Fultz, (same address as applicant) (201) 534-4390. To operate as a *broker* at Whitehouse, NJ, in arranging for the transportation of *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, between points in NJ, on the one hand, and, on the other, points in the U.S.

MC 163468, filed August 19, 1982. Applicant: TRANSCOR, INC., 4250 Wissahickon Ave., Philadelphia, PA 19129. Representative: Raymond A. Thistle, Jr., Five Cottman Ct., Homestead Rd. & Cottman St., Jenkintown, PA 19046, 215-576-0131. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Phoenix, AZ, San Diego, CA, and Denver, CO, and points in MA, MD, NC, NJ, NY, PA, and DC, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 163469, filed August 19, 1982. Applicant: IHC TRANSPORTATION, Fort Harrison Industrial Park, Bldg. 102, P.O. Box 3147, Terre Haute, IN 47803. Representative: Owen B. Katzman, 1828 L St., NW, Suite 1111, Washington, D.C. 20036, (202) 822-8200. Transporting (1) *phonographs and phonograph records* under continuing contract(s) with Electrosound Group, Inc., of Holbrook, NY, and (2) *chemicals* under continuing contract(s) with Calchem Corporation of Commack, NH, between points in the U.S. (except AK and HI).

MC 163448, filed August 18, 1982. Applicant: TRIAD TRUCKING LIMITED, 201 Olive St., Kelso, WA 98626. Representative: Jack Wohl (same address as applicant), (206) 577-8552. Transporting *pulp, paper and related products,* between points in WA, OR, and CA.

Agatha L. Mergenovich,

Secretary

[FR Doc. 82-24093 Filed 9-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 237]

Railroads; Burlington Northern Railroad Co; Exemption for Contract Tariff ICC-BN-C-0122 (Wheat Flour)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

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

(49 U.S.C. 10505)

Decided: August 26, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison. Commissioner Sterrett was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-24096 Filed 9-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 241)]

Railroads; Consolidated Rail Corp.; Exemption for Contract Tariff ICC-CR-C-0153 (Cement)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATE: Protests are due withing 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

This action will notsignificantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Decided: August 26, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison. Commissioner Sterrett was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-24097 Filed 9-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 240)]

Consolidated Rail Corp. Exemption for Contract Tariff ICC-CR-C-0156 (Bituminous Coal)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

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

(49 U.S.C. 10505)

Decided: August 26, 1982.

By the Commission, Division 2, Commissioners Andre, Gilliam, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-24095 Filed 9-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 436]

Railroad Cost of Capital—1982

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file statements in notice of institution of limited revenue adequacy proceeding.

SUMMARY: In the **Federal Register** of August 2, 1982 (47 FR 33344), the due date for opening statements of railroads in this proceeding was established to be September 16, 1982. Statements of other interested parties were due 30 days thereafter and rebuttal statements by railroads were due 20 days later. The Association of American Railroads, by petition dated August 6, 1982, has requested a 45 day extension to file opening statements. The petition shall be granted. Additional time is necessary to compile data and information to comply with specific questions posed by the Commission in the original Notice.

DATES: Statements of railroads are due November 1, 1982. Statements of other interested parties are due December 1, 1982. Rebuttal statements by the railroads are due December 21, 1982.

ADDRESS: Send an original and 15 copies of comments to: Office of Proceedings Room 5355, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Ward L. Ginn, Jr., (202) 275-7489.

Dated: August 26, 1982.

By the Commission, Reese H. Taylor, Jr., Chairman.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-24099 Filed 9-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 239)]

Railroads; Southern Pacific Transportation Co.; Exemption for Supplement 1 to Contract Tariff ICC-SP-C-0111 (Wheat)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATES: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Tom Smerdon, (202) 275-7277.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

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

(49 U.S.C. 10505)

Decided: August 26, 1982.

By the Commission, Division 1, Commissioners Sterrett, Simmons, and Gradison. Commissioner Sterrett was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-24098 Filed 9-1-82; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 387 (Sub-No. 242)]

Railroads; Union Pacific Railroad Co.; Exemption for Contract Tariff ICC-UP-C-0077 (Coal)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of provisional exemption.

SUMMARY: A provisional exemption is granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the above-noted contract tariff may become effective on one day's notice. This exemption may be revoked if protests are filed.

DATE: Protests are due within 15 days of publication in the **Federal Register.**

ADDRESS: An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Douglas Galloway, (202) 275-7278.

SUPPLEMENTARY INFORMATION: The 30-day notice requirement is not necessary in this instance to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption request meets the requirements of 49 U.S.C. 10505(a) and is granted subject to the following conditions:

This grant neither shall be construed to mean that the Commission has approved the contract for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review this contract and to determine its lawfulness.

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

(49 U.S.C. 10505)

Decided: August 26, 1982.

By the Commission, Division 2, Commissioners Andre, Gilliam, and Taylor. Commissioner Taylor is assigned to this Division for the purpose of resolving tie votes. Since there was no tie in this matter, Commissioner Taylor did not participate.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 82-24094 Filed 9-1-82; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Charmer Industries, Inc., et al.; Proposed Consent Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedure and Penalties Act, 15 U.S.C. 16(b)-(h), that a proposed Final Judgment, Stipulation and Competitive Impace Statement have been filed with the United States District Court for the Eastern District of New York in *United States v. Charmer Industries, Inc., et al.,* Civil Action No. 81-0049. The complaint alleges that six defendants combined and conspired to raise and fix price of liquors and wines in the New York Metropolitan Area in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The proposed Final Judgment enjoins each defendant from directly or indirectly entering into, participating in or maintaining any combination or conspiracy with any other defendant or any other wholesaler to fix prices, discounts, or other terms or conditions for the sale of liquors or wines.

Public comment is invited within the statutory sixty (60) day comment period. Such comments and responses thereto will be published in the **Federal Register** and filed with the Court, Comments should be directed to Ralph T. Giordano, Chief, New York Office, Antitrust Division, Department of Justice, Room 3630, 26 Federal Plaza, New York, New York 10278 (Telephone: 212-264-0390).

Joseph H. Widmar,

Director of Operations.

United States District Court—Eastern District of New York

United States of America, Plaintiff, v. Charmer Industries, Inc., Star Industries, Inc., Peerless Importers, Inc., Capitol Distributors Corp., Knickerbocker Liquors Corporation, and Standard Wine & Liquor Co., Inc., Defendants, Civil Action No. 81-0049.

Filed: August 23, 1982.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. A Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any tiem after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

2. In the event plaintiff withdraws its consent, or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect and the making of this Stipulation shall be without prejudice to any person in this or any other proceeding.

For the plaintiff:

William F. Baxter,

Assistant Attorney General.

Joseph H. Widmar,

Ralph T. Giordano,

Attorneys, Department of Justice.

Melvin Lublinski,

Daniel J. Pearlman,

Lowell L. Jacobs,

Attorneys, Department of Justice, Antitrust Division, Room 3630, 26 Federal Plaza, New York, New York 10278, Telephone: (212(264-0655.

For the defendants:

Windels, Marx, Davies & Ives, *51 West 51st Street, New York, New York 10019.*

By: Anthony A. Dean,

Attorneys for Defendant, Charmer Industries, Inc.

Cahill, Gordon & Reindel,

80 Pine Street, New York, New York 10005.

By: Michael P. Tierney,

Attorneys for Defendant, Star Industries, Inc.

Anderson, Russell, Kill & Olick, P.C.,

666 Third Avenue, New York, New York 10017.

By: Lawrence Kill,

Attorneys for Defendant, Peerless Importers, Inc.

Buchman, Buchman, & O'Brien,

10 East 40th Street, New York, New York 10016.

By: Raymond Reisler,

Attorneys for Defendant, Capitol Distributors Corp.

Arnold & Porter,

1200 New Hampshire Avenue, N.W., Washington, D.C. 20036.

By: Scott B. Schreiber,

Attorneys for Defendant, Knickerbocker Liquors Corportion.

Lans, Feinberg & Cohen,

555 Madison Avenue, New York, New York 10022.

By: George M. Lehr,

Attorneys for Defendant, Standard Wine & Liquor Co., Inc.

United States District Court—Eastern District of New York

United States of America, Plaintiff, v. Charmer Industries, Inc., Star Industries, Inc., Peerless Importers, Inc., Capitol Distributors Corp., Knickerbocker Liquors Corp., and Standard Wine & Liquor Co., Inc., Defendants, Civil Action No. 81-0049.

Filed: August 23, 1982.

Final Judgment

Plaintiff, United States of America, having filed its Complaint herein on January 6, 1981, and plaintiff and the defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or any admission by any party with respect to any such issue:

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is hereby

Ordered, adjudged, and decreed as follows:

I

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against each defendant under Section 1 of the Sherman Act (15 U.S.C. 1).

II

As used in this Final Judgment:

(A) "Person" means any individual, sole proprietorship, corporation, partnership, firm, association, or other business or legal entity.

(B) "Wholesaler" means a person who is licensed to sell and who sells liquors or wines to retail liquor and wine stores, restaurants, bars or hotels.

(C) "Supplier" means a person who sells liquors or wines to wholesalers for resale.

(D) "New York Metropolitan Area" means that area of the State of New York consisting of the counties of New York, Bronx, Kings, Queens, Richmond, Nassau, Suffolk and Westchester.

(E) "State Order" means the regulations, rules of practice and procedures issued by any regulatory body of the State of New York or any county or municipality in the State which regulates the handling of liquors or wines, the taxation thereof or regulates minimum, maximum or other prices for liquors or wines pursuant to any statute or ordinance of the State of New York.

(F) "Posting prices" means the filing of a price or prices of liquors or wines, including the terms and conditions of sale and discounts, and amendments thereof, pursuant to a State Order or statute of the State of New York.

III

This Final Judgment applies to the defendants and to their officers, directors, agents, employees, subsidiaries, successors and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV

Each defendant is enjoined and restrained from directly or indirectly entering into, adhering to, participating in, maintaining, furthering, enforcing, or claiming any right under any contract, agreement, understanding, plan, program, combination or conspiracy with any other defendant or any other wholesaler to fix, establish, raise, lower or maintain prices, discounts, or other terms or conditions for the sale of liquors or wines at wholesale.

V

Each defendant is enjoined and restrained from communicating to, requesting from or exchanging with any other defendant or any other wholesaler any information concerning actual or proposed prices, discounts, terms or conditions of sale, or actual or proposed pricing policies, or any consideration or contemplation of changes therein, for the sale of liquors or wines at wholesale.

VI

Nothing contained in Section V of this Final Judgment shall prohibit any defendant from posting prices or from:

(A) communicating to or exchanging with any supplier any information concerning actual or proposed prices, discounts, terms or conditions of sale for liquors or wines sold by such supplier acting in its capabity as a seller of liquors or wines to wholesalers for resale, except that each defendant is precluded from providing such information to any other defendant;

(B) engaging in any transaction or communication solely with its officers, directors, agents, parent company, subsidiaries or persons under common ownership or control.

VII

Nothing contained in this Final Judgment shall prohibit any defendant from:

(A) communicating, individually or jointly with any other person, with the New York State Liquor Authority or any legislative, regulatory, governmental or legal authority or body to seek the enactment, issuance, repeal, amendment or interpretation of any law, rule, regulation or State Order relating to liquors or wines;

(B) engaging in any transaction or communication with any other person in connection with an actual or proposed bona fide purchase or sale of liquors or wines, or a bona fide acquisition, merger or consolidation.

VIII

(A) Each defendant shall advise each of its officers who has management responsibility for the sale of liquors or wines and each of its employees who has responsibility for or authority over the establishment of prices for liquors or wines of his obligations and of such defendant's obligations under this Final Judgment.

(B) Each defendant is ordered and directed to:

(1) Furnish a copy of this Final Judgment to each of the persons described in subsection (A) hereof within thirty (30) days after the date of the entry of this Final Judgment;

(2) Furnish a copy of this Final Judgment to each successor to each person described in subsection (A) hereof within thirty (30) days after each successor becomes associated with the defendant;

(3) Obtain from each of those persons furnished a copy of this Final Judgment pursuant to subsections (B) (1) or (2) hereof, a signed receipt therefor, which receipt shall be retained in the defendant's files;

(4) Attach to each copy of this Final Judgment furnished to each of those persons described in subsections (A) and (B)(2), a statement advising each such person of his obligations and of such defendant's obligations under this Final Judgment, and of the penalties which may be imposed upon him and upon such defendant for violation of this Final Judgment;

(5) Hold within sixty (60) days after the date of entry of this Final Judgment, a

meeting of the persons described in subsections (A) and (B)(2) hereof, at which meeting such persons shall be instructed concerning their obligations and such defendant's obligations under this Final Judgment. Similar meetings shall be held at least once a year for a period of five (5) years from the date of entry of this Final Judgment;

(6) Establish and implement a plan for monitoring compliance by the persons described in subsections (A) and (B)(2) hereof with the terms of this Final Judgment; and

(7) File with this Court, and serve upon plaintiff within ninety (90) days after the date of entry of this Final Judgment, and affidavit as to the fact and manner of its compliance with subsections (B) (1), (3), (4), (5) and (6) hereof.

IX

Each defendant shall require, as a condition of the sale or other disposition of all, or substantially all, of the assets used by it in its liquor and wine business in the New York Metropolitan Area, that the acquiring party agree to be bound by the provisions of this Final Judgment. The acquiring party shall file with the Court and serve upon plaintiff its consent to be bound by this Final Judgment.

X

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

(A) Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to a defendant made to its principal office, be permitted:

(1) Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees and agents of such defendant, who may have counsel present, regarding any such matters.

(B) Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to a defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section X shall be divulged by any representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(C) If at the time information or documents are furnished by a defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under the Rule 26(c)(7) of the Federal Rules of Civil Procedure, and said defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then 10 days notice shall be given by plaintiff to such defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which that defendant is not a party.

XI

This Final Judgment shall terminate ten (10) years from the date of its entry.

XII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violation hereof.

XIII

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge

United States District Court—Eastern District of New York

United States of America, Plaintiff, v. Charmer Industries, Inc., Star Industries, Inc., Peerless Importers, Inc., Capitol Distributors Corp., Knickerbocker Liquors Corp., and Standard Wine & Liquor Co., Inc., Defendants, Civil Action No. 81-0049.

Filed: August 23, 1982

Proposed Consent Judgment: Competitive Impact Statement

The United States of America, pursuant to Section 2(b) of the *Antitrust Procedures and Penalties Act* (15 U.S.C. 16(b)), hereby files this Competitive Impact Statement in connection with the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I

Nature and Purpose of the Proceeding

On January 6, 1981, the United States filed a civil antitrust complaint under Section 4 of the Sherman Act (15 U.S.C. 4) alleging that the above-named defendants and unnamed co-conspirators had from sometime in late 1978 until at least July 1979 combined and conspired to raise and fix prices of liquors and to reduce discounts on liquors and wines in violation of Section 1 of the Sherman Act (15 U.S.C. 1). The complaint alleged further that, as a result of the combination and conspiracy, liquor and wine prices were fixed at noncompetitive levels, customers of defendants were deprived of competitively determined prices and price competition among defendants was restrained.

The complaint sought an adjudication that the alleged combination and conspiracy was illegal and an injunction prohibiting the defendants from continuing, maintaining or renewing the combination and conspiracy, or from engaging in any other combination and conspiracy having a similar purpose or effect.

On the same day that the United States filed its complaint in this proceeding, a federal grand jury in Brooklyn, New York returned an indictment charging the above-named defendants with a criminal violation of the Sherman Act arising out of the same conspiracy alleged in the complaint. All of the defendants in the criminal action entered pleas of *nolo contendere* on August 12, 1981. Judge Charles P. Sifton sentenced the defendants to pay fines totalling $1,025,000 on November 11, 1981.

The Court's entry of the proposed Final Judgment will terminate the action, except that the Court will retain jurisdiction over the matter for the next ten years for possible further proceedings to construe or carry out the judgment, to modify any of its provisions, to enforce compliance with the judgment, or to punish violations of any of its provisions.

II

Description of the Practice Giving Rise to the Alleged Violation

The defendants are the six major wholesale distributors of liquors and wines in the New York Metropolitan Area, which consists of the counties of New York, Bronx, Kings, Queens, Richmond, Nassau, Suffolk and Westchester. They purchase liquors and wines from suppliers for resale to retail liquor and wine stores, taverns, restaurants, hotels, clubs and caterers. According to the complaint, the defendants' combined annual dollar sales of liquors and wines in 1979 were over $700 million.

At trial, the United States would have been prepared to prove that high corporate officers of each of the defendants met together on several occasions in late 1978 and early 1979 to discuss and, ultimately, to agree uniformly to raise liquor prices and to reduce discounts on liquors and wines. More specifically, the defendants agreed to eliminate voluntary post-offs (temporary price reductions) for January and February 1979, to reduce quantity discount terms commencing in January 1979, and to increase liquor prices 2% across-the-board commencing in April 1979. The defendants implemented the agreed upon increase of liquor prices and reductions of discounts on liquors and wines.

III

Explanation of the Proposed Final Judgment

The United States and the defendants have stipulated that the Court may enter the proposed Final Judgment at any time after compliance with the Antitrust Procedures and Penalties Act. The judgment provides that there has been no admission by any party with respect to any issue of fact or law.

The proposed Final Judgment enjoins each defendant from directly or indirectly entering into, participating in or maintaining any contract, agreement, understanding, plan, program, combination or conspiracy with any

other defendant or any other wholesaler to fix, establish, raise, lower or maintain prices, discounts, or other terms or conditions for the sale of liquors or wines at wholesale.

The proposed Final Judgment also enjoins each defendant from communicating to, requesting from or exchanging with any other defendant or any other wholesaler any information concerning actual or proposed prices, discounts, terms or conditions of sale, or actual or proposed pricing policies, or any consideration or contemplation of changes therein, for the sale of liquors or wines at wholesale.

The proposed Final Judgment requires each defendant to advise each of its officers who has management responsibility for the sale of liquors or wines and each of its employees who has responsibility for or authority over the establishment of prices for liquors or wines of his obligations and of such defendant's obligations under the judgment. Each defendant must furnish each such officer or employee, within 30 days after the judgment is entered, a copy of the judgment together with an attached statement advising each such person of his obligation and of such defendant's obligations under the judgment, and of the penalties which may be imposed for violation of the judgment. Each defendant is also ordered and directed to hold, within 60 days after the judgment is entered, a meeting of the appropriate officers and employees to instruct them concerning their obligations and such defendant's obligations under the judgment. Similar meetings shall be held at least once a year for a period of five years from the date of entry of the judgment.

The proposed Final Judgment provides that each defendant require, as a condition of the sale or other disposition of all, or substantially all, of the assets used by it in its liquor and wine business in the New York Metropolitan Area, that the acquiring party agree to be bound by the provisions of the judgment. The acquiring party shall file with the Court and serve on the United States its consent to be bound by the judgment.

The proposed Final Judgment is to be in effect for ten years from its date of entry.

The proposed Final Judgment states that entry of the judgment is in the public interest. Under the provisions of the Antiturst Procedures and Penalties Act, entry of the proposed Final Judgment is conditional upon a determination by the Court that the proposed judgment is in the public interest.

The United States believes that the proposed Final Judgment is fully adequate to prevent the continuation or recurrence of the violation of Section 1 of the Sherman Act alleged in the complaint, and that disposition of this proceeding without further litigation is appropriate and in the public interest.

IV

Remedies Available to Potential Private Plaintiffs

After entry of the proposed Final Judgment, any potential private plaintiff that may have been damaged by the alleged violation will retain the same right to sue for monetary damages and any other legal or equitable relief that it may have had if the Final Judgment had not been entered. The Final Judgment may not be used, however, as *prima facie* evidence in private litigation, pursuant to Section 5(a) of the Clayton Act, as amended, 15 U.S.C. 16(a).

V

Procedures Available for Modification of the Proposed Final Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Final Judgment should be modified may submit written comments within the 60-day period provided by the Act to Ralph T. Giordano, Chief, New York Office, Antitrust Division, United States Department of Justice, Room 3630, 26 Federal Plaza, New York, New York 10278 (Telephone: 212-264-0390). These comments and the Department's responses to them will be filed with the Court and published in the **Federal Register.**

All comments will be given due consideration by the Department of Justice. The Department remians free to withdraw its consent to the proposed Final Judgment at any time prior to its entry if it should determine that some modification is necessary. Additionally, the proposed Final Judgment provides that the Court retains jurisdiction over this action, and that the parties may apply to the Court at any time during the life of the Final Judgment for interpretation, modification, or enforcement of its provisions.

VI

Alternatives to the Proposed Final Judgment

The alternative to the proposed Final Judgment considered by the United States was a full trial on the merits. The United States considers the proposed judgment to be of sufficient scope and effectiveness to make a trial unnecessary, since it provides appropriate relief against the violations alleged in the complaint.

VII

Determinative Materials and Documents

No materials or documents were considered determinative by the United States in formulating the proposed Final Judgment. Consequently, none is being filed pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b).

Dated: New York, New York, 1982.

Melvin Lublinski,

Daniel J. Pearlman,

Lowell L. Jacobs,

Attorneys, Department of Justice, Antitrust Division, Room 3630, 26 Federal Plaza, New York, New York 10278, Tel. (212) 264-0655.

[FR Doc. 82-24085 Filed 9-1-82; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Policy Research and Analysis and Science Resources Studies; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Policy Research and Analysis and Science Resources Studies

Date and time:
September 22, 1982—1:00 p.m. to 5:30 p.m.
September 23, 1982—9:00 a.m. to 5:00 p.m.

Place: Room 543, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550

Type of meeting: Part-Open

Contact person: Mrs. Agnes Rhodes, Division of Policy Research and Analysis, Directorate for Scientific, Technological, and International Affairs, Room 1233, National Science Foundation, Washington, D.C. 20550. Telephone (202) 357-9689. Anyone who plans to attend should contact Mrs. Rhodes by September 20, 1982.

Summary minutes: May be obtained from the contact person, listed at the above address.

Purpose of committee: To provide advice, recommendations, and oversight concerning program emphases and directions of the Divisions of Policy Research and Analysis and Science Resources Studies.

AGENDA

September 22, 1982—1:00 p.m.—5:30 p.m.—closed

1:00 p.m.—Review and comparison of declined proposals (and supply documentation) with successful awards under the Divisions of PRA and SRS, including review of peer review materials and other privileged material. Preparation of a report based upon the above review.

5:30 p.m.—Adjourn

September 23, 1982—9:00 a.m.—11:15 a.m. open, 11:15 a.m.—11:45 a.m. closed, 1:00 p.m.—5:00 p.m. open

9:00 a.m.—Opening Remarks

9:30 a.m.—PRA Status Report

10:00 a.m.—SRS Status Report

10:45 a.m.—Progress Report on the Ad Hoc Scientific and Engineering Personnel Review Group

11:15 a.m.—Report of oversight session on 9/22—CLOSED

1:00 p.m.—Proposed Foreign Science and Technology Resources Data Study Program

2:10 p.m.—Anticipated Public Policy Program in Computers and Information Technology

3:35 p.m.—Options for Linkages Between NSF Industrial R&D Data and Other Economic Data Bases

4:45 p.m.—Closing Remarks

5:00 p.m.—Adjourn

Reasons for closing: The Committee will be reviewing grants and declinations jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

August 30, 1982.

[FR Doc. 82-24128 Filed 9-1-82; 8:45 am]

BILLING CODE 7555-01-M

Subpanel on Neurobiology Group "B"; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Neurobiology of the Advisory Panel for Behavioral and Neural Sciences

Date and time: September 23 and 24, 1982: 9:00 a.m. to 5:00 p.m. each day.

Place: Room 543, National Science Foundation, 1800 G Street, N.W., Washington, D.C.

Type of meeting: Closed.

Contact person: Dr. Nathaniel G. Pitts, Associate Program Director, Neurobiology Program, Room 320, National Science Foundation, Washington, D.C. 20550, telephone 202/357-7471.

Purpose of panel: To provide advice and recommendations concerning support for research in neurobiology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

August 30, 1982.

[FR Doc. 82-24128 Filed 9-1-82; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-413]

Saluda River Electric Cooperative, Inc. and North Carolina Electric Membership Corp.; Receipt of Antitrust Information

Note.—This document originally appeared in the **Federal Register** for August 12, 1982. It is reprinted in this issue at the request of the agency.

The Saluda River Electric Cooperative, Inc.; and the North Carolina Electric Membership Corporation have each submitted antitrust information in conjuction with their application for an operating license for a pressurized water nuclear plant (known as Catawba Unit No. 1) located in northeastern York County, South Carolina. The data submitted contain antitrust information for review pursuant to NRC Regulatory Guide 9.3 necessary to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage. (The lead applicant, Duke Power Company, submitted its 9.3 response at an earlier date as noted in the September 21, 1981, edition of the **Federal Register**—Vol. 46, No. 182.)

On completion of a staff antitrust review, the Director of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under section 105c(2) of the Atomic Energy Act. A copy of this finding will be published in the **Federal Register** and will be sent to the Washington, D.C. and local public document rooms and to those persons providing comments or information in response to this notice. If the initial finding concludes that there have not been any significant changes, requests for reevaluation may be submitted for a period of 30 days after the date of the **Federal Register** notice. The results of any reevaluations that are requested will also be published in the **Federal Register** and copies sent to the Washington and local public document rooms.

A copy of the general information portion of the application for an operating license and the antitrust information submitted is available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and in the local public document room at the York County Library, 325 South Oakland Avenue, Rock Hill, South Carolina 29730.

Any person who desires additional information regarding the matter covered by this notice or who wishes to have his views considered with respect to significant changes related to antitrust matters which have occurred in the licensees' activities since the construction permit antitrust review should submit such requests for information or views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Antitrust and Economic Analysis Branch, Office of Nuclear Reactor Regulation on or before September 13, 1982.

Dated at Bethesda, Md., this 6th day of August 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 82-21929 Filed 8-11-82; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-369]

Duke Power Co.; Issuance of Amendment, Facility Operating License No. NPF-9

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 15 to Facility Operating License No. NPF-9, issued to Duke Power Company (licensee) for the McGuire Nuclear Station, Unit 1 (the facility) located in Mecklenburg County, North Carolina. The amendment is effective as of its date of issuance.

This amendment extends the required implementation dates for upgraded meteorological and dose assessment capability.

Issuance of this amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazard consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Duke Power Company

letters dated June 22, June 29, and August 3, 1982, (2) Amendment No. 15 to Facility Operating License No. NPF-9 and (3) the Commission's related Safety Evaluation.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223. A copy of these items may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 25th day of August, 1982.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing, NRR.

[FR Doc. 82-24156 Filed 9-1-82; 8:45 am]

BILLING CODE 7590-01-M

Union Electric Co. (Callaway Plant, Unit 1); Memorandum and Schedule Order

[Docket No. STN 50-483]

August 27, 1982.

The prehearing conference now scheduled for September 2 and 3, 1982 is changed to September 8 and 9, 1982. The conference will be held at the Ramada Inn (Eastover Room), 1510 Jefferson Highway, in Jefferson City, Missouri, beginning at 9 a.m.

Dated at Bethesda, Maryland this 27th day of August 1982.

For the Atomic Safety and Licensing Board.

James P. Gleason,

Chairman, Administrative Judge.

[FR Doc. 82-24155 Filed 9-1-82; 8:45 am]

BILLING CODE 7590-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) Collection title: Evidence of marital relationship-living with requirements.
(2) Form(s) submitted: G-124, G-124a, G-237, G-238, G-238a
(3) Type of request: Revision
(4) Frequency of use: On occasion
(5) Respondents: Applicants for annuities, relatives and acquaintances of applicants, court clerks.
(6) Annual responses: 1,100
(7) Annual reporting hours: 216
(8) Collection description: Under the RRA, to obtain a benefit as the spouse of an employee annuitant or as the widow(er) of a deceased employee, applicants must submit information to be used in determining if they meet the marriage requirements for such benefits. The statements obtain information supporting claimed common-law marriages, termination of previous marriage and residency requirements.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addresssed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Milo Sunderhauf (202-395-6880), Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

William A. Oczkowski,

Director of Planning and Information Management.

[FR Doc. 82-24112 Filed 9-1-82; 8:45 am]

BILLING CODE 7905-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 01/01-0088]

Activest Capital Corp.; Surrender of License

Notice is hereby given that, pursuant to Section 107.105 of the Small Business Administration (SBA) Rules and Regulations governing Small Business Investment Companies (Section 107.105 13 CFR (1982)), Activest Capital Corporation (ACC), P.O. Box 76, Cornwall Bridge, Connecticut 06754, incorporated under the laws of the State of Texas, has surrendered its license No. 01/01-0088 originally issued by SBA on December 28, 1981 and reissued on November 20, 1980.

ACC has complied with all conditions set forth by SBA for surrender of its license. Therefore, under the authority vested by the Small Business Investment Act of 1958, as amended, and pursuant to the above-cited Regulation, the license of ACC is hereby accepted and it is no longer licensed to operate as a Small Business Investment Company.

Dated: August 27, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-24165 Filed 9-1-82; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0278]

I.B.S.I. Capital Corp.; License Surrender

Notice is hereby given that I.B.S.I. Capital Corporation (I.B.S.I.), 765 Bridgeway, Sausalito, California 96915, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). I.B.S.I. was licensed by the Small Business Administration on June 27, 1981.

Under the authority vested by the Act and Regulations promulgated thereunder, the surrender of the license was accepted on August 6, 1982, and accordingly, all rights, privileges and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 27, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-24164 Filed 9-1-82; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 09/09-0311]

Seaport Ventures, Inc.; Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661 *et seq.*), has been filed by Seaport Ventures, Inc. (Seaport), 770 B Street, Suite 308, San Diego, California 92101, with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1982).

The officers, directors and stockholders owning in excess of 10 percent are as follows:

Michael Stolper, 390 Silvergate Avenue, San Diego, California 92101, President and Director, 16.00 Class A Common Stock and 41.8% Class B Common Stock

Carole Luther, 4062 Shasta #3, San Diego, California 92109, Secretary-Treasurer

Sidney R. Silverman, 4635 Yerba Santa Drive, San Diego, California 92115, Director
Jay Golding, 9603 Endicott Lane, Houston, Texas 77096, Director
W. Dean Smith, 4502 Wetherill Road, Bethesda, Maryland 20006, Director
Janet Ann Fredericks, 1400 Virginia Court, Anchorage, Alaska 99501, Director
Kuskokwim Corporation, 429 D Street, Suite 307, Anchorage, Alaska 99501, 16% Class A Common Stock
Western Venture Corporation, 888 Seventeenth St., NW., Washington, D.C. 20006, 12.75% Stockholder

The Applicant, a California corporation, will begin operations with $1,200,000 paid-in capital and paid-in surplus. Seaport will conduct its activities principally in the State of California.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is hereby given that any person may not later than 15 days from the date of publication of this notice submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this shall be published once in a newspaper of general circulation in San Diego, California.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 27, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-24162 Filed 9-1-82; 8:45 am]

BILLING CODE 8025-01-M

[SBLC No. 03/B-0031]

Tidewater Dominion Small Business Lending Co.; Issuance of Small Business Lending Company Participation Agreement

On March 1, 1982, a Notice was published in the **Federal Register** (47 FR 8718) stating that an application had been filed with the Small Business Administration pursuant to § 120.4(b) of the regulations governing Small Business Lending Companies (13 CFR 120.4(b) (1982)) by Tidewater Dominion Small Business Lending Company, 15407 Warwick Drive, Newport News, Virginia 23606, to participate with the SBA as a Small Business Lending Company (SBLC).

Interested parties were given until the close of business on March 16, 1982, to submit their comments on the Applicant and/or its management. No comments were received.

Notice is hereby given that after review of the application and all other pertinent information, SBA issued Small Business Lending Company Participation Agreement No. SBLC 03/B-0031 to Tidewater Dominion Small Business Lending Company, to operate as an SBLC on this date.

(Catalog of Federal Domestic Programs No. 59.012, Small Business Loans)

Dated: August 27, 1982.

Charles R. Hertzberg,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 82-24166 Filed 9-1-82; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 02/-5442]

Westbury Small Business Corp.; Application for License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended, (15 U.S.C. 6561 *et seq.* has been filed by Westbury Small Business Corporation (Westbury), 175 Sunnyside Boulevard, Plainview, New York, with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1982).

The officers, directors and sole stockholder are as follows:

Leo Liebowitz, 5 Vanderbilt Drive, Sands Point, New York, President and Director
Milton Safenowitz, 59 Tulip Lane, Williston Park, New York, Vice President and Director
Stephen Salzman, 54 Hurtin Boulevard, Smithtown, New York, Secretary, Treasurer and Director
Power Test Corp., 67 Bond Street, Westbury, New York, 100% Stockholder

The applicant, a New York corporation, will begin operations with $1,000,000 paid-in capital and paid-in surplus. Westbury will conduct its activities principally in the states of New York, New Jersey, lower Connecticut and Southern Pennsylvania.

The applicant intends to provide assistance to qualified socially or economically disadvantaged small business concerns.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and mangement, and the probability of successful operation of the company under their management, including adequate profitability and financial soundness, in accordance with the Small Business Act of 1958, as amended, and the SBA Rules and Regulations.

Notice is hereby given that any person may not later than 15 days from the date of publication of this notice submit to SBA written comments on the proposed Applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C 20416.

A copy of this notice shall be published in a newspaper of general circulation in New York, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: August 27, 1982.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 82-24163 Filed 9-1-82; 8:45 am]

BILLING CODE 8025-01-M

Region I Advisory Council, Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Providence, Rhode Island, will hold a public meeting at 12:00 noon, on Tuesday, September 28, 1982, at Micheletti's Restaurant, 23 Rathbone Street, Providence, Rhode Island, to discuss such matters as may be presented by members of the Small Business Administration, and others attending.

Further information, write or call James A. Hague, District Director, U.S. Small Business Administration, 40 Fountain Street, Providence, Rhode Island 02903—(401) 528-4580.

Jean M. Nowak,

Acting Director, Office of Advisory Councils.

August 27, 1982.

[FR Doc. 82-24079 Filed 9-1-82; 8:45 am]

BILLING CODE 8025-01-M

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of Reporting Requirements Submitted for OMB Review

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before September 30, 1982. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

COPIES: Copies of the proposed form, the request for clearance (S.F.83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHR INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St., NW., Room 200, Washington, D.C. 20416, Telephone: (202) 653-8538

OMB Reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395-4814.

Forms Submitted for review:

Title: Request for Counseling
Form No.: SBA 641
Frequency: On Occasion
Description of Respondents: Small business owners interested in obtaining management counseling
Annual Responses: 80,000
Annual Burden Hours: 13,333
Type of Request: New

Title: Application for Membership in SCORE and ACE
Form No.: SBA 610
Frequency: On Occasion
Description of Respondents: Individuals interested in volunteering to join SCORE (Service Corps of Retired Executives) or ACE (Active Corps of Executives) to provide management counseling,
Annual Responses: 2,800
Annual Burden Hours: 2,100
Type of Request: New

Title: Management Development Plan
Form Nos.: SBA 933, 1099, 1100
Frequency: On Occasion
Description of Respondents: Small business owners obtaining management assistance from an SBA resource
Annual Responses: 35,000
Annual Burden Hours: 122,500
Type of Request: Extension (Adjustment to Burden)

Title: Status of Guaranty Loan Balance
Form No.: SBA 1175
Frequency: Quarterly
Description of Respondents: Financial institutions participating in SBA loan guaranty agreements
Annual Responses: 5,000
Annual Burden Hours: 20,000
Type of Request: New

Title: Review of Lender Serviced Loan
Form No.: SBA 1183
Frequency: On Occasion
Description of Respondents: Lending institutions, primarily commercial banks, having 3 or more SBA-guaranteed loans
Annual Responses: 3000
Annual Burden Hours: 500
Type of Request: New

Dated: August 27, 1982.

Elizabeth M. Zaic,

Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 82-24080 Filed 9-1-82; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/548]

Shipping Coordinating Committee, Committee on Ocean Dumping; Meeting

The Committee on Ocean Dumping, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:00 a.m. on Thursday, September 16, 1982 in room 1101 West Tower, Waterside Mall, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C.

The purpose of the meeting is to review position documents for the sixth meeting of the Ad Hoc Scientific Group on Dumping, a technical advisory group of the Convention on the Prevention of Marine Pollution by Dumping of Waste and Other Matter, scheduled to be held in Paris on September 27–October 1, 1982.

Requests for further information should be directed to Ms. Norma Hughes, Executive Secretary, Committee on Ocean Dumping, Marine Protection Branch (WH-585), Environmental Protection Agency, Washington, D.C. 20460. Ms. Hughes may be reached by telephone on (202) 755-2927.

The Chairman will entertain comments from the public as time permits.

Gordon S. Brown,

Chairman, Shipping Coordinating Committee.

August 12, 1982.

[FR Doc. 82-24120 Filed 9-1-82; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 82-088]

Houston/Galveston Navigational Safety Advisory Committee; Establishment

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: The Secretary of Transportation has approved the establishment of the Houston/Galveston Navigational Safety Advisory Committee. The Secretary has also approved the charter for this committee. The purpose of this committee is to advise the Coast Guard on further development and operation of the Houston/Galveston Vessel Traffic Service. It will also provide local expertise on such matters as communications, surveillance, traffic control, anchorages and other related topics dealings with navigational safety in the Houston/Galveston area.

SUPPLEMENTARY INFORMATION: The appointed members of the committee are; James E. Baker, Lykes Brothers Steamship Co.; C. L. Bills, Hollywood Marine, Inc.; Russell Bryant, Galveston/Texas City Pilots Association; Richard D. Fasano, G & H Towing Co.; Kenneth G. Haynes, Texas A & M University; Frank E. Johnson, Lykes Brothers Steamship Co.; Timothy R. Leitzell, Exxon Co., U.S.A.; John P. Niday, Jr., Houston Pilots; Robert H. Parker, Jr., Parker Brothers & Co., Inc.; William B. Patton, Jr., Wm. B. Patton Barge Lines, Inc.; Billy C. Read, Galveston Wharves; Col. A. L. Laubscher, U.S. Army Corps of Engineers; Edgar Smith, Alamo Barge Lines; John W. Smith, Seal Fleet, Inc.; H. Lynne Stout, Housewife; Rudy Teichman, T & T Marine Salvage, Inc.; Ted Thorjussen, West Gulf Maritime Assn.; Ted Walters, Port of Houston Authority; James L. Williford, Texas Parks and Wildlife Department.

FOR FURTHER INFORMATION CONTACT: Commander W. A. Monson, Executive Secretary, Houston/Galveston

Navigational Safety Advisory Committee, Marine Safety Division, Eighth Coast Guard District, Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, Phone (504) 589-6901.

This notice is issued under authority of the Federal Advisory Committee Act, Pub. L. 92-463, 5 U.S.C. App. 1.

Dated: August 23, 1982.

H. W. Parker,

Rear Admiral, U.S. Coast Guard, Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 82-24149 Filed 9-1-82; 8:45 am]

BILLING CODE 4910-14-M

[CGD 82-089]

Towing Safety Advisory Committee; Meeting

Puruant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Towing Safety Advisory Committee. The meeting will be held on Wednesday and Thursday October 6 and 7, 1982 in Room 3201, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. On both days the meeting is scheduled to begin at 9:00 a.m. and end at 4:00 p.m. The agenda for the meeting consists of the following items:

New Discussion Items

1. Review of 46 U.S.C. 364/Section 7304 (requirement for pilots);
2. Changing boundary lines (CGD 81-058);
3. Tank bare certification intervals, including dry docking intervals;
4. Morgan City/Berwick Bay VTS;
5. Internal examination for "D" and "E" double skin cargo barges;
6. NPRM on thermal fluid heaters (CGD 80-064);
7. Elimination of 8 foot head and ⅜ inch minimum plate thinkness requirements on subchapter "O" barge gravity tanks carrying inorganic acids (46 CFR 151.50-20(a)(1));
8. Limiting of duty time for tankerman;
9. Certificates of financial responsibility aboard tow boats;
10. NPRM concerning MARPOL 73/78 requirement for cargo monitors;
11. Effect of upcoming Tonnage Convention; international and domestic;
12. ROCONS and LORAN-C for waterways;
13. Revision of rules for barges carrying bulk liquid cargoes (46 CFR 151) (CGD 81-082).

Old Items to be Discussed/Reported On

1. Coast Guard plans for noise level standards;
2. Marine sanitation devices; priority review;
3. Qualification of person in charge of oil transfer operations;
4. Modification of inspection intervals for pressure vessel type cargo tanks holding hazardous substances;
5. Qualification of pilots (including possible regulation generated from MORAN decision);
6. Computer generated COI's;
7. Exam process for new rules of the road; NVC concerning;
8. Licensing of officers;
9. Reduction of licensing exam offices; discussion of operation of regional exam centers to date;
10. Visibility from navigational bridges on commercial vessels;
11. Marine transport of solids in bulk; hot coal;
12. Restricted gauging requirement for shipment of benzene and benzene hydrocarbon mixtures;
13. Napthalene as a subchapter "O" commodity;
14. Vessel casualty reporting;
15. Advance notice of arrival regulations; priority review;
16. Status of new Rules of the Road Advisory Council;
17. Oil Tank barge construction standards; industry response to CGD 75-083 and 083a. (proposals for prevention of oil pollution for new and existing tank barges);
18. Review of TSAC recommendations not previously discussed. Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Secretary no later than the day before the meeting. Any member of the public may present a written statement to the Committee at any time.

Additional information may be obtained from Captain C. M. Holland, Executive Secretary, Towing Safety Advisory Committee, U.S. Coast Guard (G-CMC), Washington, DC 20593; telephone (202) 426-1477.

Dated: August 31, 1982.

B. P. Novak,

Deputy Executive Secretary, Marine Safety Council, U.S. Coast Guard.

[FR Doc. 82-24291 Filed 9-1-82; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

[Summary Notice No. PE-82-17]

Petitions for Exemption; Summary of Petitions Received Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: September 22, 1982.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. , 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on August 26, 1982.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23185	Wein Air Alaska, Inc.	14 CFR 121.574(a)(1) and (5)	To permit petitioner to carry and operate oxygen storage and dispensing equipment for medical use by patients requiring emergency medical attention and being carried as passengers when the equipment is furnished and maintained by hospitals within the State of Alaska.
18324	American Airlines	14 CFR 43.3 and 121.709(b)(3)	Renewal of Exemption No. 25783 to permit petitioner's certificated flight engineers to restow passenger supplemental oxygen masks during flight and make an entry in the aircraft logbook. A certificated mechanic rechecks the restowed masks at the next maintenance station.
23227	Ports-Of-Call	14 CFR 91.170	To permit petitioner to use an alternate inspection program rather than remove, test, inspect and calibrate each altimeter instrument every 24 calendar months.
20035	Energy Helicopters, Inc	14 CFR 43.3(h)	To permit petitioner's appropriately trained and certificated pilots to remove, check and reinstall magnetic chip detector plugs on company aircraft.
23275	Hughes Helicopters, Inc	14 CFR Part 133	To permit petitioner to conduct demonstration flights while carrying external loads. The flights would not be for compensation or hire.
23253	Eugene P. McCoy	14 CFR 121.61(c)(1)	To permit petitioner, an employee of Suburban Airlines Division of Reading Aviation Service, Inc., to serve as director of maintenance although he does not meet the 5-year experience requirements.
22954	Mr. Vestal G. Fulp	14 CFR 65.104	To permit petitioner to obtain a repairman certificate for a Quickie experimental airplane, N37672, even though a repairman certificate for that aircraft is being held by another individual.
23254	Office of Aircraft Services, U.S. Dept. of Interior	14 CFR 91.79(c)	To permit petitioner to operate in Hawaii over sparsely populated areas and open water closer than 500 feet to persons or property.
22554	Petroleum Helicopters Inc	14 CFR 135.261(b)	To permit petitioner to operate certain helicopters without complying with the flight and duty time requirements.
19242	Northwest Orient	14 CFR 91.32(b)(1) (ii) & 121.333(c)(2)	To permit petitioner to operate B-747-100 aircraft above flight level 410 without one pilot at the controls of the aircraft wearing and using an oxygen mask secured, sealed, and supplying oxygen.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
22440	Florida Dept. of Law Enforcement	14 CFR 91.65(b), 91.73(a), 91.79(d), 91.85(b), & 91.109(a).	To permit petitioner to carry out law enforcement air support without complying with the cited sections. *Partial grant 7/16/82.*
22957	Johnson & Johnson Flight Operations	14 CFR 91.169 & 91.181	To permit petitioner to operate its Sikorsky S-76A helicopter under the same requirements applicable to large turbojet-powered multiengine civil airplanes under Part 91 Subpart D. *Granted 8/17/82.*
22631	Executive Air Taxi Corporation	14 CFR 135.261(b)	To permit petitioner's pilots on helicopter emergency aerial medical evacuation service to be assigned and to accept duty during flight time with less than 10 consecutive hours of rest during the 24-hour period preceding the planned completion of the assignment. *Granted 8/17/82.*
22828	Air Transport Assoc. of America	14 CFR 121.391(d)	To allow required flight attendants to be located at the mid-cabin flight attendant station during takeoff and landing on B-767 aircraft operated by United Airlines and American Airlines. *Partial grant 8/18/82.*
22508	Mr. Philip M. Stiffler	14 CFR 21.27(d)	To permit petitioner to obtain a standard type certificate for the Fairchild C-119 airplane without strict compliance with the requirements of Civil Air Regulations, Part 4b. *Denied 8/16/82.*
23054	Israel N. Golden	14 CFR 45.29(b)(1)	To permit petitioner to display 3-inch registration marks on his Cessna Centurion aircraft in place of the 12-inch high N-numbers. *Denied 8/11/82.*
20495	Midwest Corporate Aviation, Inc	14 CFR 135.261(b)	To permit petitioner's pilots, on helicopter emergency aerial medical evacuation service in support of the Westley Medical Center to be assigned and to accept duty during flight time with less than 10 consecutive hours of rest during the 24-hour period preceding the planned completion of the assignment. *Granted 8/13/82.*
22780	Republic Airlines, Inc	14 CFR 43.3(f) & 43.7(e)	To allow petitioner to accomplish maintenance and approve for return to service Chart Air, Inc.'s DC-9-10 series aircraft operated under a FAR 125 Certificate. *Granted 8/11/82.*
22961	Mr. Monty S. Young	14 CFR 61.133(b)	To permit petitioner to apply for a commercial pilot certificate with a glider rating without meeting the flight aeronautical experience requirements. *Denied 8/12/82.*
22451	People Express Airlines, Inc	14 CFR 121.613, 121.619 & 121.625	To permit petitioner to dispatch, under Instrument Flight Rules (IFR), an aircraft to a destination airport, even though weather reports or forecasts contain such conditional words as, "a chance of," "occasionally," etc., so long as there is at least one alternate airport for which weather reports or forecast indicate that weather conditions will be at or above authorized minimums. *Granted 8/19/82.*
23126	Albuquerque Int'l Balloon Fiesta, Inc	14 CFR 61.3(b) & 91.27	To permit certain foreign pilots and foreign balloons to participate in the 11th Annual Fiesta during the period of October 2-10, 1982, without complying with the pilot certification and airworthiness requirements. *Partial grant 8/19/82.*
23136	Aircraft AT Your Call, Inc	14 CFR 135.165(b)(6)	To permit petitioner to operate its IA 124/A aircraft with one high frequency (HF) transmitter and one HF receiver, provided a monitoring program which includes avionics is used. *Withdrawn 8/23/82.*

[FR Doc. 82-23901 Filed 9-1-82; 8:45 am]
BILLING CODE 4910-13-M

Maritime Administration

[Docket No. S-720]

Acturus Shipping Inc.; Application for Permission Under Section 506 of the Merchant Marine Act, 1936, as Amended

Notice is hereby given that Acturus Shipping, Inc. (Acturus) has applied for written permission under section 506 of the Merchant Marine Act, 1936, as amended (Act), for its vessel, WILLIAMSBURGH, to operate in the Alaskan oil trade for six months. The 225,000 deadweight ton WILLIAMSBURGH, which was built with construction-differential subsidy, would carry crude oil from Valdez, Alaska, to Panama for transshipment and/or from Valdez direct to the U.S. Gulf or Caribbean for oncarriage only to a U.S. port. Acturus states that suitable Jones Act vessels of competitors will not be available for the carriage of this cargo.

The WILLIAMSBURGH would operate under sub-time charter from American Petrofina, Incorporated to SPC Shipping, Inc., a subsidiary of Standard Oil Company of Ohio. First loading of the vessel at Valdez would commence November 8–15, 1982.

Interested parties may inspect the application in the Office of the Secretary, Maritime Administration, Room 7300A, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Any person, firm, or corporation who is a "competitor," as defined in section 250.2 of the regulations as set forth in 46 CFR Part 250 published in the **Federal Register** issue of June 29, 1977 (42 FR 33035), and desires to protest such application for carriage of oil in the domestic trade from Alaska to Panama should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20590.

Any person, firm or corporation who desires to protest such application for carriage of oil in the domestic trade from Alaska directly to the U.S. Gulf should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20590.

Protests must be received on or before September 9, 1982. If a protest is received, the applicant will be advised of such protest by telephone or telegram and will be allowed three working days to respond in a manner acceptable to the Maritime Adminstrator. Within five working days after the due date for the applicant's response, the Maritime Administrator will advise the applicant, as well as those submitting protests, of the action taken, with a concise written explanation of such action. If no protest is received concerning the application, the Maritime Administrator will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.500 Construction-Differential Subsidy (CDS))

Dated: August 30, 1982.

By Order of the Maritime Administrator.

Georgia P. Stamas,

Assistant Secretary.

[FR Doc. 82-24168 Filed 9-1-82; 8:45 am]

BILLING CODE 4910-81-M

[Docket S-719]

ARCO Transportation Co.; Notice of Application for Permission Under Section 506 of the Merchant Marine Act, 1936, as Amended

Notice is hereby given that ARCO Transportation Company (ARCO) has applied for written permission under section 506 of the Merchant Marine Act, 1936, as amended (Act), for its vessel, the ARCO INDEPENDENCE, to operate in the Alaska/Panama oil trade for six months. The 262,376 deadweight ton ARCO INDEPENDENCE, which was built with construction-differential subsidy, would operate under a charter party with Exxon Company, U.S.A. (Exxon), with the first voyage to commence at Valdez, Alaska, on or about September 30 to October 9, 1982.

The application states that Exxon has an ongoing, long-term need for VLCC size tonnage in order to assure that its requirement to move Alaska oil to U.S. Gulf and East Coast refineries will be met. The ARCO INDEPENDENCE is needed to replace the ARCO SPIRIT whose domestic trading waiver expires in September 1982. To the best knowledge of Exxon and ARCO, there is no suitable Jones Act tonnage available which can provide the full shipping capacity required by Exxon in the Alaska/Panama oil trade.

Interested parties may inspect the application in the Office of the Secretary, Maritime Administrative, Room 7300A, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Any person, firm, or corporation who is a "competitor," as defined in § 250.2 of the regulations as set forth in 46 CFR Part 250 published in the **Federal Register** issue of June 29, 1977 (42 FR 33035), and desires to protest such application for carriage of oil in the domestic trade from Alaska to Panama should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20590. Protests must be received on or before September 9, 1982. If a protest is received, the applicant will be advised of such protest by the telephone or telegram and will be allowed three working days to respond in a manner acceptable to the Maritime Administrator. Within five working days after the due date for the applicant's response, the Maritime Administrator will advise the applicant, as well as those submitting protests, of the action taken, with a concise written explanation of such action. If no protest is received concerning the application, the Maritime Administrator will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No 11.500 Construction-Differential Subsidy (CDS))

Dated: August 30, 1982.

By Order of the Maritime Administrations.

Georgia P. Stamas,

Assistant Secretary.

[FR Doc. 82-24169 Filed 9-1-82; 8:45 am]

BILLING CODE 4910-81-M

[Docket No. S-721]

Boston VLCC Tankers, Inc., VI; Application for Permission Under Section 506 of the Merchant Marine Act, 1936, as Amended

Notice is hereby given that Boston VLCC Tankers, Inc., VI (Boston VI) has applied for written permission under section 506 of the Merchant Marine Act, 1936, as amended (Act), for its vessel, MARYLAND, to operate in the Alaskan oil trade for six months. The 265,000 deadweight ton MARYLAND, which was built with construction-differential subsidy, would carry crude oil from Valdez, Alaska, to Panama for transshipment and/or from Valdez direct to the U.S. Gulf or Caribbean for oncarriage only to a U.S. port. Boston VI states that suitable Jones Act vessels of competitors will not be available for the carriage of this cargo.

The MARYLAND would operate under time charter to SPC Shipping, Inc., a subsidiary of Standard Oil Company of Ohio. First loading of the vessel at Valdez would commence on or about October 28, 1982.

Interested parties may inspect the application in the Office of the Secretary, Maritime Administration, Room 7300A, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Any person, firm, or corporation who is a "competitor," as defined in § 250.2

of the regulations as set forth in 46 CFR Part 250 published in the **Federal Register** issue of June 29, 1977 (42 FR 33035), and desires to protest such application for carriage of oil in the domestic trade from Alaska to Panama should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington D.C. 20590.

Any person, firm or corporation who desires to protest such application for carriage of oil in the domestic trade from Alaska directly to the U.S. Gulf should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20590.

Protests must be received on or before September 9, 1982. If a protest is received, the applicant will be advised of such protest by telephone or telegram and will be allowed three working days to respond in a manner acceptable to the Maritime Administrator. Within five working days after the due date for the applicant's response, the Maritime Administrator will advise the applicant, as well as those submitting protests, of the action taken, with a concise written explanation of such action. If no protest is received concerning the application, the Maritime Administrator will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.500 Construction-Differential Subsidy (CDS))

Dated. August 30, 1982.

By Order of the Maritime Administrator.

Georgia P. Stamas,

Assistant Secretary.

[FR Doc. 82-24167 Filed 09-01-82; 8:45 am]

BILLING CODE 4910-81-M

Values for War Risk Insurance

AGENCY: Maritime Administration, DOT.

ACTION: Determination of Ship Values for War Risk Insurance, effective January 1, 1982.

SUMMARY: Pursuant to the procedure stated at 46 CFR 309.1, the required biannual notice is hereby given of the stated valuations of individual vessels upon which interim binders for war risk hull insurance have been issued. The valuations set forth herein constitute just compensation for the vessels to which they apply, and have been computed in accordance with sections 902(b) and 1209(a)(2) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1242(b), and 1289(a)(2)). The authority to make these vessel valuations was delegated to the Maritime Administrator by the Secretary of Transportation by DOT Order 1100.60 (August 6, 1981), and redelegated to the Ship Valuation Committee by Maritime Administrative Order 440-3 (April 7, 1978; as amended March 24, 1980, and November 4, 1981). Such stated valuations apply to vessels covered by interim binders for war risk hull insurance, Form MA-184, prescribed by 46 CFR Part 308. In accordance with Pub. L. 96-195, authority to issue such war risk insurance will expire on September 30, 1984.

The interim binders listed below shall be deemed to have been amended as of January 1, 1982, by inserting in the space provided therefor, or in substitution for any value appearing in such space, the stated valuations of the respective vessels that appear on the list. Such stated valuations shall apply with respect to insurance attaching during the period January 1, 1982, to June 30, 1982, inclusive, subject to reservation by the Maritime Administration of the right to revise the values assigned herein. The assured shall have the right, within 60 days after date of publication of this notice, or within 60 days after the attachment of the insurance under the interim binder to which a specific valuation applies, whichever date is later, to reject such valuation and proceed as authorized by 46 U.S.C. 1289(a)(2).

Dated: August 23, 1982.

By Order of the Maritime Administrator.

Georgia P. Stamas,

Assistant Secretary.

FEDERAL REGISTER LIST OF SHIP VALUATIONS

Ship type	Led No.	Fol No.	Binder No.	Vessel name	Official No.	Valuation, Jan. 1, 1982
CDS	9	9	1660	Adabelle Lykes	291609	$1,125,000
SPC	4	5	3332	Aguadilla	515621	2,420,000
CDS	10	2	1751	Aimee Lykes	292614	1,125,000
TKR	1	1	3321	Alaska Standard	278320	600,000
SML	14	1	1567	Alexandra	290273	5,010,000
SML	22	2	3537	Alison C	513704	2,015,000
TKR	14	8	1813	Allegiance	271866	3,800,000
CDS	9	1	1261	Allison Lykes	293817	1,125,000
CDS	10	1	1261	Allison Lykes (Dup)	293817	1,125,000
CDS	24	2	2988	Almeria Lykes	536671	18,500,000
CDS	36	1	3503	Amazonia	622178	5,000,000
CDS	36	2	3482	America	610290	5,000,000
CDS	18	6	567	American Accord	267275	6,350,000
CDS	18	3	572	American Ace	265143	6,350,000
CDS	18	4	568	American Alliance	266832	6,350,000
CDS	13	2	2612	American Apollo	579004	10,715,000
CDS	13	3	2869	American Aquarius	530999	10,715,000
CDS	18	5	571	American Archer	267444	6,350,000
CDS	18	2	566	American Argosy	266181	6,350,000
CDS	13	1	2583	American Astronaut	520694	10,715,000
CDS	1	7	1493	American Challenger	289699	1,425,000
CDS	1	9	1618	American Champion	290524	1,425,000
CDS	1	8	1557	American Charger	290089	1,425,000
CDS	1	10	1652	American Chieftain	291020	1,425,000
CDS	1	3	1670	American Corsair	291629	1,425,000
CDS	1	1	1771	American Courier	290255	1,425,000
TKR	13	7	831	American Eagle	278327	3,940,000
TKR	6	5	3290	American Hawk	246344	1,705,000
TKR	35	2	3360	American Heritage	577343	17,000,000
TKR	40	5	3427	American Independence	586633	40,000,000
CDS	12	1	2446	American Lancer	514261	12,600,000
CDS	12	5	2550	American Lark	518444	12,600,000
CDS	18	1	570	American Leader	268256	6,350,000
CDS	18	8	569	American Legacy	268243	6,350,000
CDS	18	7	574	American Legend	267033	6,350,000
CDS	12	2	2466	American Legion	515155	12,600,000
CDS	12	4	2485	American Liberty	516464	12,600,000
CDS	12	3	2518	American Lynx	517450	12,600,000

FEDERAL REGISTER LIST OF SHIP VALUATIONS—Continued

Ship type	Led No.	Fol No.	Binder No.	Vessel name	Official No.	Valuation, Jan. 1, 1982
CDS	21	1	3034	American Marketer	544303	16,300,000
CDS	21	2	3075	American Merchant	547288	16,300,000
CDS	4	3	1924	American Racer	297001	3,000,000
CDS	4	4	1989	American Ranger	298270	3,000,000
CDS	4	5	2039	American Reliance	299371	3,000,000
TKR	40	1	3312	American Spirit	580245	40,000,000
TKR	33	6	2764	American Sun	523846	31,380,000
TKR	5	1	2961	American Trader	244855	2,835,000
CDS	37	4	3395	American Trader	530139	16,110,000
TKR	6	4	3510	Amoco Baltimore	3234	4,000,000
TKR	5	1	3511	Amoco Brisbane	3046	3,500,000
TKR	7	9	2854	Amoco Connecticut	242851	1,145,000
TKR	5	2	3506	Amoco Cremona	2926	3,500,000
TKR	12	1	2944	Amoco Delaware	245058	3,375,000
TKR	6	1	3509	Amoco Savannah	3459	4,000,000
TKR	6	2	3507	Amoco Texas City	3460	4,000,000
TKR	5	3	3508	Amoco Voyager	5886	3,500,000
TKR	6	3	3505	Amoco Yorktown	3233	4,000,000
SPC	2	4	3250	Anchorage	243850	620,000
CDS	38	3	3530	Antillia	627433	5,000,000
TKR	7	3	3495	Arco Alaska	614544	55,000,000
TKR	38	5	3048	Arco Anchorage	548424	43,150,000
TKR	7	4	3518	Arco California	623291	55,000,000
TKR	14	2	233	Arco Endeavor	277623	3,495,000
TKR	38	4	3194	Arco Fairbanks	559400	43,150,000
TKR	30	2	1848	Arco Heritage	293299	7,490,000
TKR	38	1	3142	Arco Juneau	556666	43,150,000
TKR	15	4	1560	Arco Prestige	289972	4,570,000
TKR	32	4	2900	Arco Prudhoe Bay	536496	26,525,000
TKR	32	5	0	Arco Sag River	539313	26,525,000
SPC	4	9	3330	Arecibo	246736	2,790,000
CDS	40	2	3469	Argonaut	601377	30,000,000
CDS	32	4	1716	Ashley Lykes	292191	2,500,000
TKR	3	2	3385	Atigun Pass	586128	50,000,000
TKR	7	7	1436	Austin	247455	1,705,000
CDS	22	1	3118	Austral Entente	552706	23,500,000
CDS	22	2	2986	Austral Envoy	541868	23,500,000
CDS	36	3	3338	Austral Lightning	530144	17,000,000
CDS	36	1	3336	Austral Moon	530142	17,000,000
CDS	4	2	2631	Austral Patriot	500539	3,000,000
CDS	4	1	2632	Austral Pilot	297353	3,000,000
CDS	39	1	3494	Austral Pioneer	612085	50,000,000
CDS	39	2	0	Austral Puritan	623168	50,000,000
CDS	36	4	3337	Austral Rainbow	530141	17,000,000
TKR	3	3	3133	Avila	267181	990,000
SML	20	1	3433	Awa	524820	890,000
TKR	7	2	3397	B/T Alaska	590208	55,000,000
TKR	7	1	3432	B/T San Diego	598680	55,000,000
TKR	26	1	3293	Baldbutte	278103	7,500,000
SPC	2	5	2399	Baltimore	246103	620,000
TKR	28	1	2966	Baltimore Trader	270179	15,000,000
TKR	14	10	1814	Banner	272077	3,590,000
TKR	8	2	3464	Bay Ridge	600128	56,000,000
SPC	9	4	2870	Bayamon	530007	15,500,000
TKR	35	1	3357	Beaver State	572359	17,000,000
CDS	1	1	3522	Benjamin Harrison	624457	57,000,000
SML	8	1	3315	Biehl Trader	582451	7,500,000
SML	8	2	3316	Biehl Traveler	584627	7,500,000
SPC	4	10	3331	Borinquen	248239	2,790,000
SPC	2	3	3270	Boston	511485	700,000
CDS	32	2	1414	Brinton Lykes	288699	2,500,000
TKR	39	1	3114	Brooklyn	553648	27,000,000
TKR	3	4	3408	Brooks Range	586130	50,000,000
CDS	33	2	3525	Button Gwinnet	559623	22,000,000
CDS	15	1	2549	C.V. Lightning	518063	9,750,000
CDS	15	2	2626	C.V. Stag Hound	520743	9,750,000
SPC	9	7	3504	Caguas	557149	21,000,000
SPC	1	3	3365	California	249239	1,000,000
TKR	8	4	3323	Cantigny	247452	1,705,000
SPC	10	1	2165	Caribbean	502771	3,900,000
SPC	4	3	3329	Carolina	515622	2,420,000
SPC	2	11	3350	Charleston	248095	700,000
CDS	9	10	1753	Charlotte Lykes	292782	1,125,000
TKR	23	2	3215	Chelsea	562416	14,000,000
TKR	23	1	3144	Cherry Valley	557503	14,000,000
TKR	35	3	3286	Chestnut Hill	577738	17,000,000
TKR	24	5	3394	Chevron Arizona	588320	24,800,000
TKR	32	1	2985	Chevron California	541563	27,000,000
TKR	24	1	3308	Chevron Colorado	577358	24,800,000
TKR	24	4	3372	Chevron Louisiana	584696	24,800,000
TKR	32	2	2992	Chevron Mississippi	542850	27,000,000
TKR	24	2	3309	Chevron Oregon	566080	24,800,000
TKR	24	3	3310	Chevron Washington	570709	24,800,000
SML	24	1	3543	Chotin 4890	516768	940,000
CDS	9	5	1788	Christopher Lykes	293220	1,125,000
SPC	3	5	2540	Columbia	247519	2,105,000
TKR	15	3	2227	Connecticut	277291	4,730,000
TKR	23	3	3104	Coronado	553623	14,000,000
TKR	8	3	3324	Council Grove	247896	1,705,000
TKR	19	2	3388	Courier	578746	16,000,000
TKR	10	12	3403	Cove Communicator	268196	1,730,000

FEDERAL REGISTER LIST OF SHIP VALUATIONS—Continued

Ship type	Led No.	Fol No.	Binder No.	Vessel name	Official No.	Valuation, Jan. 1, 1982
TKR	8	6	3402	Cove Explorer	248127	1,500,000
TKR	10	11	3404	Cove Navigator	261423	1,600,000
TKR	29	1	231	Cove Trader	279438	5,800,000
TKR	7	10	2705	David D. Irwin	242354	1,790,000
CDS	17	2	2819	Defiance	519102	13,500,000
CDS	14	3	2498	Del Campo	515910	3,020,000
CDS	14	2	2497	Del Monte	514758	3,020,000
CDS	14	1	2500	Del Mundo	512953	3,020,000
CDS	9	4	1225	Del Oro	286185	1,295,000
CDS	9	3	324	Del Rio	284680	1,295,000
CDS	9	2	327	Del Sol	285171	1,295,000
CDS	14	4	2499	Del Valle	516600	3,020,000
CDS	14	5	2532	Del Vineto	517540	3,020,000
TKR	10	10	2923	Delaware Sun	264853	1,675,000
CDS	36	2	3416	Delta Caribe	530143	17,000,000
CDS	33	1	3071	Delta Mar	549153	20,000,000
CDS	33	7	3085	Delta Norte	550900	20,000,000
CDS	33	8	3105	Delta Sud	553105	20,000,000
CDS	24	1	2939	Doctor Lykes	536500	18,500,000
CDS	5	5	2330	Dolly Turman	508378	2,500,000
SML	7	5	3106	DSLL 540650-540899	540650	25,000
SML	7	6	3132	DSLL 553325-553348	553325	25,000
SML	18	1	3272	DSLL 553965-554014	553965	30,000
SML	7	7	3212	DSLL 55714-9	555714	25,000
TKR	10	9	2924	Eastern Sun	270025	1,730,000
TKR	21	9	2806	Edgar M. Queeny	528567	18,690,000
CDS	1	2	3531	Edward Rutledge	625873	57,000,000
TKR	4	1	3455	El Paso Arzew	598727	85,000,000
TKR	4	3	3466	El Paso Howard Boyd	598730	85,000,000
TKR	4	2	3414	El Paso Southern	591902	85,000,000
CDS	5	8	2086	Elizabeth Lykes	500702	2,500,000
SML	15	1	3342	Ethel H	277709	880,000
CDS	10	10	1726	Export Challenger	292227	1,445,000
CDS	10	11	1771	Export Champion	292669	1,445,000
CDS	10	9	1712	Export Commerce	291731	1,445,000
CDS	10	8	1601	Export Courier	289947	1,445,000
CDS	25	1	2980	Export Freedom	541414	12,500,000
CDS	25	2	3016	Export Leader	545126	12,500,000
CDS	25	3	3065	Export Patriot	548442	12,500,000
TKR	30	4	2593	Exxon Baltimore	282272	6,235,000
TKR	11	2	2594	Exxon Bangor	264791	1,600,000
TKR	33	1	3056	Exxon Baton Rouge	524619	28,000,000
TKR	3	6	3465	Exxon Benicia	600478	50,000,000
TKR	30	3	2595	Exxon Boston	283784	6,570,000
TKR	10	3	2596	Exxon Chester	264445	1,435,000
TKR	10	4	2598	Exxon Florence	266855	1,600,000
TKR	25	2	2599	Exxon Gettysburg	273362	4,410,000
TKR	31	2	2601	Exxon Houston	297151	14,540,000
TKR	11	1	2602	Exxon Huntington	266329	1,600,000
TKR	25	1	2603	Exxon Jamestown	275519	4,410,000
TKR	25	3	2610	Exxon Lexington	276270	4,410,000
TKR	31	3	2606	Exxon New Orleans	298216	14,540,000
TKR	10	5	2605	Exxon Newark	264231	1,435,000
TKR	3	5	3460	Exxon North Slope	600477	50,000,000
TKR	33	2	3057	Exxon Philadelphia	526792	28,000,000
TKR	33	3	3058	Exxon San Francisco	523626	28,000,000
TKR	25	4	2609	Exxon Washington	273896	4,410,000
SPC	3	10	3520	Flora	256034	2,100,000
TKR	5	3	180	Fort Worth	247276	2,635,000
SPC	9	3	3008	Fortaleza	544797	17,000,000
CDS	5	1	2300	Frederick Lykes	506812	2,500,000
TKR	10	6	3293	Fredericksburg	277561	1,950,000
SML	21	2	3540	Freeport I	514966	7,300,000
SML	21	1	3541	Freeport II	516720	7,300,000
SML	22	3	3538	Gale B	292748	2,015,000
SPC	2	9	2556	Galveston	248242	700,000
CDS	5	12	2421	Genevieve Lykes	513140	2,500,000
CDS	33	5	3523	George Wythe	562594	22,000,000
TKR	33	8	3346	Glacier Bay	526588	31,785,000
TKR	35	9	3370	Golden Dolphin	559936	17,000,000
TKR	35	8	3369	Golden Endeavor	561433	17,000,000
TKR	32	8	2791	Golden Gate	526972	22,720,000
TKR	35	7	3368	Golden Monarch	566090	17,000,000
SPC	9	6	3384	Great Land	567835	21,000,000
CDS	17	1	2820	Great Republic	521302	13,500,000
SPC	2	7	3326	Guayama	516540	700,000
CDS	10	4	2994	Gulf Banker	295249	1,170,000
CDS	10	3	2995	Gulf Farmer	294625	1,170,000
TKR	7	2	797	Gulf Lion	246990	1,135,000
CDS	10	7	2996	Gulf Merchant	297329	1,170,000
TKR	14	4	798	Gulf Oil	283424	3,615,000
CDS	10	6	2997	Gulf Shipper	296880	1,170,000
TKR	14	5	803	Gulf Solar	280223	3,615,000
TKR	14	12	1358	Gulf Supreme	287186	4,100,000
TKR	7	4	804	Gulf Tiger	247767	1,090,000
CDS	10	5	2998	Gulf Trader	296404	1,170,000
TKR	13	6	792	Gulfcrest	279334	3,735,000
TKR	13	9	795	Gulfking	275193	3,940,000
TKR	13	8	796	Gulfknight	277183	3,940,000
TKR	14	6	800	Gulfpride	279769	3,615,000
TKR	13	11	801	Gulfprince	276034	3,940,000

FEDERAL REGISTER LIST OF SHIP VALUATIONS—Continued

Ship type	Led No.	Fol No.	Binder No.	Vessel name	Official No.	Valuation, Jan. 1, 1982
TKR	13	10	802	Gulfqueen	275583	3,940,000
TKR	14	7	806	Gulfspray	282849	3,615,000
TKR	29	3	3343	Hess Voyager	296863	7,500,000
TKR	3	1	3320	Hillyer Brown	266233	1,000,000
TKR	7	6	176	Houston	242636	1,705,000
SPC	5	1	3255	Houston	245542	1,500,000
CDS	5	4	2306	Howell Lykes	507344	2,500,000
SPC	2	6	3325	Humacao	513557	700,000
CDS	36	4	3380	Illinois	581745	16,320,000
SPC	14	4	3502	Inagua Island	766377	3,135,000
SPC	14	3	3500	Inagua Shore	8689	3,445,000
SPC	14	2	3499	Inagua Surf	641476	2,925,000
SPC	14	1	3501	Inagua Tide	920878	7,310,000
SPC	3	6	3400	Inger	248011	2,160,000
TKR	22	1	2861	IOS 3301 Martha R. Ingram	531048	14,500,000
TKR	22	2	2935	IOS 3302 Carol G. Ingram	538231	14,500,000
SML	12	1	2108	Islander	292810	865,000
SML	19	4	3436	Isleways No. 4	251773	150,000
SML	19	5	3439	Isleways No. 5	251859	150,000
SML	19	2	3435	Isleways No. 1	251436	150,000
SML	19	3	3436	Isleways No. 2	251519	150,000
SML	19	1	3437	Isleways No. 3	251682	150,000
SPC	5	2	3269	Jacksonville	245186	1,500,000
CDS	26	8	367	James Lykes	280564	2,500,000
CDS	26	6	1304	Jean Lykes	287103	2,500,000
CDS	6	1	3245	Jeff Davis	288604	1,350,000
SML	11	1	3186	Jo Anne	541373	3,825,000
SML	1	2	3366	Joe Sevier	500799	235,000
CDS	26	9	389	John Lykes	282772	2,500,000
CDS	26	2	390	Joseph Lykes	281326	2,500,000
SPC	11	1	3491	Kauai	621042	60,000,000
TKR	3	3	3398	Keystone Canyon	586129	50,000,000
TKR	3	2	598	Keystoner	266730	1,000,000
TKR	35	6	3287	Kittanning	579572	17,000,000
SML	16	1	2363	Komoku	509280	1,000,000
SPC	3	8	2805	Kopaa	244611	3,240,000
CDS	20	1	3216	Lash Atlantico	530145	16,265,000
CDS	19	1	2864	Lash Italia	529255	15,000,000
CDS	20	2	3217	Lash Pacifico	530146	16,265,000
TKR	4	1	13	Leland I. Doan	284217	3,000,000
CDS	26	7	1352	Leslie Lykes	287416	2,500,000
CDS	5	11	2403	Letitia Lykes	512187	2,500,000
CDS	35	1	3333	Lipscomb Lykes	573093	16,320,000
TKR	1	2	3311	LNG Aquarius	582506	85,855,000
TKR	1	3	3371	LNG Aries	588005	85,855,000
TKR	1	1	3407	LNG Capricorn	588006	85,855,000
TKR	1	7	3454	LNG Leo	595753	85,855,000
TKR	1	4	3463	LNG Libra	595756	85,855,000
TKR	1	6	3475	LNG Virgo	595755	85,855,000
STD	1	1	3134	Lompoc	248653	600,000
SPC	4	6	3256	Long Beach	248240	2,710,000
CDS	5	7	2062	Louise Lykes	299938	2,500,000
SPC	9	1	3077	Lurline	549900	17,000,000
SML	3	1	2942	LY-1-36, 800, 900	531766	65,000
SML	4	1	2942	LY-1-36, 800, 900 (Dup)	531766	65,000
SML	5	1	2942	LY-1-36, 800, 900 (Dup)	531766	65,000
SML	3	4	3017	LY-107-111	532807	65,000
SML	3	5	3007	LY-112-124, 803	532812	65,000
SML	3	6	3010	LY-125-134	532825	65,000
SML	3	7	3018	LY-135-139, 903	532835	65,000
SML	3	8	3019	LY-140-144	532840	65,000
SML	3	9	3031	LY-145-150, 160-161	532845	65,000
SML	3	10	3032	LY-151-159, 162-165, 904	532851	65,000
SML	3	11	3039	LY-166, 168, 169	532866	65,000
SML	3	12	3040	LY-167, 170, 171	532867	65,000
SML	4	2	3045	LY-172-173, 175-176, 177	532872	65,000
SML	4	3	3046	LY-174, 178, 180, 804	532874	65,000
SML	4	4	3054	LY-181-182	532881	65,000
SML	4	5	3063	LY-183-190, 195, 905	532883	65,000
SML	4	6	3064	LY-191	532891	65,000
SML	4	7	3066	LY-192-194, 196-197	532892	65,000
SML	4	8	3070	LY-198-202	532898	65,000
SML	4	9	3076	LY-203-211	532903	65,000
SML	4	10	3081	LY-212-213, 805	532912	65,000
SML	4	11	3084	LY-214-216	532914	65,000
SML	4	12	3089	LY-217-218, 220	532917	65,000
SML	5	2	3090	LY-219, 221-225	532919	65,000
SML	5	3	3091	LY-226, 227, 806, 906	532926	65,000
SML	5	4	3093	LY-228-229	532928	65,000
SML	5	5	3096	LY-230-231	532930	65,000
SML	5	6	3099	LY-232	532932	65,000
SML	3	2	2943	LY-37-44	532737	65,000
SML	3	3	3006	LY-45-106, 801-2, 901-2	532745	65,000
SML	6	1	3352	LY-701, 702, 703	578104	170,000
CDS	35	2	3334	Maine	569400	16,320,000
CDS	5	10	2233	Mallory Lykes	504077	2,500,000
TKR	37	1	1356	Manhattan	287253	2,515,000
SPC	4	11	2109	Manualei	246343	2,710,000
SPC	6	1	2763	Manukai	524219	18,970,000
SPC	6	2	2803	Manulani	528400	18,970,000
SML	25	1	3492	Maoi	618705	1,215,000

FEDERAL REGISTER LIST OF SHIP VALUATIONS—Continued

Ship type	Led No.	Fol No.	Binder No.	Vessel name	Official No.	Valuation, Jan. 1, 1982
CDS	9	6	1809	Margaret Lykes	293555	1,125,000
TKR	2	1	3187	Marine Chemical Transport	244942	1,250,000
TKR	18	1	2814	Marine Chemist	529399	14,440,000
TKR	6	3	2777	Marine Duval	245851	2,105,000
SPC	3	1	1510	Marine Electric	245675	2,300,000
TKR	6	2	2133	Marine Floridian	246836	1,945,000
TKR	6	1	1812	Marine Texan	247563	1,600,000
CDS	32	3	1513	Marjorie Lykes	289873	2,500,000
SML	14	2	3539	Martha B	299786	2,585,000
TKR	40	4	3349	Maryland	574906	40,000,000
CDS	5	3	2260	Mason Lykes	505406	2,500,000
TKR	40	2	3347	Massachusetts	564344	40,000,000
SPC	9	2	3107	Matsonia	553090	17,000,000
SPC	4	12	2649	Maunawili	246984	2,710,000
SPC	4	4	3328	Mayaguez	516060	2,420,000
CDS	9	11	1789	Mayo Lykes	293224	1,125,000
TKR	7	8	1512	Meadow Brook	289879	1,495,000
SPC	3	4	2543	Merrimac	245673	2,300,000
TKR	13	12	698	Meton	278624	4,120,000
TKR	13	4	2716	Mobil Aero	278471	3,815,000
TKR	38	2	3152	Mobil Arctic	542026	46,545,000
TKR	13	3	2717	Mobil Fuel	274588	3,550,000
TKR	10	2	2718	Mobil Gas	271449	1,625,000
TKR	13	2	2719	Mobil Lube	275651	3,400,000
TKR	29	4	2442	Mobil Meridian	286479	6,650,000
TKR	13	5	2720	Mobil Oil	279064	3,815,000
TKR	14	11	2721	Mobil Power	274966	3,535,000
TKR	12	2	2525	Monmouth	242426	3,415,000
TKR	29	5	2797	Monticello Victory	286819	6,650,000
TKR	30	5	2798	Montpelier Victory	289745	6,950,000
CDS	29	1	2664	Mormacaltair	298129	7,225,000
CDS	3	2	2667	Mormacargo	296216	1,275,000
CDS	29	2	2670	Mormacdraco	299008	7,225,000
CDS	8	1	2673	Mormacglen	285283	1,350,000
CDS	3	4	2678	Mormaclynx	296947	1,275,000
CDS	3	1	2684	Mormacrigel	297384	1,275,000
CDS	2	1	3304	Mormacsaga	289547	1,375,000
CDS	2	4	3305	Mormacsea	289119	1,375,000
TKR	23	5	3301	Mormacsky	578288	14,675,000
TKR	23	4	3302	Mormacstar	569257	14,675,000
TKR	23	6	3303	Mormacsun	573770	14,675,000
CDS	2	2	3306	Mormactide	287875	1,375,000
CDS	3	3	2689	Mormacvega	296632	1,275,000
CDS	2	3	3307	Mormacwave	288603	1,375,000
TKR	29	6	2799	Mount Vernon Victory	284178	6,225,000
TKR	30	6	2800	Mount Washington	293097	6,905,000
CDS	26	5	1243	Nancy Lykes	286650	2,500,000
CDS	35	3	3335	Nevada	577636	16,320,000
TKR	10	8	2925	New Jersey Sun	265748	1,585,000
TKR	40	3	3348	New York	569583	40,000,000
SPC	2	2	3282	Newark	511486	700,000
SPC	4	1	3259	Oakland	248076	2,710,000
TKR	14	3	1004	Oasis Hawaii	276911	3,495,000
TKR	14	9	339	Ogden Challenger	280318	4,115,000
TKR	21	7	2745	Ogden Champion	523341	18,500,000
TKR	21	6	2614	Ogden Wabash	520728	18,500,000
TKR	21	1	2591	Odgen Willamette	518738	18,500,000
TKR	33	7	3515	Ogden Yukon	547919	32,605,000
SML	20	2	3434	Oio	516924	675,000
TKR	32	7	2827	Overseas Alaska	529795	22,910,000
TKR	27	4	1827	Overseas Aleutian	266619	13,795,000
TKR	21	3	2465	Overseas Alice	514928	18,720,000
TKR	30	8	1905	Overseas Anchorage	281177	5,955,000
TKR	32	6	2862	Overseas Arctic	530877	22,910,000
TKR	36	2	3378	Overseas Chicago	583412	47,000,000
SPC	16	1	3409	Overseas Harriette	590624	20,000,000
TKR	29	2	1	Overseas Joyce	284049	6,240,000
TKR	38	3	3108	Overseas Juneau	553137	43,150,000
SPC	16	2	3406	Overseas Marilyn	590623	20,000,000
TKR	31	1	3377	Overseas Natalie	287156	13,700,000
TKR	36	1	3386	Overseas New York	588001	47,000,000
TKR	36	4	3378	Overseas Ohio	586647	47,000,000
TKR	15	2	932	Overseas Ulla	280004	4,395,000
TKR	21	5	2506	Overseas Valdez	517186	18,720,000
TKR	21	4	2537	Overseas Vivian	518125	18,720,000
TKR	36	3	3399	Overseas Washington	588955	47,000,000
SML	7	2	3002	P.L. 1-0199-P.L. 1-0264	525199	25,000
SML	7	3	3003	P.L. 1-0265-P.L. 1-0331	525265	25,000
SML	7	4	3004	P.L. 1-0332-P.L. 1-0360	525332	25,000
SPC	4	7	3260	Panama	248241	2,710,000
TKR	8	2	181	Pasadena	248894	1,880,000
CDS	40	1	3493	Resolute	612715	30,000,000
CDS	33	6	3147	Robert E. Lee	557033	20,000,000
TKR	35	5	3358	Rose City	575056	17,000,000
TKR	19	4	3387	Rover	577241	16,000,000
CDS	5	9	2162	Ruth Lykes	502928	2,500,000
SML	13	1	3341	Salisbury	275895	450,000
CDS	33	3	3179	Sam Houston	559035	20,000,000
TKR	5	2	177	San Antonio	248716	2,490,000
SPC	4	8	3327	San Juan	516542	2,790,000
SPC	7	1	2846	San Pedro	248238	3,200,000

FEDERAL REGISTER LIST OF SHIP VALUATIONS—Continued

Ship type	Led No.	Fol No.	Binder No.	Vessel name	Official No.	Valuation, Jan. 1, 1982
SML	1	1	3367	Sanford B. Dole	510052	170,000
TKR	32	3	2918	Sansinena II	535020	26,215,000
CDS	4	7	3423	Santa Adela	504015	2,830,000
CDS	11	4	3418	Santa Barbara	509186	2,500,000
TKR	16	1	3062	Santa Clara	274440	8,740,000
CDS	11	1	3419	Santa Clara	506249	2,500,000
CDS	11	6	3420	Santa Cruz	504681	2,500,000
CDS	11	5	3422	Santa Elena	507696	2,500,000
CDS	11	3	3417	Santa Isabel	510570	2,500,000
CDS	4	6	2752	Santa Juana	502726	2,830,000
CDS	11	2	3421	Santa Lucia	502774	2,500,000
CDS	7	2	3425	Santa Magdalena	290270	2,500,000
TKR	3	5	3027	Santa Maria	263781	955,000
CDS	7	1	1756	Santa Maria	292838	2,500,000
CDS	7	3	3424	Santa Mariana	291811	2,500,000
CDS	7	4	1830	Santa Mercedes	293943	2,500,000
TKR	27	5	2917	Santa Paula	277703	12,325,000
SML	23	1	3542	Scott Chotin, Jr.	517539	850,000
SPC	13	2	3453	Sea-Land Adventure	594073	19,985,000
CDS	34	1	3100	Sea-Land Consumer	552818	20,000,000
SPC	12	4	3488	Sea-Land Defender	604246	33,000,000
SPC	12	1	3513	Sea-Land Developer	604247	33,000,000
SPC	8	2	2808	Sea-Land Economy	532410	18,165,000
SPC	12	11	3534	Sea-Land Endurance	606062	33,000,000
SPC	12	5	3489	Sea-Land Explorer	604248	33,000,000
SPC	12	6	3514	Sea-Land Express	604249	33,000,000
SPC	12	9	3527	Sea-Land Freedom	606065	33,000,000
SPC	12	7	3516	Sea-Land Independence	606061	33,000,000
SPC	12	12	3529	Sea-Land Innovator	606064	33,000,000
SPC	13	4	3451	Sea-Land Leader	594374	19,985,000
SPC	12	3	3487	Sea-Land Liberator	604245	33,000,000
SPC	12	10	3526	Sea-Land Mariner	606066	33,000,000
SPC	13	1	3450	Sea-Land Pacer	593980	19,985,000
SPC	12	2	3486	Sea-Land Patriot	604244	33,000,000
SPC	13	3	3452	Sea-Land Pioneer	594375	19,985,000
CDS	34	2	3131	Sea-Land Produoer	552819	20,000,000
SPC	8	1	2867	Sea-Land Venture	531478	18,165,000
SPC	12	8	3517	Sea-Land Voyager	606063	33,000,000
SPC	2	10	3264	Seattle	245025	620,000
CD6	9	8	1610	Sheldon Lykes	290508	1,125,000
CDS	32	1	1428	Shirley Lykes	289283	2,500,000
TKR	29	7	1714	Sinclair Texas	291990	7,255,000
TKR	10	1	2722	Socony Vacuum	268801	1,600,000
TKR	33	4	3344	Sohio Intrepid	533270	30,650,000
TKR	33	5	3345	Sohio Resolute	535367	30,650,000
CDS	26	4	982	Solon Turman	285889	2,500,000
TKR	21	2	2489	Spirit of Liberty	516521	18,720,000
SPC	15	1	3415	SS Maui	591709	52,170,000
SPC	7	3	2755	St. Louis	515620	3,200,000
CDS	5	2	2248	Stella Lykes	504982	2,500,000
CDS	33	4	3148	Stonewall Jackson	557034	20,000,000
TKR	8	1	3413	Stuyvesant	584459	56,000,000
SPC	5	3	2847	Tampa	245726	1,500,000
TKR	27	6	463	Texaco California	266910	15,000,000
TKR	27	1	0	Texaco Connecticut	266501	15,000,000
TKR	27	3	3052	Texaco Florida	271820	15,000,000
TKR	9	3	1867	Texaco Georgia	293819	4,500,000
TKR	7	1	471	Texaco Kansas	244230	1,500,000
TKR	8	1	471	Texaco Kansas (Dup)	244230	1,500,000
TKR	9	4	1823	Texaco Maryland	292735	4,500,000
TKR	9	5	1824	Texaco Massachusetts	290306	4,275,000
TKR	7	11	475	Texaco Minnesota	243202	1,795,000
TKR	7	12	476	Texaco Mississippi	245082	1,840,000
TKR	9	2	2028	Texaco Montana	298918	4,825,000
TKR	7	3	480	Texaco New Jersey	245831	1,230,000
TKR	27	2	3053	Texaco New York	265981	15,000,000
TKR	3	4	483	Texaco North Dakota	265006	1,260,000
TKR	9	1	1899	Texaco Rhode Island	296380	4,500,000
TKR	13	1	1270	Texaco Wisconsin	277805	3,939,000
TKR	14	1	1270	Texaco Wisconsin (Dup)	277805	3,939,000
TKR	15	1	1270	Texaco Wisconsin (Dup)	277805	3,939,000
TKR	30	7	2927	Texas Sun	283897	6,980,000
TKR	12	3	2963	Texas Trader	246503	3,085,000
SML	22	1	3536	Theresa F.	516158	2,015,000
CDS	6	2	3268	Thomas Nelson	267683	1,350,000
TKR	3	1	3431	Thompass Pass	586131	50,000,000
CDS	26	3	405	Thompson Lykes	283413	2,500,000
CDS	24	3	3028	Tillie Lykes	536672	18,500,000
SPC	1	1	2418	Transcolorado	248806	1,000,000
SPC	1	2	2419	Transcolumbia	248702	1,000,000
SPC	4	2	2756	Transindiana	513582	2,420,000
SPC	3	3	2343	Traveler	289436	2,300,000
TKR	9	1	3473	U.S.T. Atlantic	601437	65,870,000
TKR	9	2	3474	U.S.T. Pacific	613131	65,870,000
TKR	34	1	3175	Ultra Mar	550200	19,310,000
TKR	34	2	3176	Ultra Sea	555146	19,310,000
TKR	20	1	2270	Valley Forge	505786	15,000,000
CDS	5	6	2354	Velma Lykes	509652	2,500,000
SML	10	2	3661	WA-1-001/0302—0304/0450	551001	50,000
SML	10	1	3362	WA-2-0451-2-0575	567451	50,000
SPC	3	7	3401	Walter Rice	248203	2,160,000

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Ship type	Led No.	Fol No.	Binder No.	Vessel name	Official No.	Valuation, Jan. 1, 1982
TKR	25	5	3297	Washington Trader	279627	4,985,000
TKR	10	7	2928	Western Sun	268798	1,690,000
SPC	9	8	3392	Westward Venture	581673	23,000,000
CDS	33	9	3524	William Hooper	561453	22,000,000
TKR	39	2	3221	Williamsburgh	560975	27,000,000
TKR	35	4	3359	Worth	570876	17,000,000
CDS	17	4	2822	Young America	524416	13,500,000
CDS	26	1	411	Zoella Lykes	282126	2,500,000

[FR Doc. 82-23769 Filed 9-1-82; 8:45 am]

BILLING CODE 4910-81-M

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB, August 11-August 25, 1982

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, between August 11 and August 25, 1982, to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M-34, Office of the Secretary of Transportation, 400 7th Street, SW., Washington, D.C. 20590, (202) 426-1887 or

Donald Arbuckle or Wayne Leiss, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, D.C. 20503, (202) 395-7340.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agences prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

On Mondays and Thursdays, as needed, the Department of Transportation will publish in the **Federal Register** a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirements. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB:

(1) A DOT control number.

(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.

(3) The name of the DOT Operating Administration or Secretarial Office involved.

(4) The title of the information collection request.

(5) The form numbers used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for and uses to be made of the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above.

Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB between Aug. 11 and Aug. 25, 1982:

DOT No: 2057
OMB No: 2125-0023
By: Federal Highway Administration
Title: Defense Bridges and Critical Highway Facilities Reports
Forms: None
Frequency: Annually
Respondents: State Highway Departments
Need/Use: To meet the requirements of the Federal Emergency Management Agency (FEMA), Department of Defense (DOD) and the FHWA in carrying out responsibilities related to national emergencies, disaster relief, and defense activities.

DOT No: 2058
OMB No: 2137-0023
By: Research and Special Programs Administration
Title: Special Instructions for Cryogenic Liquids
Forms: None
Frequency: Each shipment of a flammable cryogenic in a container over 125 gallons
Respondents: Motor carriers
Need/Use: To ascertain that drivers know emergency procedures and who to notify in case of accident or container failure. (49 CFR 177.818).

DOT No: 2059
OMB No: 2137-0024
By: Research and Special Programs Administration
Title: Flammable Cryogenic Liquid Training Records
Forms: None
Frequency: Biennially
Respondents: Motor carriers
Need/Use: To ascertain that drivers of vehicles transporting cryogenic liquids are educated in the regulations pertaining to cryogenic liquids, driver requirements of the Motor Carrier Safety Regulations, hazards of cryogenics and emergency procedures. (49 CFR 177.816)

DOT No: 2060
OMB No: 2137-0025
By: Research and Special Programs Administration

Title: Shipper or Carrier Registration Statement
Forms: None
Frequency: Biennially
Respondents: Shippers and carriers of cryogenic materials
Need/Use: To ascertain who is shipping cryogenic liquids, location of facilities warranting public inspections, the number and types of portable tank and cargo tanks cars used to transport cryogenic materials.

DOT No: 2061
OMB No: 2137–0026
By: Research and Special Programs Administration
Title: Cargo Tank Pressure and Temperature Record
Forms: None
Frequency: Each trip of a cargo tank hauling over 125 gallons of a flammable cryogenic
Respondents: Motor carriers
Need/Use: To ascertain that cargo tanks are not overfilled and that there is no malfuction during the trip which would allow the product to heat up and expand which could cause the tank to explode; and to assure shipper and operators of motor carrier that the tank is safe to refill.

DOT No: 2062
OMB No: 2127–0011
By: National Highway Traffic Safety Administration
Title: Parts Return Program
Forms: HS Form 396, Failed Part Tag; HS Form 394, Parts Return Program, Information Report
Frequency: Semiannually
Respondents: Small automative repair shops
Need/Use: As an aid in conducting engineering analyses or formal investigations concerning motor vehicle defects it is sometimes advantageous to enlist the voluntary aid of independent automotive repair shops to supply the NHTSA with certain parts or information.

DOT No: 2063
OMB No: New
By: Urban Mass Transportation Administration
Title: Rail Transit Safety Information Reporting and Analysis System
Forms: UMTA F6600.1, F6600.2, F6600.3
Frequency: Monthly for Form F6600.3. All other forms will be submitted only when an accident/incident occurs (about 3 times a year/authority).
Respondents: Rapid Rail Transit Authorities
Need/Use: The Federal Railroad Administration (FRA) currently collects safety information on accidents including the rapid rail transit industry in urban areas. However, there is agreement by the industry that this information is not entirely appropriate to urban area rail transit and that a new system of reporting must be adopted in order to address rail transit safety issues effectively. The rail transit Safety Information Reporting and Analysis System (SIRAS) was developed to satisfy this need.
Once approved, rail transit SIRAS will replace the existing FRA accident reporting system as the primary source of safety statistics on rapid rail transit systems.
The SIRAS data will be used by local and Federal planners to help ascertain progress and/or deficiencies in rail safety programs, and to assist in the development and monitoring of measures to improve the current levels of safety.

DOT No: 2.74
OMB No: 2125–0024, 2125–0066, 2125–0069, 2125–0072
By: Federal Highway Administration
Title: FHWA Transportation Fellowship/Scholarship Program
Forms: FHWA–1435, 1505, 1468, 1465, 1466
Frequency: Annually
Respondents: Highway Engineers and Engineering Technicians
Need/Use: To administer the Federal Highway Administration's National Highway Institute fellowship and scholarship programs for education and training in highway transportation.

Issued in Washington, D.C. on August 26, 1982.

Karen S. Lee,
Deputy Assistant Secretary for Administration.

[FR Doc. 82–23935 Filed 9–1–81; 8:45 am]
BILLING CODE 4910–62–M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1982 Rev., Supp. No. 6]

United Pacific Insurance Company; Surety Companies Acceptable on Federal Bonds; Correction

The business address for United Pacific Insurance Company was listed at 47 FR 28884 (July 1, 1982) as: 4 Penn Center Plaza, Philadelphia, PA 19109. The company's business address is hereby corrected to: 33405 Eighth Avenue, South, C–3000, Federal Way, Washington 98003.

Federal bond-approving officers should annotate their reference copies of Treasury Circular 570, 1982 Revision, at page 28884 to reflect this correction.

Questions concerning this correction notice may be directed to the Operations Staff (Surety), Banking and Cash Management, Bureau of Government Financial Operations, Department of the Treasury, Washington, DC 20226. Telephone (202) 634–5752.

Dated: August 20, 1982.

W. E. Douglas,
Commissioner, Bureau of Government Financial Operations.

[FR Doc. 82–24153 Filed 9–1–82; 8:45 am]
BILLING CODE 4810–35–M

Office of the Secretary

National Productivity Advisory Committee; Meeting

August 30, 1982.

The Subcommittee on Capital Investment of the National Productivity Advisory Committee will meet at 9:30 a.m. on September 13, 1982, at the Department of the Treasury, Room 3424, Main Treasury, 15th Street and Pennsylvania Avenue, N.W., Washington, D.C.

The purpose of the meeting will be to discuss ways in which changes in government policy can improve national productivity.

Roger B. Porter,
Executive Secretary, National Productivity Advisory Committee.

[FR Doc. 82–24146 Filed 9–1–82; 8:45 am]
BILLING CODE 4810–25–M

Public Information Collection Requirements Submitted to OMB for Review

During the period August 20 through August 26, 1982, the Department of Treasury submitted the following public information collection requirements to OMB, for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 634–2179. Comments regarding these information collections should be addressed to the Treasury Reports Management Officer, Information Resources Management Divisions, Room 309, 1625 I St. NW., Washington, D.C. 20220; *and* to the OMB reviewer listed at the end of each entry.

Dated Submitted: August 20, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: 1545–0010.

Form Number: W–4

Type of Submission: Revision.

Title: Employee's Withholding Allowance Certificate.

Purpose: Employees file this to tell the employer (1) how many withholding allowances they are claiming (2) the amount they want their withholding tax increased or decreased each pay period, and (3) if they are entitled to claim exemptions from income tax withholding. Employers use the information to determine the proper amount of income tax to withhold from the employee's wages.

OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: August 20, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: 1545-0412.

Form Number: 4746.

Type of Submission: Revision.

Title: Questionnaire—Credit for Child & Dependent Care Expenses.

Purpose: Provides taxpayers with a simple format for presenting information to support their claim for child and dependent care expenses. This information is used during the examination of the taxpayer's return to determine whether the claimed expenses should be allowed.

OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: August 20, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: 1545-0035.

Form Number: 943, 943A, 943PR, 943A-PR.

Type of Submission: Revision.

Title: Employer's Annual Tax Return for Agricultural Employees.

Purpose: Agricultural employers must prepare and file Form 943 and 943PR (Puerto Rico only) to report and pay FICA taxes and (943 only) income tax voluntarily withheld. Agricultural employers may attach Forms 943A and 943A-PR to Forms 943 and 943PR to show their tax liabilities for eighth monthly periods. This information is used to verify that the correct tax has been paid.

OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: August 20, 1982.

Submitting Bureau: Comptroller of the Currency.

OMB Number: 1557-0090.

Form Number: FDIC 8040/52, 8040/53, and 8040/58.

Type of Submission: Revision.

Title: OCC Special Reports (Report of Condition and Income).

Purpose: This form is used to collect information on past due loans and on contingent liabilities. The data provides information essential to OCC in analyzing the condition of individual banks, identifying off-site those banks most in need of on-site examination, developing and implementing supervisory policy, assessing the need for new legislation to ensure continued effective regulatory supervision on national banks, and protecting the safety and soundness of the national banking system.

OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: August 23, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: N/A (new submission).

Form Number: 6317.

Type of Submission: New.

Title: Volunteer Training Evaluation.

Purpose: As part of the evaluation of the new VITA module training materials, volunteers will be asked to evaluate the quality of the training material and the instructions received.

OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: August 24, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: 1545-0155.

Form Number: 3468.

Type of Submission: Revision.

Title: Computation of Investment Credit.

Purpose: Form 3468 is used to compute the credit for investment in certain types of assets, including energy property. The data is used to verify the correct amount of the credit against the income tax.

OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: August 24, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: 1545-0001.

Form Number: CT-1.

Type of Submission: Revision.

Title: Employer's Annual Railroad Retirement Tax Return.

Purpose: Railroad employers are required to file an annual return to report employer and employee Railroad Retirement Tax Act (RRTA) taxes. Form CT-1 is used for this purpose. IRS uses the information to insure that the employer has paid the correct tax.

OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: August 24, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: 1545-0034.

Form Number: 942 and 942PR.

Type of Submission: Revision.

Title: Employer's Quarterly Tax Return for Household Employees.

Purpose: Household employers must prepare and file Form 942 or Form 942PR (Puerto Rico only) to report and pay FICA taxes and (942 only) income tax voluntarily withheld. The information is used to verify that the correct tax has been paid.

OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: August 24, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: 1545-0550.

Form Number: 6744.

Type of Submission: Reinstatement.

Title: VITA Test (English).

Purpose: As a part of the training program, all volunteers are requested to take a test at the end of the VITA course to ensure that students have been adequately trained. This is a pass/fail system. This test is used to evaluate the students and the program.

OMB Reviewer: Michael Abrahams (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: August 26, 1982.

Submitting Bureau: Internal Revenue Service.

OMB Number: 1545-0188.

Form Number: 4868.

Type of Submission: Revision.

Title: Application for Automatic Extension to Time to File U.S. Individual Income Tax Return.

Purpose: Used to apply for an automatic 4-month extension of time to file Form 1040. This form contains data needed by the Service to determine if a taxpayer qualifies for an automatic 4-month extension of item to file Form 1040.

OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: August 26, 1982.
Submitting Bureau: Internal Revenue Service.
OMB Number: 1545–0174.
Form Number: 4625.
Type of Submission: Revision.
Title: Computation of Minimum Tax—Individuals.
Purpose: Form 4625 is used by individuals who have certain tax preference items exceeding $10,000 ($5,000 for married individuals filing separately). The information is needed to help verify whether taxpayers are complying with the law and have paid the correct minimum tax.
OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: August 26, 1982.
Submitting Bureau: Internal Revenue Service.
OMB Number: 1545–0099.
Form Number: 1065 and Schedule K–1 (Form 1065).
Type of Submission: Revision.
Title: U.S. Partnership Return of Income Partner's Share of Income, Credits, Deductions, etc.
Purpose: Section 6031 of the IRC requires that partnerships file returns each tax year showing: gross income items; allowable deductions; names, addresses, and partners distributive shares; and other information the Secretary prescribes by forms and regulations. This information is used to verify correct reporting of partnership items and for general statistics.
OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: August 26, 1982.
Submitting Bureau: Internal Revenue Service.
OMB Number: 1545–0493.
Form Number: 6522.
Type of Submission: Revision.
Title: Volunteer Assistance Card.
Purpose: This form is prepared by each volunteer who assists an individual under the Voluntary Income Tax Assistance or Tax Counseling for the Elderly Programs. The purpose of the form is to measure the type and extent of assistance provided to the public. This card also captures the number of Form 1040, 1040A and 1040 EZ questions only, state and local returns, and TCE returns.
OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

* * * * *

Date Submitted: August 26, 1982.
Submitting Bureau: Internal Revenue Service.
OMB Number: 1545–0436.
Form Number: 6729.
Type of Submission: Reinstatement.
Title: Site Visitation Sheet.
Purpose: This form is used to monitor the activities of the volunteer at the VITA/TCE Site to ensure that quality service is being given. Site visits will ensure that VITA volunteers and TCE sponsors are complying with program guidelines. Visitation checksheets should be available for regional and national office review.
OMB Reviewer: Michael Abrahams (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Joy Tucker,
Departmental Reports Management Officer.
August 27, 1982.
[FR Doc. 82–24147 Filed 9–1–82; 8:45 am]
BILLING CODE 4810–25–M

VETERANS ADMINISTRATION

Special Medical Advisory Group; Meeting

The Veterans Administration gives notice under Pub. L. 92–463 that a meeting of the Special Medical Advisory Group will be held in the Administrator's Conference Room at the Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC, on September 28 and 29, 1982. The purpose of the Special Medical Advisory Group is to advise the Administrator and the Chief Medical Director relative to the care and treatment of disabled veterans, and other matters pertinent to the Veterans Administration's Department of Medicine and Surgery.

The sessions will convene at 8:30 a.m. both days. These sessions will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Ms. Von Schneibel, Program Assistant, Office of the Chief Medical Director, Veterans Administration Central Office (phone 202/389–2298) prior to September 10, 1982.

Dated: August 25, 1982.

Rosa Maria Fontanez,
Committee Management Officer.
[FR Doc. 82–24136 Filed 9–1–82; 8:45 am]
BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 47, No. 171
Thursday, September 2, 1982

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 47, No. 168, Monday, August 30, 1982.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m., Tuesday, August 31, 1982.

CHANGES IN THE MEETING: Cancelled. Changed to: 1 p.m., Tuesday, September 7, 1982.

[S-1247-82 Filed 8-30-82; 4:45 pm]

BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10 am, Tuesday, September 7, 1982.

PLACE: 2033 K Street, N.W., Washington, D.C., Fifth floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1984 Budget Discussion.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1246-82 Filed 8-30-82; 4:32 pm]

BILLING CODE 6351-01-M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 11 a.m., Friday, September 17, 1982.

PLACE: 2033 K Street, N.W., Washington, D.C., Eighth floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1245-81 Filed 8-30-82; 4:32 pm]

BILLING CODE 6351-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:20 p.m. on Sunday, August 29, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a bid for the purchase of certain assets of and the assumption of the liability to pay deposits made in Western National Bank, Santa Ana, California, which was closed by the Comptroller of the Currency as of the close of business on Friday, August 27, 1982.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 30, 1982.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Assistant Executive Secretary.

[S-1250-82 Filed 8-31-82; 3:16 pm]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 7:25 p.m. on August 27, 1982, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in First Security Bank of North Arkansas, Horseshoe Bend, Arkansas, which was closed by the Arkansas State Bank Commissioner as of the close of business on Friday, August 27, 1982; (2) accept the bid for the transaction submitted by The Bank of Melbourne, Melbourne, Arkansas; (3) approve the application of The Bank of Melbourne, Melbourne, Arkansas, for consent to purchase the asset of and assume the liability to pay deposits made in First Security Bank of North Arkansas, Horseshoe Bend, Arkansas, and for consent to establish the main office and two branches of First Security Bank of North Arkansas as branches of the resultant bank; and (4) provide such financial assistance, pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction.

At that same meeting the Board of Directors (1) received sealed bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Security Bank and Trust Company, Cairo, Illinois, which was closed by the Illinois Commissioner of Banks and Trust Companies as of the close of business on Friday, August 27, 1982; (2) accepted the bid for the transaction submitted by First Bank and Trust Company, Cairo, Illinois; (3) approved the application of First Bank and Trust Company, Cairo, Illinois, for consent to purchase the assets of and to assume the liability to pay deposits made in Security Bank and Trust Company, Cairo, Illinois, and for consent to establish the sole office of Security Bank and Trust Company as a facility of the resultant bank; and (4) provide such financial assistance, pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director

C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 30, 1982.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Deputy Executive Secretary.

[S-1251-82 Filed 8-31-82; 3:16 pm]

BILLING CODE 6714-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

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 closed meeting held at 2:30 p.m. on Monday, August 30, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a resolution making funds available for the payment of insured deposits in Western National Bank, Santa Ana, California, which was closed by the Comptroller of the Currency on Friday, August 27, 1982, if a purchase of the assets of and assumption of the liability to pay deposits made in the closed bank cannot be arranged.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to the public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(8) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(B)).

Dated: August 31, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1252-82 Filed 8-31-82; 3:17 pm]

BILLING CODE 6714-01-M

7

FEDERAL DEPOSIT INSURANCE CORPORATION

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. 522b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, August 30, 1982, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,373-NR—Penn Square Bank, N.A., Oklahoma City, Oklahoma

By the same majority vote, the Board further determined that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: August 31, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

S-1253-82 Filed 8-31-82; 3:18 pm]

BILLING CODE 6714-01-M

8

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, September 7, 1982, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs 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)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to 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 N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: August 31, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1254-82 Filed 8-31-82; 3:18 pm]

BILLING CODE 6714-01-M

9

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, September 7, 1982, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors

requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 45,370—Central Savings Bank, New York, New York

Memorandum and Resolutions re: Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico; Banco Economias, San German, Puerto Rico; Banco Regional, Bayamon, Puerto Rico; and Banco de Ahorro de Puerto Rico, San Juan (Hato Rey), Puerto Rico

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with receivership and liquidation activities:

Morrison, Hecker, Curtis, Kuder & Parrish, Kansas City, Missouri, in connection with the liquidation of The Mission State Bank and Trust Company, Mission, Kansas.

Trubin, Sillcocks, Edelman & Knapp, New York, New York, in connection with the liquidation of The Greenwich Savings Bank, New York, New York.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications or requests approved by the Director or Associate Director of the Division and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Discussion Agenda:

Recommendation regarding a proposed collection of information from insured State nonmember commercial banks.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389–4425.

Dated: August 31, 1982.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–1255–82 Filed 8–31–82; 3:19 pm]

BILLING CODE 6714–01–M

10

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10 a.m., Wednesday, September 8, 1982.

PLACE: 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: August 31, 1982.

William W. Wiles,

Secretary of the Board.

[S–1249–82 Filed 8–31–82; 3:11 pm]

BILLING CODE 6210–01–M

11

FOREIGN CLAIMS SETTLEMENT COMMISSION

[FCSC Meeting Notice No. 4–82]

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Monday, September 13, 1982 at 10:30 a.m.

Redetermination decisions involving claims against the Government of the Czechoslovak Socialist Republic; claim for prisoner of war compensation.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 111 20th Street, NW., Room 409, Washington, D.C. 20579. Telephone (202) 653–6155.

Dated at Washington D.C. on August 30, 1982.

Judith H. Lock,

Administrative Officer.

[S–1256–82 Filed 8–31–82; 3:59 pm]

BILLING CODE 4410–01–M

12

POSTAL RATE COMMISSION

TIME AND DATE: 10 a.m., Wednesday, September 8, 1982.

PLACE: Conference Room, Room 500, 2000 L Street, N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Warshawsky and Company v. Postal Rate Commission and Board of Governors, USPS (Suit filed 3–26–82 in United States District Court for the Northern District of Illinois—Docket No. 82C1895).
2. Warshawsky and Company v. U.S. Postal Service—Docket No. C82–1.

Closed pursuant to 5 U.S.C. 552b(c)(10).

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, N.W., Washington, D.C. 20268, Telephone (202)254–5614.

[S–1246–82 Filed 8–31–82; 9:35 am]

BILLING CODE 7715–01–M

federal register

Thursday
September 2, 1982

Part II

Department of Transportation

Federal Aviation Administration

Ultralight Vehicles; Operating Requirements

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 103

[Docket No. 21631; New Part 103]

Ultralight Vehicles; Operating Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes rules governing the operation of ultralight vehicles in the United States. The rule defines ultralight vehicles in two categories: powered and unpowered. To be considered an ultralight vehicle, a hang glider must weigh less than 155 pounds; while a powered vehicle must weigh less than 254 pounds; is limited to 5 U.S. gallons of fuel; must have a maximum speed of not more than 55 knots; and must have a power-off stall speed of not more than 24 knots. Both powered and unpowered ultralight vehicles are limited to a single occupant. Those vehicles which exceed the above criteria will be considered aircraft for purposes of airworthiness certification and registration, and their operators will be subject to the same certification requirements as are aircraft operators. These rules for ultralight vehicles are needed to achieve an acceptable level of air safety by reducing potential conflict with other airspace users and to provide protection to persons and property on the ground.

The rule governs the operation of ultralight vehicles by specifying the airspace which requires prior authorization of Air Traffic Control (ATC), prohibiting operations over congested areas, and providing for operations during twilight hours with proper lighting. Right-of-way and minimum visibility rules are also established.

The FAA has chosen not to promulgate Federal regulations regarding pilot certification, vehicle certification, and vehicle registration, preferring that the ultralight community assume the initiative for the development of these important safety programs. The ultralight community is expected to take positive action to develop these programs in a timely manner and gain FAA approval for their implementation. Should this approach fail to meet FAA safety objectives, further regulatory action will be necessary.

EFFECTIVE DATE: October 4, 1982.

FOR FURTHER INFORMATION CONTACT:

Ken Peppard, Airspace and Air Traffic Rules Branch (AAT-220), Federal Aviation Administration, Washington, DC 20591, telephone (202) 426-3128, or

Gary Perkins, General Aviation Operations Branch (AFO-820), Federal Aviation Administration, Washington, DC 20591, telephone (202) 426-8194.

SUPPLEMENTARY INFORMATION:

Background

The FAA issued Advisory Circular No. 60-10, entitled "Recommended Safety Parameters for Operation of Hang Gliders" on May 16, 1974. That advisory circular contained recommended safety parameters for the operation of sport hang gliders, in lieu of formal Federal regulation. The advisory circular defined "hang glider" as "an unpowered, single place vehicle whose launch and landing capability depends on the legs of the occupant and whose ability to remain in flight is generated by natural air currents only."

The sport of hang gliding has advanced dramatically since Advisory Circular No. 60-10 was issued. There is now widespread use of powerplants, landing gear, and movable control surfaces to increase the speed, altitude, and distance capabilities of the vehicles. Many models have passenger-carrying capability. As a result of those developments, many hang gliding vehicles no longer fall within the scope envisioned by Advisory Circular No. 60-10. The addition of powerplants and controllable aerodynamic surfaces has created vehicles which can approximate the operational capabilities of fixed-wing and rotary-wing aircraft.

The increasing performance capabilities of these vehicles, and their greatly increased number, have created a potential hazard to other aircraft and operators, as well as to the ultralight operators themselves. As the result of aerodynamic improvements, many unpowered hang gliders are now capable of extended soaring to altitudes exceeding 10,000 feet above the point of launch and distances of over 100 miles. The powered hang gliders now have the capability of sustained flight above 10,000 feet and forward speed exceeding 50 knots. The operations of these vehicles are now a significant factor in aviation safety. The vehicles are routinely operated, without authorization, into regulated airspace, such as airport traffic areas, terminal control areas, positive control areas, and prohibited and restricted areas. Many operations have also taken place over congested areas and spectators and into adverse weather conditions in which operations may be conducted by pilots and aircraft which are qualified for instrument flight (IFR conditions). The midair collision potential presented by unauthorized operations is contrary to the FAA responsibility of ensuring the safety of all airspace operations including air carrier aircraft.

To illustrate the potential for hazardous situations that can arise, the FAA has recorded data detailing numerous instances of ultralight vehicles in controlled airspace causing near-miss situations with aircraft. The following examples highlight the problem:

(1) On March 24, 1981, an MU-2 flew between two ultralights operating off the end of the runway at Winter-Haven, Florida. Both ultralights were equipped with floats and were operating at night without lights.

(2) On April 11, 1981, a Western Airlines 727 captain reported a near-miss with an ultralight vehicle in the vicinity of Phoenix Sky Harbor Airport.

(3) In May of 1981, the pilot of a single engine aircraft reported a near-miss with an ultralight vehicle near Paso Robles, California. According to the report filed under the FAA Aviation Safety Reporting Program, the ultralight was operating at 7000 feet in IFR weather conditions. The airplane pilot, who was operating on an IFR flight plan, was forced to take evasive action to avoid a collision.

To establish regulations to deter flights which present a serious danger to aircraft and to provide a basis for necessary enforcement action, the FAA published Notice of Proposed Rulemaking No. 81-6 on July 27, 1981 (46 FR 38472). That notice proposed to include both powered and unpowered hang gliders under the generic term "ultralight vehicle" and included proposed weight and fuel limitations for those vehicles. The notice proposed a number of operational limitations for ultralight vehicles, while recognizing that the vehicles are used primarily for sport purposes. More than 2,500 persons and organizations submitted comments to that proposed rule. This rule is the result of FAA consideration of those comments in light of its responsibility for safety in the National Airspace System. Because of the growing significance of this segment of the aviation community, the new rules have been codified under a new part of the Federal Aviation Regulations, Part 103.

The Rule

Subpart A—General

Section 103.1 Applicability (proposed § 101.1(a)(3)).

This section defines the term "ultralight vehicle." The proposed rule would have limited the term to single-occupant designs weighing less than 155 pounds, with a fuel capacity of 15 pounds or less, and which had no U.S. or foreign airworthiness certificate. The final rule expands the definition to differentiate between powered and unpowered ultralight vehicles. The 155-pound weight limitation has been retained for unpowered designs and is the only criterion for those vehicles. Those ultralights equipped with powerplants must weigh less than 254 pounds empty weight. In addition, powered ultralight vehicles must have a fuel capacity not exceeding 5 U.S. gallons and be incapable of more than 55 knots calibrated airspeed at full power in level flight. The power-off stall speed of a powered ultralight must not exceed 24 knots calibrated airspeed.

The rule restricts both powered and unpowered vehicles to single occupants and requires that the aircraft be used exclusively for sport or recreational purposes.

The FAA estimates that nearly all unpowered vehicles currently on the market will fall within the definition of ultralight vehicle. The new criteria will exclude approximately 7% of the powered vehicle designs currently being marketed as ultralights, although many of those may be suitable for modifications to bring them within the scope of the definition.

Unpowered Ultralight Vehicles

A number of commenters, including the United States Hang Gliding Association (USHGA), object to the inclusion of "pure" hang gliders in the same definition as powered hang gliders. They raise the point that there are a number of distinctive operational differences between a pure hang glider and a powered vehicle which should be considered when assessing the necessity for regulations for these vehicles. The USHGA emphasizes its own self-regulation program and safety record.

The FAA recognizes that the measures taken by the USHGA to promote safety at USHGA launch sites have been effective, particularly those measures taken to protect the participants. However, the basic rationale for issuance of this rule is the safety of all users of national airspace, not just the ultralight operators. The great majority of hang gliding operations will not be affected by these regulations because, as a number of commenters indicate, they are usually conducted in rural or remote areas, at low altitudes, away from areas where safety of other persons in the air or on the ground is compromised. It is only in congested areas, airport traffic areas, and other areas frequented by aircraft involved in air commerce that these rules would restrict operations of unpowered ultralight vehicles.

The USHGA's self-regulation program lacks the legal authority to enforce requirements to ensure the safety of others. There is no requirement for any hang glider operator to be a member of the USHGA. Current hang glider publications have carried a number of articles describing hang glider operations which violate Part 91 regulations as well as the recommendations of Advisory Circular No. 60-10. Those descriptions have included operations near and into clouds, low-altitude operations over open-air assemblies of persons, and flights in close proximity to airports with large concentrations of airline and general aviation aircraft operations. Those potentially hazardous operations created the requirement for Federal regulatory limitations on hang gliders.

The proposed maximum weight restriction of less than 155 pounds was retained for unpowered ultralight vehicles to: (1) recognize the unpowered vehicles as a separate entity from those that are powered; and (2) ensure that the unpowered vehicles continue to meet essentially the same criteria that prevented their being classified as conventional gliders. Under this rule, those unpowered vehicles weighing 155 pounds or more must be certificated under the appropriate FAR's. No specific comments were received which objected to the 155-pound limitation on unpowered vehicles.

Powered Ultralight Vehicles

A large number of commenters request that the proposed maximum empty weight of 155 pounds be raised for powered ultralight vehicles. The suggestions range from 180 to 350 pounds. The reasons offered include greater structural integrity, more opportunity for design innovations, and the fact that many of the vehicles presently operated exhibit all of the other characteristics generally attributed to ultralights but weigh more than the proposed weight limit.

The FAA, by review of ultralight advertisements as of March 1982, has concluded that the empty weights of most of those vehicles range from 150 to 250 pounds. It was further concluded that the higher weights resulted from improvements which provide greater structural integrity, better stability, more positive controllability, and other safety-oriented additions which do not derogate the characteristics commonly associated with ultralight operations. Those characteristics are identified as low forward speeds, low wing loadings, low stall speeds, short takeoff and landing capability, and on enclosures around the pilot.

Some commenters suggest that limitations of 220 pounds or 330 pounds be adopted because they are "international standards." This is not correct. Canada, England, and Australia adopted 220 pounds as the maximum weight for a particular category of aircraft. In those countries, even if the weight limitation is met, the aircraft must be certificated and the pilots licensed. The 330-pound limit was established by the Federation Aeronautique Internationale for a category called "microlight aircraft." That category was established merely for the purpose of recording performance achievements of a particular group of aircraft.

The FAA agrees that the weight limitation for powered ultralight vehicles should be raised from the proposed 155 pounds. The 254-pound limitation was established because it closely corresponds to commenters' recommendations that the weight limitation be raised to at least 115 kilos, and because the vast majority of current vehicles on the market weigh less than 254 pounds. This weight does not include floats or safety devices intended for deployment in an emergency situation, e.g., parachutes and the harnesses and ballistic package necessary for deployment.

A large number of commenters recognize that, if the weight were raised, some restriction would have to be imposed to ensure that the characteristics associated with ultralights would be preserved. Those commenters include organizations such as the Experimental Aircraft Association (EAA), the Aircraft Owners and Pilots Association (AOPA), and the Professional Ultralight Manufacturers Association (PUMA).

The restrictions they propose range from simple wing loading values to complex aerodynamic formulas. They include maximum wing loading suggestions, minimum wing areas in relation to weight, maximum power capabilities in relation to weight, and calculations of launch mass. Some commenters suggest, and the FAA considered, that the pilot be required to

be exposed fully to the relative wind. This requirement was dropped to accommodate cold weather operations and to avoid stifling design and efficiency improvements within the parameters of an ultralight vehicle.

The maximum forward airspeed limitation was selected by the FAA because it is faster than almost all ultralight vehicles currently being sold but still places those vehicles in a significantly slower performance category than conventional aircraft. The determination and enforcement of this speed limitation is within the capability and resources of the FAA under the inspection requirements of the rule.

A number of commenters suggest maximum stall speed restrictions ranging from 18 to 25 miles per hour, believing that this limitation would continue to ensure the safe nature of ultralight vehicles. The FAA believes that the ability of those vehicles to operate from surfaces other than those designed for aircraft is a factor which lessens the potential for collisions and reduces the interference with aircraft operations. A relatively slow stall speed is a major contributing factor in allowing ultralight pilots to operate in a safe manner.

A maximum power-off stall speed of 24 knots was chosen because it encompasses most of the vehicles currently on the market. The stall is easily determined through a simple calculation using information which is readily available to the FAA inspector when inspecting a specific vehicle.

The total allowable fuel capacity was raised from the proposed 15 pounds to 5 U.S. gallons. The decision to increase the volume of fuel is a direct result of the desire by the FAA, in response to public comments, to ensure that adequate fuel reserves are available for safe flight.

Single Occupant

The rule limits both powered and unpowered ultralight vehicles to a single occupant. A few commenters suggest that two-seat versions be available for carrying passengers or for training purposes. The basis for allowing ultralight vehicles to operate under special rules which do not require pilot and aircraft certification is the "sport" aspect of the operation. For example, the assumption can be made that a person who elects, without pilot qualifications, to operate an uncertificated vehicle alone is fully aware of the risks involved. This assumption does not hold true of a passenger selected randomly from the general public. Persons in the general public will likely assume that the operator has certificated pilot qualifications. Because pilot qualifications are not controlled or monitored, the single-occupant requirement is a necessary component in the continuation of the policies which allow the operation of ultralight vehicles free from many of the restrictions imposed on aircraft. Persons wishing to operate two-place vehicles have the availability of existing provisions of the FAR's for conducting such operations.

Recreation or Sport Purposes Only

Recent activities and advertisements in ultralight-oriented publications (included in the docket) imply that commercial operations may be conducted by an uncertificated pilot in an ultralight which has not been certificated as an aircraft. Those types of operations are not allowed under the rule.

Several commenters suggest that ultralight vehicles be limited to sport or recreational purposes only. The position of the FAA had consistently been that these vehicles may be operated for sport and recreation purposes only. The justification for allowing the operation of these vehicles without requiring aircraft and pilot certification has been that this activity is a "sport" generally conducted away from concentrations of population and aircraft operations. Like any sport, the participants are viewed as taking personal risks which do not affect others not involved in the activity.

Section 103.3 Inspection requirements (proposed § 101.55).

This section ensures that FAA's authority to inspect ultralight vehicles for compliance with the limits specified in § 103.1 and is retained in the final rule as proposed in Notice No. 81-6.

A large number of commenters object to the inspection requirements, believing that considerable FAA manpower and resources would be required in this effort. The USHGA and its membership contributed a majority of the objecting comments, citing the remoteness of hang gliding sites as impractical for the FAA to monitor.

Given the current level of ultralight activity, the FAA is confident that enforcement of the provisions of Part 103 can be accomplished with the existing resources. As is the case today, many investigations of suspected violations are prompted by reports received from pilots, air traffic controllers, citizens, and other sources. The FAA foresees no appreciable increase in the number of these reports as a result of this rule.

Section 103.5 Waivers

In proposing to include ultralight operations under Part 101, ultralights would have been eligible for the waiver provisions applicable to all operations under that part. By removing the ultralight proposal from Part 101, the waiver eligibility for ultralights would have been lost. The FAA has concluded that the ultralight industry and the public would be best served by retention of waiver eligibility for these vehicles.

Thus, § 103.5 is added to the final rule, giving the ultralight operator the opportunity to apply for a certificate of waiver from any provisions of Part 103.

Section 103.7 Certification and registration

The intent of the FAA is to provide for safety in the national airspace with a minimum amount of regulation. Accordingly, those vehicles which meet the definition of "ultralight vehicle" will be exempt from FAA certification and registration requirements. Similarly, pilots of ultralight vehicles, as defined in this part, will not be required to possess FAA pilot certificates or airman medical certificates.

While this rule does not, at this time, require airman/aircraft certification or vehicle registration and is premised on the absolute minimum regulation necessary to ensure safety in the public interest, a continuation of burgeoning growth of the ultralight population could necessitate further regulation. The best practices and methods to preclude the need for further Federal regulation appear to at least include: self-regulation and self-policing, safety standards, membership in organizations and associations equipped to function and operate programs approved by the FAA, markings and identification of vehicles, programs including provisions similar to Federal Aviation Regulations relating to aircraft (both operation and airworthiness), etc.

FAA will continue to monitor performance of the ultralight community in terms of safety statistics, growth trends, and maturity and, if indicated, will take additional regulatory actions to preclude degradation of safety to the general public while allowing maximum freedom for ultralight operation. In summary, it should be emphasized that the individual ultralight operator's support and compliance with national self-regulation programs is essential to the FAA's continued policy of allowing industry self regulation in these areas.

Pilot Certification

A large number of commenters believe that there should be some requirement that pilots of ultralights be required to exhibit some knowledge and/or experience before being allowed to operate these vehicles. The suggestions range from no requirements to pilot certification under the requirements of Part 61. The general groupings of the comments are: (1) No certification; (2) required ground training on regulations and conventional aircraft operations; (3) required ground training and instructor sign-off for unsupervised solo operations; (4) successful passage of a written test, such as the FAA glider pilot written examination, (5) issuance of an Ultralight Pilot Certificate by the FAA based on satisfactory completion of an examination, and observed performance as the pilot of an ultralight; and (6) conforming to the certification requirements of Part 61 for student and private pilots.

The FAA endorses the ultralight community's efforts to develop and administer, under FAA guidelines, a national pilot certification program. At this time, however, pilots of ultralight vehicles are not required by Federal regulation to be certificated.

Aircraft Registration

Some commenters, primarily State and local governments, recommend that these vehicles be registered and be required to display their registration number. The reasons center around identification of any offenders. The FAA's experience in identification of offenders and processing enforcement action validates their recommendations. The FAA endorses the ultralight community's efforts to develop and maintain, under FAA guidelines, a national registration system which would be immediately accessible to the FAA. However, registration of ultralight vehicles will not be required by Federal regulation at this time.

Aircraft Certification

There are a small number of commenters who recommend additional Federal regulations requiring certification of ultralight vehicles to some design standards. The FAA has consistently refrained from the certification of these vehicles because they were operated by a single occupant for sport or recreational purposes. This policy is in accord with Federal regulatory policies regarding other sport activities. The pilots of these vehicles accept the responsibility for assuring their personal safety much as the driver of a moped street vehicle or a scuba diver does when engaged in his sport. The FAA has noted and commends the efforts of the USHGA to eatablish design standards and flight testing of new hang glider designs. The FAA endorses the development of similar standards and testing of new powered designs by the ultralight community. However, the FAA presently has no intent to require certification of these vehicles by Federal regulation.

Subpart B—Operating Rules

Section 103.9 Hazardous operations (proposed § 101.7).

This section prohibits any ultralight operator from engaging in activity which jeopardizes the safety of persons or property on the ground or in the air. The prohibition against hazardous flight or dropping of objects is common to the regulations pertaining to civil aircraft, and the FAA is addressing ultralight operations with equivalent stringency.

Section 103.11 Daylight operations (proposed § 101.43).

The proposed rule would have limited the operation of ultralights to the hours between official sunrise and official sunset. The limitation on daytime operations was retained with an added provision for twilight operations under certain conditions. Other night-time operations are not allowed.

A large number of commenters request that flight during the twilight periods of the day be allowed since those are prime times to conduct ultralight operations. They state that meteorological conditions are often best during those periods and are characterized by a lack of wind and turbulence. The AOPA believes that calm air is particularly important for the novice flyer and provides an increased safety factor, especially during training when confidence building is essential. Many commenters believe that the available light is generally adequate to allow operations during those periods and that other craft could be safely avoided.

There are some commenters who believe that operations in Alaska should be excluded from the daylight operations section. They allude to the uniqueness of their "normal" day and how ultralight operations would be adversely affected.

Several comments support the original proposal and do not want operations during the night-time hours. The primary concern centers around the difficulty in seeing these vehicles, especially at the higher altitudes, and the perceived inability of these operations to be conducted safely.

The FAA has observed ultralight operations during the twilight periods and has found the light available for such operations to be adequate in many instances. Operators were able to maneuver safely to avoid each other and also effect safe takeoffs and landings. Since most vehicles are operated at nearly the same altitude, they could be easily seen silhouetted against the lighted sky. Operations were conducted in relatively close proximity to each other, and each operator was readily aware of the others' presence. The mild weather conditions which generally prevailed during the twilight periods combined with the controllability and maneuverability of these vehicles to enhance the safety factor for flight.

The FAA is concerned, however, that unlimited operations of this type could pose a threat to aircraft which operate at higher speeds and higher altitudes. The number of potential encounters between aircraft and ultralights increases significantly as ultralights operate into areas normally traversed by certificated aircraft. Also, the ability of aircraft pilots descending into the lower altitudes to see ultralights would be minimal due to the darkened backdrop of the ground. Pilots would often not be aware of such operations taking place and could easily overrun an ultralight without ever having visual contact.

The FAA has adopted an alternative which provides an acceptable level of safety to aircraft while still allowing ultralights to operate in uncontrolled airspace during this period of the day. The FAA's conclusion on this issue is to disallow ultralight operations in controlled airspace during the period from sunset to sunrise. This affords aircraft operators the margin of safety to which they are entitled and, at the same time, leaves adequate airspace to the ultralight operator during a 30-minute twilight period.

The FAA has determined that the occasional aircraft operation in uncontrolled airspace during the twilight period should not entirely preclude ultralight operations. The visibility from above of ultralights operating at very low levels can be significantly enhanced by the addition of an anticollision light on these vehicles. Such a light would provide the descending aircraft pilot with a distinct indication of the ultralight's presence. Additionally, it would enable ultralight operators to better see and avoid each other.

For the purposes of ultralight operation, an anticollision light is defined as any flashing or stroboscopic device that is of sufficient intensity so

as to be visible for at least 3 statute miles. This regulatory approach does not impose on the ultralight owner the economic burden associated with a certificated lighting system. The ultralight must remain in uncontrolled airspace, and the anti-collision light must be operating during the twilight periods whenever the vehicle is in motion.

With respect to twilight operations in Alaska, the FAA recognizes that the periods of twilight are significantly different from those experienced in the lower latitudes. A review of the Air Almanac reveals that, in the upper latitudes, some days have no daylight periods but have over 4 hours of civil twilight. Civil twilight is defined as the period between official sunset and sunrise when the sun is less than 6 degrees below the horizon.

Regulations currently exist in Parts 91 and 101 which acknowledge the need to grant special allowances for operations in Alaska after sunset, and the FAA has determined that ultralights are entitled to the same consideration. Therefore, a provision to permit ultralight operations in Alaska during civil twilight has been added to § 103.11. The requirement to have an operating anticollision light during twilight operations is applicable to operations during this period in Alaska.

Section 103.13 Operations near aircraft and other ultralight vehicles; Right-of-way rules (proposed § 101.49).

The proposed regulations with respect to ultralight vehicle right-of-way are adopted. An additional provision is added to clarify the right-of-way requirements in situations involving powered and unpowered ultralight vehicles.

The comments regarding right-of-way range from those who believe that unpowered ultralight vehicles should have the right-of-way over all other vehicles and aircraft to those who believe that the requirements of § 91.67 should be adopted, with unpowered ultralights being grouped with gliders and the powered ultralights grouped with airplanes. The most salient reasons cited include lack of maneuvering ability and inability to change location in the air quickly.

The suggestions and associated rationale do not reveal any areas which has not been considered during the fomulation of the NPRM. The FAA has determined that uncertificated sport operations should not be given the right-of-way over all other aircraft. The small size and sport nature of the operations is a major factor in that determination. It is unlikely that the pilot of aircraft will be able to see the ultralight vehicle as readily as the pilot of the ultralight vehicle will be able to see or hear the large aircraft. Due to the forward speeds of the majority of aircraft, it may be impossible for the aircraft to make sudden changes of direction required to avoid small objects sighted at close quarters. The FAA recommends that operators engaged in ultralight operations avoid, if possible, areas where significant operations of aircraft are occurring so as to minimize the risk of midair collisions.

Some ultralight operators express concern that, if they are not given the right-of-way over aircraft, the pilots of those aircraft might deliberately fly in close proximity to the ultralights. In situations where this act can be substantiated, an investigation will be initiated to determine whether the pilot of the conventional aircraft operated in a careless or reckless manner in violation of § 91.9.

Some commenters recommend the establishment of areas where ultralight operations could be conducted and all aircraft operations would be prohibited. While the FAA has undertaken to identify locations on aeronautical charts where a specialized aeronautical activity, such as parachute jumping or gliding, is being conducted, no action is anticipated which would restrict other types of aeronautical activities in those areas and, similarly, no such action is contemplated for ultralights.

Section 103.15 Operations over congested areas (proposed § 101.47).

The proposed prohibition of ultralight vehicle operations over congested areas is retained in the final rule. The comments favoring an easing of the proposed rule focus on three main areas: (1) Those who favor permitting operations with a minimum altitude ranging from 1,000 to 3,000 feet AGL; (2) those requesting that the minimum altitude requirements of § 91.79 be allowed; and (3) those who believe that no minimum altitude should be specified, especially for unpowered vehicles, due to the short field landing ability and small size of the vehicles.

The representatives of cities and towns who commented generally favor the prohibition, believing that uncertificated aviation activities have no place over congested areas.

The FAA's position is based on the fact that ultralight vehicles are not certificated as airworthy by any approved method and are flown by uncertificated pilots for sport or recreational purposes only. Similar limitations apply to the operations of experimental and restricted category aircraft based on catastrophic incidents which have occurred in the past. The potential for such an incident makes the general issuance of the suggested authorization unacceptable. The FAA believes that concentrations of the general public must be protected from the possible dangers inherent in the operations of vehicles of uncertificated, possibly unproven designs. In specific limited instances, with appropriate operational limitations, ultralight operations may be approved over congested areas, through the waiver provisions of § 103.5.

Section 103.17 Operations in certain airspace (proposed § 101.45).

The NPRM proposed to require the ultralight operator to obtain authorization prior to operating within airport traffic areas, control zones, terminal control areas, and positive controlled airspace.

Operators of aircraft commented that the speed and visibility of ultralights are incompatible with other operations and that they should not be allowed at all in those areas. Some even suggest that a maximum operating altitude, such as 3,000 feet AGL, be imposed on all ultralight operations.

The FAA shares the concern expressed by pilots who are wary of the ability to intermix faster aircraft safely with the relatively slow ultralights; but, experience has shown that aircraft of significantly different performance characteristics can be accommodated when operations are conducted in accordance with specific authorizations. There is considerable precedence in the form of glider operations, hot air ballooning, and parachuting being conducted while aircraft safely transit the area. Historically, the greatest danger comes not from performance variables, but from operations unknown to the pilot or controller. The requirement to gain authorization before entering these airspace areas enhances the safety to all airspace users. The FAA has concluded that ultralight vehicles in compliance with the provisions of § 103.19 will be able to operate safely in those airspace areas.

Although the subject was not addressed in the NPRM, some commenters voice concern about ultralight operations conducted at or near uncontrolled airports, with many persons noting a need to develop standard operating procedures. The FAA agrees with the need to establish a compatible method of operation at uncontrolled airports but believes that the variables associated with each locality (terrain, runway configuration,

and the physical properties of the airport) combine in such a manner to preclude a generalized nationwide regulatory approach. The FAA has concluded that such operations could be handled much more efficiently by airport managers developing local procedures in concert with the ultralight community. In this way the available facilities can be used to the full extent while operational safety is maintained. Additionally, the interaction of the ultralight operators and the airport managers will serve as a basis for mutual understanding of the role this growing segment of aviation will play in the years ahead. The FAA encourages and supports efforts to reach such agreements and has been working with user groups in the development of guidelines for ultralight operations at uncontrolled airports.

Section 103.19 Operations in prohibited or restricted areas.

In the NPRM, requirements for operations of ultralights were included under the provisions of § 101.5.

In the final rule, the requirement for ultralight operators to obtain authorization prior to operating in prohibited or restricted areas is retained and restated under § 103.21.

Prohibited areas have been developed to provide for the safety and security of operations being conducted and to segregate activities, considered to be hazardous to nonparticipating aircraft. Such operations in these areas include military and presidential security, flight training and testing, experimental weapons testing, and the launch and recovery of rocket-powered vehicles.

Many commenters recognize the need to limit access to these operating areas and accept the requirement to obtain permission prior to operating in these areas. A few commenters believe that this restriction should not apply to them and that ultralight vehicles should be allowed to operate at their own risk.

The FAA has determined that allowing any aeronautical activity to enter prohibited or restricted areas without prior authorization would derogate the purpose for which these areas were established. Avoidance of such areas by ultralight operators is not viewed as imposing a significant burden on ultralight operations.

Section 103.21 Visual reference to the surface (proposed § 101.51).

NPRM No. 81-6 proposed that ultralight operators be required to maintain visual reference to the surface during all flight operations. This would ensure that the operator of an ultralight would have the opportunity to descend and land safely at any time without entering obscuring weather phenomena.

Many commenters support the proposal as reasonable and representative of normal ultralight operations. they recognize the possibility of being caught "on top" and the danger, both to themselves and to other airspace users, of trying to descend through a layer of clouds. A few commenters believe that visual reference to the surface is necessary only while climbing or descending and not while in level flight.

The FAA has determined that visual reference with the surface is necessary at all times. Experience with certificated aircraft has shown that many pilots, with fully instrumented aircraft, have been caught "on top" and have required assistance from Air Traffic Control to descend safely. Flying "on top" or between cloud layers often presents visual illusions which cannot be verified without instrumentation. The effect of these illusions is to disorient the airman spatially, with a resulting loss of control of the craft. It takes a well-trained and disciplined pilot to ignore what information the human senses are providing and rely on the instrumentation aboard the aircraft.

In the case of ultralights, there is relatively little, if any, instrumentation with which to confirm the flight attitude of the vehicle. Further, if the ultralight operator should get caught "on top," there is no alternative available but to descend unannounced through the clouds. The ultralight operator would be risking not only his own life, but the lives of persons who rely on the safeguards inherent in certificated aviation.

The FAA has determined that inclusion in the final rule of the requirement to maintain visual reference with the surface is necessary to reduce the potential for collisions and insure the safe operation of ultralight vehicles.

Section 103.23 Flight visibility and cloud clearance requirements (proposed § 101.53).

The flight visibility and cloud clearance requirements proposed in the NPRM are the same as those under § 91.105, the basic minima for VFR flight operations by fixed-wing aircraft. Since ultralight vehicles will be sharing the same airspace, the FAA has determined it is practical to apply the same operating minima.

Many commenters to this proposal are receptive to the similarity in visibility requirements for all airspace users. Many ultralight operators indicate an appreciation for the inherent safety in being able to see and avoid obstructions and other aeronautical activities. Establishment of specific visibility standards is viewed as enhancing the legitimacy and utility of ultralight operations.

Some commenters believed that the distance from clouds should be reduced to "clear of clouds." Their basis for such a change centers around the difficulty in determining actual distances from clouds.

Other commenters suggest that hang gliders be allowed to continue their practice of operating near and in the base of clouds. Their rationale is based on the added lift available from being in close proximity to cumulus clouds. Some hang glider operators fear that the restriction on in-cloud operations would eliminate their ability to vie for long-distance and high-altitude records.

The FAA cannot support the operation of ultralights in or near clouds. A specific distance from clouds is required when operating in controlled airspace, primarily due to the presence of aircraft conducting instrument flight operations through the clouds. The cloud clearance requirements serve as a practical buffer to reduce the possibility of having an aircraft exit the clouds on an unalterable collision course. Operating too close to clouds does, in effect, cause a blind side in the aviator's vision. Operation in and near clouds severely restricts the ultralight operator's ability to see and avoid, an ability that is paramount in allowing ultralight operations to take place.

In maintaining a safe distance from clouds, the FAA has concluded that ultralight operators can reasonably approximate, when operations are being conducted, the required distance from clouds. Experience with other segments of aviation has shown that it is readily apparent that, when operations approach an unsafe distance from clouds and adherence to the prescribed minimum distance determination becomes relatively easy. Therefore, retention of the flight visibility and clouds clearance requirements, as proposed, is essential for maintaining airspace safety.

List of Subjects in 14 CFR Part 103

Aviation safety, Ultralight vehicles.

Adoption of the Amendment

Accordingly, the Federal Aviation Regulations (14 CFR Chapter I) are amended, effective October 4, 1982, by adding to Subchapter F (14 CFR Chapter I) a new Part 103 as follows:

PART 103—ULTRALIGHT VEHICLES

Subpart A—General

Sec.
103.1 Applicability.
103.3 Inspection requirements.
103.5 Waivers.
103.7 Certification and registration.

Subpart B—Operating Rules

103.9 Hazardous operations.
103.11 Daylight operations.
103.13 Operation near aircraft; right-of-way rules.
103.15 Operations over congested areas.
103.17 Operations in certain airspace.
103.19 Operations in prohibited or restricted areas.
103.21 Visual reference to the surface.
103.23 Flight visibility and cloud clearance requirements.

Authority: Secs. 307, 313(a), 601(a), 602, and 603, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421(a), 1422, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)

Subpart A—General

§ 103.1 Applicability.

This part prescribes rules governing the operation of ultralight vehicles in the United States. For the purposes of this part, an ultralight vehicle is a vehicle that:

(a) Is used or intended to be used for manned operation in the air by a single occupant;

(b) Is used or intended to be used for recreation or sport purposes only;

(c) Does not have any U.S. or foreign airworthiness certificate; and

(d) If unpowered, weighs less than 155 pounds; or

(e) If powered:

(1) Weighs less than 254 pounds empty weight, excluding floats and safety devices which are intended for deployment in a potentially catastrophic situation;

(2) Has a fuel capacity not exceeding 5 U.S. gallons;

(3) Is not capable of more than 55 knots calibrated airspeed at full power in level flight; and

(4) Has a power-off stall speed which does not exceed 24 knots calibrated airspeed.

§ 103.3 Inspection requirements.

(a) Any person operating an ultralight vehicle under this part shall, upon request, allow the Administrator, or his designee, to inspect the vehicle to determine the applicability of this part.

(b) The pilot or operator of an ultralight vehicle must, upon request of the Administrator, furnish satisfactory evidence that the vehicle is subject only to the provisions of this part.

§ 103.5 Waivers.

No person may conduct operations that require a deviation from this part except under a written waiver issued by the Administrator.

§ 103.7 Certification and registration.

(a) Notwithstanding any other section pertaining to certification of aircraft or their parts or equipment, ultralight vehicles and their component parts and equipment are not required to meet the airworthiness certification standards specified for aircraft or to have certificates of airworthiness.

(b) Notwithstanding any other section pertaining to airman certification, operators of ultralight vehicles are not required to meet any aeronautical knowledge, age, or experience requirements to operate those vehicles or to have airman or medical certificates.

(c) Notwithstanding any other section pertaining to registration and marking of aircraft, ultralight vehicles are not required to be registered or to bear markings of any type.

Subpart B—Operating Rules

§ 103.9 Hazardous operations.

(a) No person may operate any ultralight vehicle in a manner that creates a hazard to other persons or property.

(b) No person may allow an object to be dropped from an ultralight vehicle if such action creates a hazard to other persons or property.

§ 103.11 Daylight operations.

(a) No person may operate an ultralight vehicle except between the hours of sunrise and sunset.

(b) Notwithstanding paragraph (a) of this section, ultralight vehicles may be operated during the twilight periods 30 minutes before official sunrise and 30 minutes after official sunset or, in Alaska, during the period of civil twilight as defined in the Air Almanac, if:

(1) The vehicle is equipped with an operating anticollision light visible for at least 3 statute miles; and

(2) All operations are conducted in uncontrolled airspace.

§ 103.13 Operation near aircraft; Right-of-way rules.

(a) Each person operating an ultralight vehicle shall maintain vigilance so as to see and avoid aircraft and shall yield the right-of-way to all aircraft.

(b) No person may operate an ultralight vehicle in a manner that creates a collision hazard with respect to any aircraft.

(c) Powered ultralights shall yield the right-of-way to unpowered ultralights.

§ 103.15 Operations over congested areas.

No person may operate an ultralight vehicle over any congested area of a city, town, or settlement, or over any open air assembly of persons.

§ 103.17 Operations in certain airspace.

No person may operate an ultralight vehicle within an airport traffic area, control zone, terminal control area, or positive control area unless that person has prior authorization from the air traffic control facility having jurisdiction over that airspace.

§ 103.19 Operations in prohibited or restricted areas.

No person may operate an ultralight vehicle in prohibited or restricted areas unless that person has permission from the using or controlling agency, as appropriate.

§ 103.21 Visual reference with the surface.

No person may operate an ultralight vehicle except by visual reference with the surface.

§ 103.23 Flight visibility and cloud clearance requirements.

No person may operate an ultralight vehicle when the flight visibility or distance from clouds is less than that in the following table, as appropriate:

Flight altitudes	Minimum flight visibility [1]	Minimum distance from clouds
1,200 feet or less above the surface regardless of MSL altitude:		
(1) Within controlled airspace	3	500 feet below, 1,000 feet above, 2,000 feet horizontal.
(2) Outside controlled airspace	1	Clear of clouds.
More than 1,200 feet above the surface but less than 10,000 feet MSL:		
(1) Within controlled airspace	3	500 feet below, 1,000 feet above, 2,000 feet horizontal.
(2) Outside controlled airspace	1	500 feet below, 1,000 feet above, 2,000 feet horizontal.
More than 1,200 feet above the surface and at or above 10,000 feet MSL.	5	1,000 feet below, 1,000 feet above, 1 statute mile horizontal.

[1] Statute miles.

Note.—The FAA has determined that this regulation is not a major rule under Executive Order 12291. Because the rule will regulate a new user segment and because of substantial public interest, it has been determined that it is a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). The total projected costs of this rule may be found in a copy of the regulatory evaluation contained in the public docket. A copy of that evaluation may be obtained by contacting the person identified above under the caption "**FOR FURTHER INFORMATION CONTACT.**" It is certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities. There are very few small entities involved in ultralight vehicle activities and the majority of those will be unaffected by the implementation of this rule.

Issued in Washington, DC, on July 30, 1982.

J. Lynn Helms,

Administrator.

[FR Doc. 82-23936 Filed 8-27-82; 1:02 pm]

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federal register

Thursday
September 2, 1982

Part III

Environmental Protection Agency

Health and Safety Data Reporting; Submission of Lists and Copies of Health and Safety Studies

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 716

[OPTS-84003A; TSH-FRL 2112-2]

Health and Safety Data Reporting; Submission of Lists and Copies of Health and Safety Studies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule requires the submission of unpublished health and safety studies on specifically listed chemicals by chemical manufacturers, processors, and others in possession of such studies. The rule is issued under section 8(d) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2607(d). The Administrator will issue amendments in the **Federal Register** to add to the list of chemicals subject to the rule. Amendments to add chemicals recommended for testing by the Interagency Testing Committee (ITC), established under section 4 of TSCA, will be effective upon publication. Amendments to add other chemicals will be subject to a thirty-day comment period. This notice promulgates the final version of regulations proposed on December 31, 1979 at 44 FR 77470.

EFFECTIVE DATE: October 4, 1982.

FOR FURTHER INFORMATION CONTACT: Douglas Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M Street, SW., Washington, DC 20460; toll free (800-424-9065); in Washington, DC (554-1404); outside the USA (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: OMB Control Number: 2070-0004.

Background

In the **Federal Register** of July 18, 1978 (43 FR 30984), EPA promulgated a previous version of this rule under section 8(d) of TSCA (43 FR 30984) requiring reporting of studies of chemicals listed on the first ITC report. That rule was challenged by the Dow Chemical Company and was subsequently revoked (see 44 FR 77470). Two provisions of that rule were the subject of a lawsuit, *Dow Chemical Company* v. *EPA*, 605 F.2d 673 (1979). The two provisions concerned obtaining studies on chemicals manufactured or processed for research and development purposes and obtaining copies of studies on a chemical from companies that do not manufacture, process or distribute that chemical. The Court upheld EPA's authority for both provisions.

Purpose and Use of the Rule

Under this rule, EPA will acquire unpublished health and safety studies on specified chemicals from manufacturers and processors of the chemicals. The Agency will use the studies to support its investigations of the risks posed by chemicals and, in particular, to support its decisions whether to require industry to test chemicals under section 4 of TSCA. The addition of chemicals to the rule will occur by notice of amendment in the **Federal Register.** In the case of chemicals recommended for testing by the ITC, the amendment will be effective thirty days after publication. For other chemicals, the amendment will be subject to a thirty-day public comment period before promulgation.

Studies of health and environmental effects, including studies of exposures of people or the environment, are the fundamental ingredients of any assessment of chemical risk. For this reason, EPA will require reporting under this rule for specific chemicals that are under investigation either in early stages of risk assessment or when action to control exposure is being considered. Furthermore, EPA expects to require submission of unpublished health and safety studies for all chemicals under consideration for required testing under section 4 of TSCA. EPA will evaluate the studies reported under this rule together with other available data to construct a picture of the effects of chemicals and their associated risks.

The studies submitted under the previously issued section 8(d) rule (43 FR 30984, July 18, 1978), have been very useful in the Agency's investigation of the effects of the ITC-recommended chemicals covered by that rule. The studies have been used in designing appropriate tests, and in support of the basic decision whether testing for a particular biological effect should be carried out. For example, studies submitted on chlorinated benzenes contributed significantly to EPA's design of a testing scheme for mutagenicity. The Agency, itself, will conduct these tests. Similarly, studies submitted on monochlorobenzene supported our decisions on the need for testing of the reproductive effects of that substance. These are examples of two important contributions that submitted studies can make to testing decisions.

Overview of Rule Requirements

Extensive comment was received on the question of what records a company should search to comply with this rule. The proposal spoke of information "known to" or in the "possession" of respondents. The definitions given for these terms were broad, and comments indicated that, under these definitions, companies would feel obliged to search many more records than we believe necessary. We have decided to replace the definitions with a description of the scope of a search that will be adequate for this rule. The rule now says that respondents are responsible for searching only the company files in which they ordinarily keep studies and the records kept by employees whose assigned duty is to advise the company on health and environmental effects of chemicals. Moreover, for all compliance purposes, respondents need not consult any records that they retired prior to December 31, 1979, the date on which this rule was proposed.

The rule has two basic requirements: Submission of copies of studies in the possession of persons subject to the rule and submission of lists of studies ongoing at the time of submission or known to but not possessed by the submitter. Persons who are manufacturing or processing a chemical at the time it is listed in the rule, or are proposing to do so, are required to submit both copies and lists of studies for that chemcial. EPA decided to exempt distributors from reporting, because we believe that very few distributors perform these studies and that the burden to these persons outweighs making them subject to the rule. An examination of the respondents to the previous section 8(d) rule revealed that no distributors submitted studies. These reporting requirements remain applicable until the sunset date for the chemical (three years after the chemical is made subject to the rule) to cover studies begun during that period, and to cover persons who begin, or are proposing to begin, manufacturing or processing a listed chemical during that period.

Persons who are not involved with a chemical when it is listed but manufactured or processed it or proposed to do so any time during the ten years prior to the time it is listed, are required to submit copies of studies for that chemical, but are not required to list studies.

Since the proposal, changes have been made regarding the types of studies that must be submitted. Several types have been exempted. The final requirements represent the Agency's effort to reduce the burden of the rule while still obtaining the most useful studies for our assessments. EPA received many good comments that allowed the Agency to

identify the studies that were most burdensome to submit and least useful for its assessments. Therefore, the Agency has added to the exemptions originally proposed. The final rule has the following overall exemptions: (1) Physical and chemical properties other than ten that are specifically listed; (2) studies of a substance or mixture that a person has manufactured or processed, or proposed to manufacture or process as an impurity; (3) published studies; (4) non-confidential studies submitted previously to another Federal agency; (5) all studies previously submitted to EPA (this includes studies voluntarily submitted during section 4 proceedings or under the previous section 8(d) rule); (6) studies of chemical substances which are not on the TSCA Chemical Substance Inventory, i.e., research and development studies on new chemical substances, and (7) underlying data such as medical records, monitoring data, and lab notebooks (unless the EPA requests the data later, by personal letter). In addition, certain types of studies of mixtures are exempted as stated below.

In summary, the reportable studies are: (1) Studies of listed chemicals with the seven exclusions noted above; and (2) studies of mixtures containing listed chemicals with the seven exclusions noted above and also excluding: acute oral toxicity studies, acute dermal toxicity studies, acute inhalation toxicity studies, primary eye irritation studies, primary dermal irritation studies, and physical and chemical properties.

Organization of This Preamble

EPA received more than 100 responses to the proposed rule, each containing multiple comments. Several aspects of the rule received numerous comments; other aspects, only one or a few. In this preamble, the Agency discusses the major comment areas: specific definitions; chemical substances subject to the rule; lists and copies to be submitted and who should submit them; studies not subject to mandatory reporting; file search; reporting schedule and sunset provision; confidentiality; and economic impact. The subjects that received only one or a few comments are individually discussed in a document entitled "General Comments on the Proposed Section 8(d) Rule" which is part of the public record.

I. Specific Definitions

A. Manufacture and Process for Commercial Purposes

EPA interprets the term "manufacture or process for commercial purposes" to refer to such activities conducted, in whole or in part, for the purpose of obtaining a commercial advantage for the manufacturer or processor as distinguished from charitable or academic purposes. Therefore, chemicals manufactured for product research and development (R & D), as well as byproducts and impurities of commercial manufacturing and processing, are "for commercial purposes."

EPA received comments saying that the Agency's interpretation is wrong because these substances themselves are not actually marketed, and, in the case of byproducts and impurities, are not desired for the market. However, the Agency considers it undeniable that products of commercial endeavors are made for commercial purposes. Moreover, the reason that section 8 of TSCA exists is to give the Agency access to information from which it can assess the nature and significance of chemical hazards and risks. TSCA is intended to address these hazards and risks to health or the environment whether or not the chemicals are desired commercial products.

The commenters thought that the Inventory Rule exempted reporting of byproducts, impurities, and R & D chemicals because they were not considered to be "for commercial purposes." On the contrary, this section 8(d) rule is completely consistent with the Inventory rule, both rules define these chemicals as "for commercial purposes." The Inventory Rule exempted such substances only because they were not appropriate for inclusion in the Inventory. In this final rule the Agency has limited the potential reach of this interpretation. A description of the applicability of the rule to impurities, byproducts, and R & D chemicals follows.

(1) *Impurities.* Under this rule, EPA has excluded from reporting any studies of chemicals that the person reporting has manufactured or processed or has proposed to manufacture or process only as impurities.

Since the chemicals presently listed in the rule are marketed most widely as desirable products, rather than as impurities, EPA expects that the excluded studies will be so few as not to justify the burden of searching for them. However, in other circumstances, the Agency may propose to require the excluded studies to be reported for some chemicals.

(2) *Byproducts.* It should be noted that the definition of "manufacture for commercial purposes" includes only byproduct substances and mixtures that are separated from the other substance or mixture that is being manufactured, processed, used, or disposed of. Other substances that are produced as byproducts, but not separated from the product, are impurities of the product and are thus not covered in the present rule.

This rule requires manufacturers of these separated byproducts to report studies on them and on mixtures containing them. Thus, persons who manufacture a listed chemical as a known byproduct that they separate during manufacture, processing, use, or disposal of another chemical must report studies on the known byproduct. EPA equates these studies with studies of the same chemicals as desired products. The studies will be just as telling on the effects of the chemicals.

(3) *R & D Chemicals.* The Third Circuit has upheld EPA in its view that substances manufactured for R & D purposes are manufactured for commercial purposes, *Dow* v. *EPA*, 605 F. 2d 673 (3rd Cir. 1979). EPA discussed the importance of these studies in the preamble to the proposed rule and continue to regard them as important resources in investigating the effects and risks associated with substances. However, to minimize the burden of this requirement, EPA has exempted persons from reporting studies on chemical substances that are not on the TSCA Chemical Substances Inventory, e.g., new chemical substances. When a premanufacture notice (PMN) is submitted on a new substance, any health and safety data on the substance would be submitted.

B. Propose to Manufacture, Process, or Distribute

"Propose to manufacture, process, or distribute" is defined in this rule to mean that a person has made a management decision to commit financial resources toward the manufacture, processing, or distribution of a chemical substance or mixture. A company could commit financial resources by, for example, hiring additional personnel, commissioning a construction engineering plan, purchasing land to construct manufacturing or processing facilities, purchasing production equipment, or contracting for raw materials.

One commenter stated that EPA should exempt persons that propose to manufacture, process, or distribute the listed substances because they would not have many studies. EPA has not adopted this suggestion. Valuable studies might be missed if these persons are exempted. The Agency would be particularly interested in the results of a

study which prompted a decision not to manufacture, process, or distribute a substance.

Some commenters felt that the proposed definition covered actions too early in a company's deliberations and that "propose to" should not hinge on a management decision to commit resources toward manufacture, but should require an actual management decision to manufacture the chemical, e.g., building a plant. The Agency recognizes that there are many individual decisions made prior to actual manufacture. Building a plant, for instance, only moves a person toward the manufacture of a chemical. Until the substance is actually manufactured, all the actions management might make only move the company toward manufacture of the substance. These actions are considered here as "proposed" manufacture.

Other commenters asserted that the meaning of "propose" is clear in the premanufacture notification provisions of section 5 where the requirement is to submit the notice at least ninety days before production. EPA disagrees. Section 5 requires a notice when a person "intends" to manufacture a new chemical substance, not when he "proposes" to manufacture. When a person is ready to submit a section 5 notice, he is beyond the initial stage in which he "proposes" to manufacture for purposes of section 8.

The Agency has not changed the definition. The Agency believes it is as specific as a definition of such a concept can be, given the variability of businesses covered.

C. Health and Safety Study

Many commenters argued that some of the examples of health and safety studies given in the proposed definition are not "studies" in their view. They argued that only studies designed to provide a direct measure of effects on human health or the environment should be included. They cited two kinds of studies they would exclude as not being direct measures.

One kind was measurement of a chemical's concentration in the workplace or environment. Another kind was measurements of properties of chemicals, such as: biological, photochemical, and chemical degradation; air, water, and soil transport; and water solubility, vapor pressure, and octanol/water partition coefficient.

The Agency disagrees with this narrow view. The legislative history of TSCA indicates that Congress expects the Agency to collect a broad range of information relevant to health and environmental effects.

It is intended that the term (health and safety studies) be interpreted broadly. Not only is information which arises as a result of a formal, disciplined study included, but other information relating to the effects of a chemical substance or mixture on health and the environment is also included. Any data which bears on the effects of a chemical substance on health or the environment would be included. H.R. Rep. No. 94-179, 94th Cong., 2nd Sess. 58 (1976) (Conference Report).

All of the data EPA will obtain under this rule, bear on the effects of chemical substances on health or the environment.

When measurements of a chemical's concentration have been analyzed to draw conclusions about occupational or environmental exposure, a "health and safety study" has been done. Similarly, determinations of physical and chemical properties that relate to a chemical's potential for affecting health or the environment are "health and safety studies."

(1) *Measures of concentration.* The final rule requires the submission of analyzed aggregates of measurements monitoring concentrations of a chemical in the workplace or environment. These are limited to analyses of data gathered within five years of the effective date for reporting on the chemical. These studies bear significantly on the effects of a chemical on health or the environment. For instance, if the Agency knows that a chemical never reaches the environment, it would know that it will not have an effect on the environment.

Some of the concerns commenters had about submitting monitoring data were because they understood the proposal to say that all underlying data were to be initially submitted. This would have meant submitting a very large amount of material. As explained below, underlying data are not to be initially submitted.

(2) *Properties of chemicals.* The final rule requires reporting on studies of ten properties when those studies are for the purpose of determining the environmental or biological fate of the substance: (a) Water solubility; (b) adsorption/desorption on particulate surfaces (e.g., soil); (c) vapor pressure; (d) octanol/water partition coefficient; (e) density/relative density (specific gravity); (f) particle size distribution for insoluble solids; (g) dissociation constant; (h) degradation by photochemical mechanisms—aquatic and atmospheric; (i) degradation by chemical mechanisms—hydrolytic, reductive, and oxidative; and (j) degradation by biological mechanisms—aerobic and anaerobic.

These properties of a chemical are very important elements to consider in assessing its potential biological effects. For example, water solubility and partition coefficient bear on the question of whether a chemical could become deposited in body fat tissues. For another example, all of the properties are informative on the questions of whether a chemical released into the environment would remain for a long time and be transported over a large area.

EPA decided to narrow the requirements for submitting properties in an effort to reduce the reporting burden. There are other properties that are very useful, but the Agency focused on these ten properties as being particularly informative, individually and together.

Determinations of physical and chemical properties, together with the other studies, will give a picture of the chemical's exposure and effects which will permit effective evaluation of potential risks. An evaluation of the environmental fate of a chemical, which is based on physical and chemical properties, that may be released to the envirionment is of critical importance. It is possible that a highly toxic, easily degradable substance will be less an object of concern than a less toxic, persistent chemical. Recent technical reports have indicated the importance of environmental fate testing.

For chemicals that are likely to be released to the environment, environmental fate testing is equally as important as biological effects testing. For many chemicals, adverse biological effects were discovered following extensive testing undertaken only after the discovery of widespread environmental contamination. (See Howard, P. H., et. al, Environmental Science and Technology, 12(4), 407 (1978)).

Determining the fate of a chemical substance in the environment and, thus, its effects, may involve investigating the nature of dispersal and ultimate distribution, and the types and rates of reactions in which the chemical participates during transport. Fate determinations help to identify the chemical form(s), the environmental compartments or concentration ranges to which the environment will be exposed, and the organisms exposed to the chemical. (See 45 FR 77332, (proposed environmental test standards) for a further discussion of the importance of physical and chemical properties in determining the environmental effects of chemicals.)

(3) *Underlying data.* Data such as individual monitoring records or employee medical records that may underlie an epidemiological or exposure study are not required to be submitted as initial reports under the rule. EPA may request these and other underlying data such as lab notebooks as a follow up to its examination of a study. The Agency does not anticipate making such requests very frequently. It will do so when a question of interpretation arises (such as when the Agency has studies whose results appear to conflict) and an examination of the underlying data may clarify the problem.

D. Known to and Possession

As previously discussed, the Agency has decided to delete definitions of "known to" and "possession" and, instead, describe the kind of file search that will suffice for compliance with this rule. From comments received on the proposed definitions, it is apparent that the definitional approach to delineating a responsibility to search for studies is too indirect. The matter is discussed further under the preamble section titled "File Search."

II. Chemical Substances Subject to the Rule

Section 716.17 of the rule contains a list of chemical substances subject to the rule. A subsection of § 716.17 is reserved for future listing of designated mixtures subject to the rule.

The majority of the chemicals presently listed are ones for which the ITC has recommended that EPA propose testing rules. It is important that EPA review unpublished studies on these chemicals to avoid unknowingly proposing testing under section 4 that may already have been done, and to base judgments about testing on as full an overview of existing information as practicable. The goal is to focus proposals for testing as efficiently as present knowledge will permit.

The list in § 716.17 contains two groups of chemicals. One group consists of the chemicals recommended by the ITC for testing. The other group of chemicals includes the asbestiform varieties of chrysotile, crocidolite, amosite, anthophyllite, tremolite, and actinolite, i.e., asbestos, which is being considered for control.

The bisazobiphenyl (BAB) dyes were recommended for testing, and are the subject of a broader Federal effort. Assessment actions are underway at CPSC and OSHA. In addition, the BAB dyes are being tested by CPSC (skin absorption) and at the National Center for Toxicological Research (metabolism studies).

Several chemicals in the proposed list have been removed in the final rule. A subset of one category of chemicals, listed in the proposal as "organotins" (selected by EPA) was subsequently recommended for testing by the ITC, 45 FR 78432 (November 25, 1980). The ITC had recommended the subset "alkyltins." However, the ITC has subsequently removed this category from the section 4(a) Priority List for reconsideration (47 FR 5459). EPA has deferred reporting on these and the other organotins for a later proposal. Another category of chemicals, acrylic acid and methylacrylic acid and their esters, has been removed from the rule. EPA will propose the category in a future iteration of this rule after it has better defined the category. Dioxin and related substances have also been removed from the rule. Since proposing their inclusion in this rule, the Agency has carried out administrative proceedings dealing with dioxin issues which have covered the ground that would have been covered by having the chemicals reported under this rule. Other chemicals removed from the rule include acrylonitrile, alphachlorotoluene, benzene, benzene (epoxyethyl), chlorendic anhydride, chlorodifluoromethane, 1,2-dichloroethane, 2-chloro-1,3-butadiene, ethyl benzene, iodomethane (methyl iodide), morpholine, nitrosodiethanolamine, 2-nitropropane, and vinylbenzene (styrene). These chemicals were removed for a number of reasons. Some (e.g., benzene, styrene) were the subject of earlier section 8(e) submissions and have since been referred to other EPA program offices or Federal agencies for study. The remainder were under early stages of assessment when they were added to the proposed rule. In the intervening time, however, the Agency has brought some of these assessments to near completion, e.g., 2-nitropropane.

Several comments argued that EPA did not provide adequate public notice and opportunity for comment because the Agency did not state in its proposal a reasoned explanation of how or why each particular chemical was selected. These comments said that the Agency must, for each chemical, show that the information to be reported will contribute to articulated regulatory objectives. In particular, they stated that EPA must show why it believes that each chemical might pose a risk to health or the environment and why published studies provide insufficient information for conducting a risk assessment, evaluating the need for testing, or considering other regulatory options. These comments also claimed the Agency must show for each chemical subject to the rule that the information requested is not available from other sources.

EPA believes it has justified, to the extent required by section 8(d), the need for reporting on the chemicals subject to the final rule. The Agency disagrees with the comments on the level of detail required to justify reporting. The comments would require that the Agency prepare an extensive chemical specific determination that would require a search of the entire scientific literature and all available sources and a complete hazard analysis of the chemical. Thus, according to the comments, section 8(d) could be used only to obtain information as a last resort. This is contrary to the intent of TSCA. There is nothing in the language or legislative history of the Act to indicate that section 8(d) is to be used in such a manner. On the contrary, section 8(d) is meant to reveal information early in the investigation phase. (See Report of the Senate Committee on Commerce, S. Rep. No. 698, 94th Cong., 2d Sess. 8 (1976).)

TSCA requires the Agency to provide only a general explanation of its concern before requesting unpublished studies on a chemical under section 8(d). Sufficient justification is provided if the chemical is recommended for testing by the Interagency Testing Committee or if EPA staff judges that further data on the chemical are needed for assessment. EPA should not ignore the possibility of obtaining data under section 8(d) when a chemical is under evaluation by the Agency staff.

EPA particularly disagrees that it must show during a section 8(d) proceeding that a chemical may present a risk. Congress could not have intended the Agency to make a risk finding under a section of the statute that is designed to reveal the hazards of a chemical.

As to the comment that EPA must indicate for each chemical that information required by this rule cannot be obtained from other sources, the final rule in fact accommodates this comment by excluding from rule requirements any studies available from sources to which EPA has access—published studies and studies submitted to other Federal agencies without confidentiality claims. The studies subject to the rule are those not otherwise available to the Agency.

Several comments argue that to provide adequate public notice and opportunity for comment EPA must in the proposed rule state for each chemical subject to section 8(d) that the information requested is not more detailed or extensive than necessary,

and will not burden more persons than necessary with reporting obligations.

EPA concurs that as a matter of sound policy these factors should be considered by the Agency for this section 8(d) rule, but disagrees that it can prepare detailed assessments of these factors at the time it proposes a section 8(d) rule. In fact, EPA has proposed this rule to solicit from the companies that obtain commercial advantage from the subject chemicals comments on whether reporting on their particular chemicals will be unnecessarily burdensome. These companies have or should have the knowledge to enable the Agency to make this decision. Indeed, the Agency has, in response to comments, eliminated some types of studies and some chemicals that were originally part of the proposal.

Many comments objected to the Agency's automatically making subject to the rule chemicals recommended for testing by the ITC. These comments claim that recommendation for testing by the ITC is not sufficient to justify an automatic reporting requirement. They argue that EPA must allow the public to present reasons why unpublished studies should not be collected in order to avoid imposing unnecessary or overly burdensome reporting requirements. The comments stated the following examples of situations in which the public should be able to comment on EPA's decision to obtain studies under this rule for ITC chemicals; EPA may be able to obtain unpublished studies on a voluntary basis; EPA may be able to make a decision to proceed with or abandon testing on the basis of information in hand; EPA and the public may need to consider whether studies should be submitted on effects in addition to those of concern to the ITC; the ITC may have overlooked a crucial study in the literature; voluntary testing may have been initiated or all manufacture and processing may have ceased.

EPA does not find this reasoning persuasive. Within one year after the ITC recommends a chemical for testing, the Agency must initiate a rulemaking proceeding to require testing under section 4 of TSCA or publish its reasons for not initiating such a proceeding. Because it has such a short period of time to make this decision, the Agency must proceed as rapidly as possible to gather available data on a chemical.

To decide whether to propose a test rule within one year, the Agency needs to be able to complete its assessment of the known health and environmental effects of a chemical no later than the first four to five months after the ITC recommendation. If studies are reported automatically under this rule, the Agency will receive them by the end of the fourth month. On the other hand, if the chemicals were proposed for comment, an additional two to three months would be required to give time for the comment period, EPA writing of responses to the comments, and EPA preparation and publication of a final rule. The Agency would then receive the studies by the end of the sixth or seventh month after the ITC recommendation. However, by this time EPA staff must complete their analyses for EPA decisionmakers to consider. EPA has previously discussed in this preamble the importance of section 8(d) studies in deciding whether to initiate proceedings to require testing and has discussed examples showing that unpublished studies submitted previously have been valuable in section 4 proceedings. Receipt of significant studies at this late stage that could cause fundamental revision of the basic analyses would make it impossible to meet the Agency's one-year deadline.

The Agency has also considered in this section 8(d) proceeding a large number of issues relating to reporting of unpublished studies. The Agency has been unable to determine, and no comments have been presented to indicate, that any other issues would be raised in a comment period that would lead the Agency not to require section 8(d) studies on ITC-recommended chemicals. Most of the examples described above of situations in which the public should be able to comment on decisions under section 8(d) on ITC chemicals are reasons why chemicals should or should not be tested under section 4. This section 8(d) rule is not for determining whether to proceed with testing under section 4, but is to be used to obtain information to assist in section 4 decisions. Most of the situations described by the comments, therefore, would not be relevant to a section 8(d) proceeding.

Further, EPA will not delay section 8(d) proceedings while it considers whether to wait for studies to be submitted voluntarily. The Agency has found that, while studies may be voluntarily submitted in some cases, all companies will not do so. Inquiring after voluntary submissions is a highly inefficient use of Agency time and resources and would unnecessarily delay input into the section 4 test rule process.

EPA's economic analysis shows that the costs of searching for studies on ITC chemicals in accordance with the procedures set forth in this rule will be very small. Further, the Agency expects that in the future companies will establish a system to enable more efficient retrieval of studies requested under section 8(d). After considering these costs against the relatively quick need the Agency has for studies of ITC chemicals, EPA has determined that such chemicals should become subject to the section 8(d) rule as soon as possible after the ITC recommends them.

III. Lists and Copies to be Submitted and Who Should Submit Them

The rule includes two types of submission requirements—the requirement to submit copies of health and safety studies, with an appropriate index, and the requirement to submit lists of certain additional health and safety studies.

A. Requirements for Submitting Copies of Studies

Two requirements to submit copies of studies will apply. First, any person who has manufactured or processed or who has proposed to manufacture or process a substance or designated mixture listed in § 716.17, within the ten years preceding and including the date the chemical is listed, will be required to submit copies of any unpublished studies he possesses on that chemical. Second, EPA may request copies from persons other than manufacturers and processors of the chemical when such persons are identified as possessing studies listed by someone else in accordance with § 716.12. Such persons would be requested to submit these studies voluntarily, but would be subject to subpoena under section 11 of TSCA if they do not comply.

This represents a change from the proposal which would have made all manufacturers, processors, and distributors subject to the copy submission requirement. Now, only those who actually have dealt with the chemical must report (except distributors).

Many comments suggested ideas for limiting the persons subject to the rule and limiting the types of studies to be submitted. These ideas were:

(1) Limit the copy submission requirement to past and present manufacturers, processors, and distributors of the chemicals selected by EPA since, in the commenters' view, these would obviously be the parties with the greatest interest in developing data, and thus the ones most likely to possess it.

EPA agrees and has changed the initial reporting under the rule accordingly. However, EPA may later

request any person, who is listed pursuant to § 716.7 as possessing a study, to submit that study.

(2) Limit the copy submission requirement of past manufacturers to those who have manufactured since 1965, 1970, 1975, or presently manufacture instead of since 1950 as proposed. The commenters maintain that these "cut-off" dates would tend to reduce the volume of studies collected and would maximize the quality of the studies being collected since, in the commenters' view, older studies tend to be of less value.

EPA retained the reporting requirements for past manufacturers and processors because they are just as likely to have good studies as present manufacturers and processors. EPA proposes the January 1, 1950 date because persons who have dealt with the chemical and performed studies in the last thirty years would have utilized more advanced analytical techniques. The Agency received comments basically agreeing with EPA's view that there is a time in the past beyond which techniques were not so good as they are now. However, commenters suggested cut-off dates from 1965 to 1975, with most commenters suggesting 1970 as a cut-off date because they believe that information more than ten years old may be outdated and of little value.

Commenters agree that more advanced analytical techniques were used after 1950, but they maintain that most of the more sensitive detectors and techniques for gas chromatography, atomic absorption spectroscopy, and infra-red spectroscopy were developed during the last decade.

For instance, the late 1960's saw the first commerically available liquid chromatography unit, while the first gas chromatography unit with infra-red spectrophotography was not available until 1972. Also, many of the screening tests used today, such as the Ames Test, were developed during the last decade. The commenters were persuasive that thirty years is inappropriate and that a shorter time span would be appropriate. Therefore, the final rule states the period as ten years prior to the effective date for reporting on a chemical. This will keep the ten-year period constant for the future. Holding to the 1950 date would result in an ever-lengthening span as this rule is used in the future.

Most of the concerns expressed about the long time span were concerns about companies potentially having to search retired files either for studies or to find out whether the company had dealt with the chemical in the past. To avoid this problem of retired files, the Agency has specified in the rule that a company need only consult its records not retired prior to December 31, 1979, either for studies or for answering the question of whether it dealt with a chemical in the past. The more valuable, older studies will likely have been preserved in current files, rather than being retired. In addition, searching long-retired files could be very costly; too costly for purchase of this rule. December 31, 1979 is the date on which potential respondents to this rule were put on notice of the Agency's intention to require this reporting, and it is therefore an appropriate date to define the limits of the file search.

(3) Limit the rule to persons who reported the chemicals for the Inventory. This would reduce the company's burden in determining its responsibility under a section 8(d) rule merely to checking the list of chemicals it reported for the Inventory, and would yield the higher quality data developed by the manufacturer or processor.

EPA did not adopt this suggestion for two reasons. Complete reporting for the Inventory was limited to manufacturers whereas section 8(d) also applies to processors. In addition, the implicit assumption that only those who reported for the Inventory would have a list of their Inventory chemicals is not valid. All manufacturers and processors of chemicals must know if the chemicals they make are on the Inventory, whether they reported for the Inventory or not. They must know, because they must submit a premanufacture notice to EPA under section 5 of TSCA, before making or processing a chemical that is not on the Inventory.

(4) Decrease the burden of section 8(d) rulemaking and subsequent regulations by asking major manufacturers voluntarily to submit studies. If manufacturers refuse to do so, then the Agency could proceed with section 8(d) rulemaking, or go directly to section 4 rulemaking.

EPA did not adopt this suggestion. Although some companies may submit certain studies voluntarily, it is important that EPA receive all relevant studies. Only a section 8(d) rule can ensure this. In addition, many commenters stated that many studies contain trade secret information which companies are very reluctant to submit voluntarily.

(5) First require lists or titles of studies that have been performed by manufacturers or processors of the listed chemicals and then later request copies of selected studies.

This suggestion was not adopted because insufficient information is contained in the titles of studies to give a basis for study selection.

(6) Limit initial reporting to key studies relevant to specified effects (such as those the ITC recommends be tested) in order to produce studies most valuable to risk assessment, and to reduce reporting burdens and EPA's review burden.

This suggestion was not adopted. EPA plans to investigate a full range of properties and effects of the listed chemicals. Effects of a substance are not discrete items, unrelated to one another. On the contrary, certain effects and properties are predictive of other effects and properties. For instance, fate and persistence studies will help in predicting environmental effects. Acute toxicity studies generally provide data to determine the median lethal dose (LD50) of a chemical substance (its relative toxicity), but also may provide data to judge its mode(s) of action, to determine its specific toxic effect(s) on target organs and functions, and to determine the existence and extent of species differences in sensitivity to a chemical. Acute effects studies designed to measure potential ecological effects are especially valuable since there is comparatively less information in this field than in others. Also, the submission of acute effects studies will be used to determine the need for and character of acute effects testing rules.

A broad range of studies is well recognized as necessary to judge the adverse effects of a chemical substance. For example, the Organization for Economic Cooperation and Development (OECD) has developed a base set of recommended tests containing a range of tests of physical and chemical properties and toxicity for assessing the hazards of chemicals. It has selected many physical and chemical properties that, in its view, constitute "information for degradation, accumulation and even noxious *effects* assessment * * * . For example, the shape of a particle can, in itself, be indicative of its carcinogenic nature (e.g., asbestos fibers) and the partition coefficient is indicative of likely accumulation in lipid tissues." OECD Chemicals Testing Programme, Expert Group, Physical Chemistry, Final Report Vol. I, p. 41. In addition to physical and chemical properties, the OECD has also included many acute, subacute, and chronic tests in the base set of tests.

(7) Limit the chemicals subject to the rule to "high priority" chemicals such as ITC chemicals to match exactly the ITC recommendations and reduce the reporting burden.

EPA did not adopt this suggestion. The chemicals recommended by the ITC may be in fact the majority group on the

rule, but they are not the only chemicals on which EPA will need studies. The hazards of other chemials are and will be under investigation.

B. Requirements for Submitting Lists of Studies

The final rule adopts the proposed requirement that only current manufacturers and processors of listed chemicals and those who propose to manufacture or process these chemicals must submit lists of studies.

Several comments objected to listing records kept on employees exposed to chemicals. They assert that record systems and data do not constitute a study unless an intention to correlate certain data to evaluate results and reach conclusions is declared. A record listing requirement would move the scope of the requirements into the realm of conjecture, and render the proposal, in this respect at least, impracticable, even if the thrust of this listing requirement falls within TSCA's authority. Quite simply, according to the comments, there is no way to determine to which particular chemicals any given employee might be exposed. Interpreted literally, this requirement would encompass the records for all employees, a result surely not intended by the EPA.

The Agency agrees and has modified the proposed listing requirements. The studies to be listed do not include record systems. Persons will not have to list medical record systems or daily or routine monitoring records. These types of data could constitute underlying data for an epidemiological study for example, but are not by themselves treated as studies.

Other commenters asserted that protocols for ongoing studies should not be submitted, as the proposed rule would have required, since protocols are not health and safety studies and contribute no relevant health and safety information regarding chemicals.

EPA has adopted the limitations suggested. Copies of protocols do not have to be submitted since they will usually be described in the study eventually reported.

Some comments objected to listing ongoing studies. They maintained that section 8(d) applies only to completed studies. EPA disagrees with this comment. Section 8(d) authorizes listing of a study "conducted or initiated by or for" a company. EPA may require listing once a study has begun because it has been "initiated" within the meaning of the statute.

A few comments questioned the need for listing ongoing studies and for submitting preliminary reports, if requested, when an ongoing study is listed. They asserted that partial and incomplete data can be extremely misleading. Also, they said a scientist should not be required to disclose the results of his research until the scientist is satisfied with the accuracy, reliability, and scientific significance of the data.

The Agency disagrees. It requires a list of ongoing health and safety studies to tailor testing rules to fill real gaps in knowledge. If industry has started enough research of a particular type, the Agency could exclude that type of testing from a testing rule or delay it until the test data are available to the Agency. For chemicals for which testing is not contemplated, the submission of lists of ongoing studies will help the Agency determine the scope of possible control regulations. If, for example, the Agency is considering control of a particular use of a substance, the knowledge that a person is testing that substance to determine its effects or potential for exposure to man or the environment would be valuable information.

The Agency will not routinely require preliminary reports to be submitted. However, under procedures stated in § 716.8, EPA may ask for the submission of preliminary reports when necessary. The Agency understands the concern a scientist might have about releasing preliminary data. However, sometimes it is necessary to track the progress of a long-term animal study, for example, so that the Agency can order its assessment priorities. It is far more cost-effective to monitor a study industry is performing than to propose a testing rule or take regulatory action that might be found to be unnecessary when the final test results are reported.

IV. Studies Not Subject To Mandatory Reporting

A. Exemptions for Studies of Mixtures

The proposed rule provided four exceptions to the reporting requirements. Persons did not have to submit: (1) Copies or lists of published studies; (2) copies of studies previously submitted to Federal agencies with no claims of confidentiality; (3) copies of studies conducted by other persons subject to the rule; or (4) copies or lists of studies of mixtures containing small amounts of listed substances when the studies clearly did not reflect effects of the listed substances. Comments addressing items (1) through (3) above, and EPA's responses, appear in "General Comments on the Proposed Section 8(d) Rule."

The exemption for reporting mixture studies (number 4 above) generated the greatest number of comments. The commenters were almost evenly divided on whether the proposed exemption or a modified version of it should appear in the final rule. Some comments stressed the difficulty of predicting the effects of a single component of a mixture from results obtained from testing the entire mixture. Therefore, they suggested the Agency should not require the submission of any mixture studies.

Other comments suggested that the Agency fine-tune the exemption by requiring only submittal of a study on a mixture containing a listed chemical when the study was undertaken for the express purpose of determining the effects of the listed chemical or when data in the study were originally aggregated and analyzed in a manner that directly and specifically relates to such effects.

Weighing all of the above, EPA decided to approach the problem differently. As before, only studies of mixtures in which a listed chemical is known to be present will be submitted, but in place of the proposed exemption, the Agency has provided exemptions for:

(1) Physical and chemical properties of mixtures;

(2) Certain types of acute studies on mixtures; and

(3) Certain aggregations of monitoring data on mixtures. See § 716.11 (e) through (h) of the rule for the particular studies that are not subject to reporting. The remaining studies to be reported must be reported regardless of the submitter's view of whether the studies reflect effects of the pertinent substance. EPA will make this judgment. By expanding the list of studies that do not have to be submitted and removing the review necessary to determine which mixture studies should be submitted, the reporting burden on persons will be significantly reduced.

B. "Substance" Versus "Mixture"

In the final rule (§ 716.4), EPA clarifies how certain preparations of substances should be treated. For example, one commenter indicated that he considered an aqueous solution of a substance to be a mixture. Since one often puts a substance into aqueous solution before testing it for biological activity, the commenter's view could result in many tests being reported as tests of mixtures. This would be an absurd result in the context of this rule. Studies of the following preparations of a chemical substance must be reported as studies of the chemical substance itself, not as studies of mixtures containing the substance:

(1) The chemical substance in aqueous solution.

(2) The chemical substance containing a small amount of an additive, such as a stabilizer, emulsifier, or other chemicals added for purposes of maintaining the integrity or physical form of the substance.

(3) The chemical substance at any grade of purity.

Studies of these preparations of substances are classified for reporting as studies of the substance. EPA does not, and need not, at this time reach the issue of whether these preparations are defined as mixtures or chemical substances under TSCA.

V. File Search

Because of the considerable confusion on the part of commenters regarding the file search required by the proposed rule, the final rule contains a provision describing the file search required. Persons can satisfy the requirements of this rule if they limit their search for information to files in which such information is expected to be found in the ordinary course of their business, and the files of employees whose assigned duty is to advise the company on the health and environmental effects of chemicals.

The actual mechanics of the search can be approached in a number of ways depending on the size of the company and the type of chemicals for which studies will be submitted. EPA includes the following discussion to convey how it believes a satisfactory search might reasonably be conducted with the least expenditure of resources. The Agency is not saying that this is how companies must search.

For small to medium size companies that believe they are subject to the rule and have few studies of any kind, it may be more cost effective to scan the titles of the studies they possess and then check to see if the chemical studied is on the list of chemicals subject to the rule. EPA's experience has been that smaller companies submit few studies and will find it easier to match studies against the chemical list. Large companies might use the same approach depending on how their files of studies are indexed. Alternatively, they might determine the chemicals they handle(d) then search for studies.

The Agency expects the search for physical and chemical properties to be minimal for all companies because of the very limited number of properties that are subject to the rule. Also, the Agency expects that companies will have a special reference file for the most standard properties such as solubility or vapor pressure. For other, special purpose properties, such as octanol/water partition coefficients and degradation properties, the company will not be determining these on a routine basis and should be able to check with one or two key personnel to see if these studies were performed.

Companies possibly subject to the rule because a listed substance is a component of a mixture should be able to examine the mixture studies they possess to see if any components of the mixture studied are on the section 8(d) chemical list. Since most of the studies normally performed on mixtures are exempted by the rule, most companies will only have to examine a handful of subchronic and chronic studies on mixtures to determine which studies should be submitted.

VI. Reporting Schedule and Sunset Provision

Persons must submit lists and copies of studies no later than sixty days after the effective date of promulgation of the list of chemcial substances and mixtures in § 716.17. The rule also provides for extending the submission deadline for a reasonable period, if a company requests such an extension because of long file searches.

Because they assumed a very extensive file search was required, many commenters suggested that sixty days was insufficient time to comply with the rule. EPA is retaining the proposed schedule because it has made significant changes to reduce the search burden. The scope of this final rule is less than that of the previous section 8(d) rule under which companies reported in 1979 since many exemptions to the required studies and the responsibilities of respondents have been made. No company requested an extension of time for reporting under the rule's sixty-day schedule. Based on the 1979 experience, and because of the reduced scope of this rule, the Agency believes that sixty days is an appropriate period.

As proposed, the rule would have required that persons subject to the list submission requirement inform EPA of any study initiated during the five years prior to the sunset date. Comments considered this to be too burdensome since it would require them to search continuously for all new studies. EPA agrees that the proposed provision was too broad. The Agency has changed the requirement. Under the final rule, these persons will be responsible only for informing EPA of studies initiated by or for them, rather than of any new study. This includes studies directly contracted for by the company or studies sponsored through a company's membership in an association that contracts for testing (including trade associations such as the Chemical Industry Institute of Toxicology). EPA considers this to be a reasonable change. Since only those studies under a company's control and sponsorship are covered, there will be no need for a search; the report to EPA will be made when the study is ordered to be done. In addition, EPA has limited this continuing reporting requirement to chronic studies; long- and short-term tests of mutagenicity, carcinogenicity, or teratogenicity; and the biological and environmental fate tests listed in § 716.10(h) through (j).

Another concern of the comments was that the five-year period for reporting completion of ongoing studies or initiation of new ones is too long, especially since EPA must act on chemicals recommended by the ITC within twelve months.

The Agency believes that a multiyear period is necessary. The action required within twelve months is to initiate rulemaking, or give EPA's reasons for not doing so. Promulgating a test rule or entering into a voluntary testing agreement will require consideration over a longer period during which new data of the initiation of new studies could affect EPA's final action. Even after a test rule is promulgated or a voluntary testing agreement is reached, new data on substances under test will be important in the Agency's evaluation of the chemical subsequent to testing and could contribute to a decision whether control action for the chemical is indicated. However, to balance EPA's needs against the burden of this requirement, EPA has decided to maintain a multiyear approach but to limit it to three years. EPA believes that this represents a minimal reporting burden since the only studies covered by this requirement would be presently ongoing studies which are completed and studies initiated during the three-year period. Also, the rule now allows the Assistant Administrator to terminate the requirement for reporting about a particular chemical if he decides that further reporting is not needed.

VII. Confidentiality

EPA is aware of the need to protect confidential business information. Several commenters suggested that the regulations should contain a specific statement about the means EPA would use to protect the confidentiality of information in the unedited copy of a study.

The TSCA Confidential Business Information Securuty Manual contains the procedures for physically

safeguarding confidential business information submitted under TSCA. (The manual is available from the OPTS Industry Assistance Office—see **FOR FURTHER INFORMATION CONTACT.**) EPA will share confidential information with contractors, other EPA offices, and other Federal agencies only in accordance with these procedures. In addition, all information claimed as confidential is subject to the legal procedures in 40 CFR Part 2 with respect to disclosure by EPA.

A person submitting a health and safety study may claim all or part of the study confidential. However, health and safety information about a chemical that has been offered for commercial distribution or is subject to testing under section 4 or notice under section 5 can be withheld from disclosure only to the extent that disclosure would reveal (1) processing information and (2) percent composition of mixtures, or contains information the disclosure of which would clearly be an unwarranted invasion of personal privacy (such as individual medical records), as provided in 5 U.S.C. 552(b)(6).

Any claims of confidentiality must be made at the time of submission, as provided in 40 CFR 2.203(a)(2) and in the manner specified in § 716.16 of this regulation. This rule requires submission of two copies of studies containing confidential material—one copy indicating what data are claimed as confidential and one copy without the confidential information. EPA will presumptively consider failure to submit the second copy as a waiver of the confidentiality claim. However, EPA will notify respondents who claim parts of studies confidential that they did not submit the required second copy. This provision affords persons the opportunity to correct errors within 30 days.

Commenters raised a number of issues concerning specific provisions of the proposed regulation that detail the methods for submitting confidential information.

One assertion was that submitters should not be burdened with "up front" substantiation for claims of confidentiality, and that such substantiation should be required only if EPA receives a Freedom of Information Act (FOIA) request for the information.

The Agency will not require "up front" substantiation. The language of § 716.16(c) has dropped the requirement that the basis of the claim be "explicitly" explained at the time of submission. The claim must still be explained briefly. However, this explanation should merely be a simple statement indicating that the reason for the claim is, for example, related to mixture proportion or process information, or that the information is clearly irrelevant to the health and safety study. EPA does not expect detailed substantiation of confidentiality claims at the time the study is submitted. The Agency believes that this simple statement is justified, because EPA needs some understanding of the claim to have a basis for initial denial or granting of FOIA requests and to protect the information.

Another suggestion was that failure to provide a nonconfidential second copy of a study for which claims are made should not be considered a presumptive waiver of the claim. The commenter asserted that the claim to a trade secret is a property right and cannot be taken away by the operation of a presumption. In their view, once the claim is made, it must stand unless a disclosure request is made and FOIA principles require that it be granted.

EPA will not place confidential information in the public file automatically if a second copy is not received. The Agency will notify the respondent that it has not received a second copy. This will allow the company to correct the situation.

Another commenter claimed that the 20-day grace period for correcting incomplete confidentiality submissions does not allow the respondent sufficient time to respond.

The rule has been changed to extend the proposed 20-day grace period to 30 days. This should be adequate for such a straightforward response, even given mail delays, because the only step needed is to provide a second, non-confidential copy for the public file.

A final specific comment was that the Agency must not allow confidentiality claims for submitted health and safety studies. To do so, is, in the commenter's view, a direct, illegal contradiction of section 14(b) which exempts the results of health and safety studies from such claims.

EPA disagrees that it should not allow confidentiality claims. Respondents may claim any information as confidential; however, the only information which the Agency may actually keep confidential is listed in § 716.16(c).

VIII. Economic Impact

EPA estimates that the total cost to industry of submitting lists and copies of health and safety studies under the present rule is approximately $537,000.

The major cost to a firm will be the cost of a file search to determine what health and safety studies it possesses. This cost will, of course, vary directly with the size of the firm, assuming that larger firms have more files at more locations which must be accessed. Once the studies are located, the remaining compliance costs involve copying and processing the studies, making lists of studies which are in progress or not in the possession of the respondent, and reviewing the studies for confidential information. The Agency's cost estimates are based on the cost to an average firm. EPA recognizes that actual costs will be larger or smaller for larger or smaller firms. Each of these costs is tabulated below.

	Total
Corporate rule review	$89,000
Corporate review (site identification)	67,000
File search	121,000
Title listing	7,000
Photocopying (materials)	9,000
Photocopying (labor)	28,000
Managerial review	189,000
Ongoing reporting	27,000
Total cost of this rule	537,000

This represents a cost of approximately $2,000 to $4,000 per chemical. When the Agency adds to the list of chemicals subject to the rule, these cost per chemical estimates can be used to determine the cost of the additional reporting.

If the studies submitted allow EPA to eliminate even one potential section 4 mandated test on a subject chemical, the cost avoided could exceed the total cost of this rule. For example, EPA estimates that it will cost industry from $700,000 to $1,300,000 to perform the proposed testing (see 45 FR 48557) for chloromethane and up to $4,900,000 for chlorobenzenes (see 45 FR 48557).

The Agency received many comments suggesting that its original estimate of $410,000 total cost was too low. The comments pointed to many features of the proposed rule that they believed would cause much greater burdens than the Agency had assumed. However, only a few comments actually gave EPA estimates of the time or money they would expend in complying with the proposal. For example, the Chemical Manufacturers Association suggested from a survey of thirteen of its members that the cost per company would be $400 to $10,000 per chemical, but this range estimate was not accompanied by data to indicate how the figures were generated.

The following is a list of the most burdensome features of the proposal as cited by comments. For each feature, a description follows for the changes made in the final rule to reduce the burden.

(1) One large burden commenters perceived was in searching for routine monitoring records and for medical

records. The commenters read the proposal to require submission of these data. However, EPA has made it clear in the final rule that these records are not to be submitted as studies. The Agency may request them in the future, but only if they are underlying data to a study.

(2) The proposed requirement to submit all studies on mixtures containing a listed substance would have caused several problems, according to many comments. The problems would have come in searching through records to determine whether a listed substance could be present in a studied mixture and in then deciding whether the listed substance was responsible for whatever effect the study showed.

The Agency has substantially changed the requirements for submitting studies on mixtures. It has excluded most acute studies from the requirement; it has excluded all physical/chemical properties of mixtures; and the Agency has excluded studies of mixtures that contain the listed chemical only as an impurity. In addition, the Agency has removed the requirement for respondents to decide whether the effect studied was caused by the listed substance—EPA will make that judgment. These changes should cut the cost of submitting mixture studies substantially. The changes mean that companies can go directly to their copies of studies on mixtures to see if a listed chemical was in a mixture tested. The number of studies to be looked at has been much reduced. And, most importantly, companies will not have to search records to find out what impurities may have been present in the studied mixture.

(3) The proposal would have required companies who may never have dealt with a chemical to submit studies on it if they had then. EPA has removed this burden by changing the requirements to apply to those who have manufactured or processed or have proposed to manufacture or process the chemical. Moreover, the Agency has said that companies can determine their association with the chemical by looking at their current files. This will alleviate a concern expressed by companies whose ownership or activities have changed and whose records have been retired.

(4) Perhaps the greatest burden cited was that of potentially searching every company file for studies or references to studies. The proposal was broadly worded in this respect. The final rule contains a section describing the much more limited search that will be enough to comply with the rule. Companies will comply if they search the files where studies are kept in the ordinary course of their business, and the files of those employees whose assigned duty is to advise the company about health and environmental effects of chemicals.

(5) Comments have requested that studies on research and development chemicals be exempted. They requested the exemption for a number of reasons, one being that these studies may be in a different set of files at different locations than other studies. EPA has not fully exempted these studies (see R & D Chemicals) because, as previously discussed in this preamble, the Agency does not believe that the fact that a studied chemical has been in research and development is relevant to the value of the study. However, by better defining the file searches required for compliance with the rule the Agency has reduced the burden of searching for such studies.

(6) The report's impact analysis for the proposal did not include the burden to a company to familiarize itself with the rule. Commenters remarked on this, and the Agency has included this item in the final analysis.

(7) The report's impact analysis for the proposal did not consider the cost of file searches which must be conducted by firms which will not actually find submittable studies in their file. Commenters suggested EPA account for these costs.

In the first analysis, EPA attempted to base cost estimates upon the prior experience of firms which reported for the original section 8(d) rule. These data did not reflect the experience of firms which conducted futile file searches, and did not report. The Agency believes that for the purposes of a report impact analysis, the previous experience of the prior section 8(d) rule is the firmest estimate that the Agency can utilize. However, EPA has now attempted to estimate costs for those companies that handle the listed substances, but have no studies to report. The Agency did this by searching the TSCA Inventory to determine the number of companies that reported the listed substances and then multiplying this number by a factor of three to account for processors and distributors.

Although some commenters indicated that the scope of the rule extends beyond the "chemical industry" and woudl therefore increase the potential number of processors of the listed substances beyond our estimate, EPA believes that its estimates or respondents is proper for the following reasons. First, over 85 percent of the companies that reported for the first section 8(d) rule were concentrated in the chemical, allied products, and petroleum refining industries. Second, most of the comments received from companies on the proposed rule were from companies in those industries, which EPA believes is an indicator of the respondent population for the final rule. Third, EPA believes that almost all of the studies performed on the listed substances are initiated by the manufacturers and primary processors of the substances, which is the reason EPA exempted distributors from reporting. These companies are heavily concentrated in the chemical, allied products, and petroleum refining industries.

Furthermore, the changes, exemptions, and limited file search prescribed in this rule should eliminate the possibility of a substantial burden of unavailing searches.

(8) The analysis accompanying the proposal did not consider the ongoing cost of reviewing newly completed studies during the multiyear follow-up period.

EPA does not believe that consideration of ongoing studies poses a substantial burden that would appreciably alter the report's impact analysis. Since firms would review newly completed studies for their effects regardless of this rule, no file retrieval costs associated with other health and safety studies would be incurred for these new ones.

(9) Comments criticized continued reliance on the assumption that 2.6 firms will respond per chemical, which was based on EPA's experience with the first section 8(d) rule, even though the additional chemicals subject to the rule are qualitatively different (high volume, extremely prevalent) than the chemicals subject to the first section 8(d) rule.

EPA's continued reliance on data from the first section 8(d) rule is valid. There is no real qualitatively difference in the chemicals subject to the original or present section 8(d) rules—many of the chemicals subject to both rules are high volume and extremely prevalent. Further, approximately 6.2 firms reported for the Inventory on chemicals that were listed on the first section 8(d) rule (this figure represents the average number of firms or companies, not the average number of sites), whereas only 2.6 firms responded per chemical for the original section 8(d) rule. For the subsequent ITC-recommended chemicals on the proposed rule, 1.1 firms reported for the Inventory. An average of 2.2 firms reported for the Inventory on chemicals selected by the EPA on the proposed rule. This indicated that the Agency's reliance on the 2.6 figure would actually tend to overstate the

number of expected respondents for the present rule.

(10) Comments were also concerned about the categories of chemicals in the rule. They specifically asked for better definitions of the categories or for lists of the chemical in the categories for which EPA wants studies. Because of chemical nomenclature complexities, the commenters suggested that the burden of deciding whether a given chemical should be counted in or out could be great.

EPA has eliminated one of the more troublesome categories from the list—acrylic acid and methylacrylic acid and their esters. In addition, the Agency has given better descriptions and more examples to define the categories. EPA believes that these steps, plus the fact that the categories now on the rule are ones that companies have become familiar with in following ITC recommendations for testing, should reduce the cited burden. A company that has a question about whether a particular chemical is included in a category should call the information number given at the beginning of this notice. EPA staff will be available to return these calls and answer questions.

The basic elements EPA has included in the final Reports Impact Analysis are:

(a) Corporate rule review—2 hours at $50 per hour.

(b) Corporate identification of pertinent files—3 hours at $50 per hour.

(c) File search at plant site—6 hours at $30 per hour.

(d) Listing study titles—1 hour at $15 per hour.

(e) Photocopying per study—½ hour at $15 per hour.

(f) Final review before submission—1 hour at $50 per hour.

EPA's estimate of total cost of the rule uses the above figures and assumes that 891 firms will perform an initial review; 447 firms will submit 3,784 reports of 50 pages each; and each firm has, on a weighted average, 1.5 plant sites.

The corporate rule review step was suggested by commenters, as was the corporate identification of locations to be searched. EPA has increased the hourly costs of managerial review and file searches by $10 each from previous estimates, and increased the file search time per site from four to six hours. These new estimates are based upon suggestions from commenters and the changes EPA has made to rule requirements. One caveat that must be kept in mind is that these are average costs. Individual firms may experience greater or lesser costs depending on their size.

EPA received comment that one hour for final review before submission would not be enough to accommodate decisions on confidentiality. The Agency's estimate of an average of one hour review per study is reasonable. EPA does not expect that a company should have to scrutinize a study for confidential information just before it is submitted to EPA. Confidential information in a study should already have been identified as such by the company. For example, to get a court to prevent disclosure of confidential information, a company must be able to show that the information was given special treatment by the company, i.e., marked confidential, or kept in limited access files. Therefore, the Agency believes that most of the information in a study that is confidential will have been previously identified as such by the company, and it should not be necessary to check with virtually every department of the company, as some commenters suggested, to check whether each data element is confidential.

IX. Public Record

EPA has established a public record (docket number OPTS-84003A) for this rulemaking document, which along with a complete index is available for inspection in the OPTS Reading Room, Rm. E-107, 401 M Street, SW, Washington, DC, 20460, from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays. This record includes basic information considered by the Agency in developing this rule. Following is a list of the documents which constitute the record for this rulemaking. Public comments on the proposed rule are not individually listed, but will be available upon request in the OPTS reading room. EPA requests that it be notified of any additions or deletions to this record within the next 30 days.

(1) Health and Safety Study Reporting Regulations, July 18, 1978, Public Record, Docket No. 084001.

(2) Manufacturing Chemists Association—Petition under section 21 of TSCA, September 12, 1978.

(3) Denial of Citizens' Petition, 43 FR 56724-56727.

(4) The entire docket in *Dow Chemical Company* v. *United States Environmental Protection Agency, et al. Docket No. 78-2203 (3rd Cir.).*

(5) Revocation of Rule, 44 FR 6099.

(6) Reports Impact Analysis of this rulemaking.

(7) All comments on this rule, including any comments received from the Office of Management and Budget during Paperwork Reduction Act review.

(8) General Comments on the Proposed Section 8(d) Rule.

(9) All relevant support documents and studies.

(10) Records of all communications between EPA personnel and persons outside the Agency pertaining to the development of this rule. (This does not include any inter- or intra-agency memoranda unless specifically noted in the index of the rulemaking record.)

(11) Minutes, summaries, or transcripts of any public meetings held to develop this rule.

(12) Any factual information considered by the Agency in developing the rule.

X. Regulatory Assessment Requirements

Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this regulation is not major because it does not have an effect of $100 million or more on the economy. It is expected to have a one-time cost of about $725 thousand. It does not have a significant effect on competition, or costs or prices.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Regulatory Flexibility Act

Since this rule was proposed before the effective date of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., the Act's requirements do not apply. However, based on the Agency's experience with a previous section 8(d) rule, it expects that only about 1 percent of the respondents will have gross sales of less than 20 million dollars.

Paperwork Reduction Act

Information collection requirements contained in this regulation (§§ 716.6 and 716.7) have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 U.S.C. 3501 *et seq.* and have been assigned OMB Control Number 2070-0004.

This rule requires manufacturers and processors of 40 chemicals and categories of chemicals to submit unpublished health and safety studies relating to these chemicals. The studies to be submitted will be used by EPA evaluating health and environmental effects of chemicals for purposes of assessing risks associated with the chemicals, as well as in determining whether the chemicals should be included in testing rules issued under section 4 of TSCA.

Lists of Subjects in 40 CFR Part 716

Chemicals, Health and safety, Environmental protection, Hazardous materials, Recordkeeping and reporting.

Dated: August 19, 1982.

John E. Daniel,

Acting Administrator.

Therefore, Chapter I of Title 40 of the Code of Federal Regulations is amended by adding a new part 716 consisting at this time of Subpart A to read as follows:

PART 716—HEALTH AND SAFETY DATA REPORTING

Subpart A—General Provisions

Sec.

716.1 Scope and compliance.
716.3 Definitions.
716.4 Overview of subpart requirements.
716.6 Submission of copies of studies.
716.7 Submission of lists of studies.
716.8 EPA requests for submission of further information.
716.9 How to report on substances and mixtures.
716.10 Reporting physical and chemical properties.
716.11 Exemptions to reporting requirements.
716.12 File search.
716.14 Reporting schedule.
716.16 Confidentiality claims.
716.17 Substances and designated mixtures to which this subpart applies.
716.18 Additions to lists of substances and designated mixtures to which this subpart applies.
716.19 Sunset provision.

Authority: Sec. 8(d), Pub. L. 94-469, Stat. 2029 (15 U.S.C. 2607(c)).

Subpart A—General Provisions

§ 716.1 Scope and compliance.

(a) This Subpart sets forth requirements for the submission of lists and copies of health and safety studies on chemical substances and mixtures selected for priority consideration for testing rules under section 4(a) of the Toxic Substances Control Act (TSCA) and on other chemical substances and mixtures for which EPA requires health and safety information in fulfilling the purposes of TSCA.

(b) Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to submit information required under this Subpart. Section 16 provides that a violation of section 15 renders a person liable to the United States for a civil penalty and possible criminal prosecution. Under section 17, the district courts of the United States have jurisdiction to restrain any violation of section 15.

§ 716.3 Definitions.

The definitions in section 3 of TSCA apply to this Subpart. In addition, the following definitions are provided for the purposes of this Subpart:

(a) "Byproduct" means a chemical substance produced without a separate commercial intent during the manufacture, processing, use, or disposal of another chemical substance(s) or mixture(s).

(b) "Co-product" means a chemical substance produced for a commercial purpose during the manufacture, processing, use, or disposal of another chemical substance(s) or mixture(s).

(c) "Copy of study" means the written presentation of the purpose and methodology of a study and its results.

(d) "EPA" means the United States Environmental Protection Agency.

(e) "Health and safety study" or "study" means any study of any effect of a chemical substance or mixture on health or the environment or on both, including underlying data and epidemiological studies, studies of occupational exposure to a chemical substance or mixture, toxicological, clinical, and ecological or other studies of a chemical substance or mixture, and any test performed under TSCA.

(1) It is intended that the term "health and safety study" be interpreted broadly. Not only is information which arises as a result of a formal, disciplined study included, but other information relating to the effects of a chemical substance or mixture on health or the environment is also included. Any data that bear on the effects of a chemical substance on health or the environment would be included. Chemical identity is part of, or underlying data, to, a health and safety study.

(2) Examples are:

(i) Long- and short-term tests of mutagenicity, carcinogenicity, or teratogenicity; data on behavioral disorders; dermatoxicity; pharmacological effects; mammalian absorption, distribution, metabolism, and excretion; cumulative, additive, and synergistic effects; and acute, subchronic, and chronic effects.

(ii) Tests for ecological or other environmental effects on invertebrates, fish, or other animals, and plants, including: acute toxicity tests, chronic toxicity tests, critical life stage tests, behavioral tests, algal growth tests, seed germination tests, plant growth or damage tests, microbial function tests, bioconcentration or bioaccumulation tests, and model ecosystem (microcosm) studies.

(iii) Assessments of human and environmental exposure, including workplace exposure, and impacts of a particular chemical substance or mixture on the environment, including surveys, tests and studies of: Biological, photochemical, and chemical degradation; structure/activity relationships; air, water, and soil transport; biomagnification and bioconcentration; and chemical and physical properties, e.g., boiling point, vapor pressure, evaporation rates from soil and water, octanol/water partition coefficient, and water solubility.

(iv) Monitoring data, when they have been aggregated and analyzed to measure the exposure of humans or the environment to a chemical substance or mixture.

(f) "Importer" means any person who imports a chemical substance, including a chemical substance as a part of a mixture or article, into the customs territory of the United States and includes the person primarily liable for the payment of any duties on the merchandise or an authorized agent acting on his behalf (as defined in 19 CFR 1.11). Importer also includes, as appropriate:

(1) The consignee.

(2) The importer of record.

(3) The actual owner, if an actual owner's declaration and superseding bond has been filed in accordance with 19 CFR 141.20.

(4) The transferee, if the right to draw merchandise in a bonded warehouse has been tranferred in accordance with Subpart C of 19 CFR Part 144.

For the purpose of this definition, the customs territory of the United States consists of the 50 States, Puerto Rico, and the District of Columbia.

(g) "Impurity" means a chemical substance which is unintentionally present with another chemical substance.

(h) "Manufacture" and "Process" mean manufacture or process for commercial purposes.

(i) "Manufacture for commercial purposes" means:

(1) To import, produce, or manufacture with the purpose of obtaining an immediate or eventual commercial advantage for the manufacturer, and includes, among other things, such "manufacture" of any amount of a chemical substance or mixture:

(i) For commercial distribution, including for test marketing.

(ii) For use by the manufacturer, including use for product research and development, or as an intermediate.

(2) The term applies to substances that are produced coincidentally during the manufacture, processing, use, or disposal of another substance or mixture, including both byproducts and coproducts that are separated from that other substance or mixture and impurities that remain in that substance or mixture. Byproducts and impurities may not in themselves have commercial

value. They are nonetheless produced for the purpose of obtaining a commercial advantage since they are part of the manufacture of a chemical product for a commercial purpose.

(j) "Person" includes any individual, firm, company, corporation, joint-venture, partnership, sole proprietorship, association, or any other business entity, any State or political subdivision thereof, any municipality, any interstate body, and any department, agency, or instrumentality of the Federal government.

(k) "Process for commercial purposes" means the preparation of a chemical substance or mixture, after its manufacture, for distribution in commerce with the purpose of obtaining an immediate or eventual commercial advantage for the processor. Processing of any amount of a chemical substance or mixture is included. If a chemical substance or mixture containing impurities is processed for commercial purposes, then those impurities are also processed for commercial purposes.

(l) "Propose to manufacture, process, or distribute" means that a person has made a management decision to commit financial resources toward the manufacture, processing, or distribution of a chemical substance or mixture.

(m) "Substance" means "chemical substance" as defined at section 3(2)(A) of TSCA, 15 U.S.C. 2602(2)(A).

(n) "TSCA" means the Toxic Substances Control Act 15 U.S.C. 2601 et. seq.

§ 716.4 Overview of subpart requirements.

This section highlights basic requirements. For additional procedures and qualifications, refer to pertinent, individual sections.

(a) *Adequate file search for compliance with this subpart.* Persons are not required to search any records retired prior to December 31, 1979 for information to comply with this subpart. In addition, the scope of a company's responsibility to search records is limited to records in which it ordinarily keeps the required information and to records kept by individual employees whose assigned duty is to advise the company of the health and environmental effects of chemicals under § 716.12.

(b) *Persons who must report.* (1) A person who manufactures or processes a substance or designated mixture listed in § 716.17 at the time it is listed, or proposes to do so, must do the following for that substance or designated mixture—(i) Submit copies of all non-exempted studies in his possession at the time he becomes subject to the rule under § 716.6. Under § 716.14 the copies must be submitted within 60 days after the addition of the substance or designated mixture to § 716.17.

(ii) Under § 716.7 submit a list of studies that are ongoing when the substance or designated mixture is added to § 716.17. The list must be submitted within 60 days after the addition of the substance or designated mixture to § 716.17 and copies of such studies must be submitted within 30 days of their completion under § 716.14.

(iii) Inform EPA within 30 days of any study initiated by or for him after the initial 60 day reporting period and submit a copy of the study when it is completed. This requirement continues until the sunset date specified in § 716.19; it applies not only to persons who manufacture or process a substance or designated mixture when it is added to the list, but also to persons who begin to manufacture or process, or propose to do so at any time prior to the sunset date.

(2) A person who is not covered under paragraph (b)(1) of this section, but has manufactured or processed a substance or designated mixture listed in § 716.17, or has proposed to do so, anytime in the preceding ten years, must submit copies of studies in his possession on the substance or designated mixture within 60 days of when it is added to § 716.17.

(c) *Studies to be reported.* In general, studies, as defined at § 716.3(d), that are unpublished are reportable, i.e., must be submitted or listed, for any substance or designated mixture listed in § 716.17. However, this requirement has limitations according to the nature of the material studied, so that—(1) All studies of substances and designated mixtures are reportable. However, in the case of physical and chemical properties, only those studies listed in § 716.10 must be submitted.

(2) Studies of mixtures known to contain substances or designated mixtures listed in § 716.17 are reportable except for studies of physical and chemical properties and the studies exempted at § 716.11(f) (1) through (6).

(3) Studies of substances or designated mixtures that a person who is reporting has manufactured or processed or proposed to manufacture or process only as impurities are not generally reportable under § 716.11(i).

(4) Research and development studies on chemical substances not on the TSCA Chemical Substance Inventory are not reportable under § 716.11(e).

(5) Underlying data, such as medical or health records, individual files, lab notebooks, and daily monitoring records are not reportable except by special request under § 716.8.

§ 716.6 Submission of copies of studies.

(a)(1) Except as provided in §§ 716.10 and 716.11, persons must send to EPA copies of any health and safety studies in their possession for the substances or designated mixtures listed in § 716.17. Persons are responsible for submitting copies on only the substances or designated mixtures which they have manufactured or processed or proposed to manufacture or process (including as known byproducts) within the ten years preceding the effective date for reporting on the substances or designated mixtures. Persons who list studies as ongoing under § 716.7(a)(1) must submit them when they are completed.

(2) Underlying data, such as medical or health records, individual files, lab notebooks, and daily monitoring records supporting studies, do not have to be submitted initially. EPA may request underlying data later under § 716.8.

(b) Submissions under paragraph (a) of this section must be indexed by chemical name, including CAS number if known, and must be accompanied by a cover letter containing the name, job title, address and telephone number of the submitting official, and the name and address of the manufacturing or processing establishment on whose behalf the submission is made. In the cover letter, respondents must identify any impurity or additive known to have been present in the substance as studied unless its presence is specifically noted in the study itself.

(c) Copies of health and safety studies and the accompanying cover letter must be submitted, preferably by certified mail, to: U.S. Environmental Protection Agency, TSCA-8D1, P.O. Box 2060, Rockville, Maryland 20852.

§ 716.7 Submission of lists of studies.

(a) Except as provided in §§ 716.10 and 716.11, persons must send the lists described in paragraphs (a) (1) and (2) of this section to EPA for each of the substances or designated mixtures listed in § 716.17 which they manufacture or process or propose to manufacture or process (including as known byproducts).

(1) A list of ongoing health and safety studies being conducted for or initiated by them, noting for each entry the purpose of the study, type of data collected, and progress and anticipated date of completion. This requirement continues until the sunset date specified by § 716.19. Studies initiated after the initial 60 day reporting period must be listed if they included one or more of the following tests: chronic tests; long- and short-term tests or mutagenicity, carcinogenicity or teratogenicity; and

the biological and environmental fate tests listed in § 716.10 (h) through (j).

(2) A list of unpublished studies known to them of which they do not have copies. The name and address of any person known to them to possess a copy of the unpublished study must accompany each entry on the list. For purposes of this section only, an unpublished study will be considered to be "known to" a person, if the study can be discovered by a file search in accordance with § 716.12.

(b) Submissions under paragraph (a) of this section must be indexed by chemical, including CAS number if known, and must be accompanied by a cover letter containing the name, job title, address and telephone number of the submitting official, and the name and address of the manufacturing or processing establishment on whose behalf the submission is made.

(c) The list of health and safety studies should be submitted, preferably by certified mail, to: U.S. Environmental Protection Agency, TSCA-8D1, P.O. Box 2060, Rockville, Maryland 20852.

§ 716.8 EPA requests for submission of further information.

EPA may request the following submissions after the initial reporting under §§ 716.6 and 716.7. If the requested submissions are not made, EPA may subpoena them under section 11 of TSCA, 15 U.S.C. 2610.

(a) Submission of underlying data of the kind described in § 716.6(a)(2) by persons who submit copies of studies under § 716.6 or list studies under § 716.7(a)(1).

(b) Submission of preliminary reports of ongoing studies by persons who list the studies under § 716.7(a)(1).

(c) Submission of copies of studies by persons listed under § 716.7(a)(2) as possessing them.

§ 716.9 How to report on substances and mixtures.

Section 716.17 contains two lists, one of substances and one of designated mixtures. Studies of listed substances and designated mixtures shall be reported as follows:

(a) When a substance is individually listed under § 716.17(a), studies of the substance and studies of mixtures known to contain the substance must be reported as studies of that substance.

(b) When two or more substances are listed as a designated mixture under § 716.17(b), studies of the designated mixture and studies of any mixture known to contain the designated mixture must be reported as studies of the designated mixture.

(c) Studies of the following preparations of a substance must be reported as studies of the substance itself, not as studies of mixtures known to contain the substance.

(1) The substance in aqueous solution.

(2) The substance containing a small amount of an additive, such as a stabilizer, emulsifier, or other chemical added for purposes of maintaining the integrity or physical form of the substance.

(3) The substance at any grade of purity.

§ 716.10 Reporting physical and chemical properties.

Studies of physical and chemical properties must be reported under this subpart if performed for the purpose of determining the environmental or biological fate of a substance, and only if they investigated one or more of the following properties:

(a) water solubility.

(b) Adsorption/desorption on particulate surfaces, e.g., soil.

(c) Vapor pressure.

(d) Octanol/water partition coefficient.

(e) Density/relative density (specific gravity).

(f) Particle size distribution for insoluble solids.

(g) Dissociation constant.

(h) Degradation by photochemical mechanisms—aquatic and atmospheric.

(i) Degradation by chemical mechanisms—hydrolytic, reductive, and oxidative.

(j) Degradation by biological mechanisms—aerobic and anaerobic.

§ 716.11 Exemptions to reporting requirements.

The following are exempt from the copy and list submission requirements of §§ 716.6 and 716.7.

(a) Studies which have been published in the scientific literature.

(b) Studies previously submitted to EPA, e.g., studies voluntarily submitted during section 4 proceedings or under the previous section 8(d) rule.

(c) Studies previously submitted to any Federal agency with no claims of confidentiality.

(d) Studies conducted or initiated by or for another person who is subject to §§ 716.6 and 716.7.

(e) Studies of chemical substances which are not on the TSCA Chemical Substance Inventory, e.g., research and development studies on new chemical substances.

(f) The following types of studies when the subject of the study is a mixture known to contain a substance or designated mixture listed in § 716.17.

(1) Acute oral toxicity studies.

(2) Acute dermal toxicity studies.

(3) Acute inhalation toxicity studies.

(4) Primary eye irritation studies.

(5) Primary dermal irritation studies.

(6) Dermal sensitization studies.

(7) Physical and chemical properties.

If the substance or designated mixture is an impurity, no reporting is required (see § 716.11(i), below).

(g) Analyzed aggregations of monitoring data based on monitoring data acquired more than five years preceding the date the substance or designated mixture was added to the list in § 716.17.

(h) Analyzed aggregations of monitoring data on mixtures known to contain one or more substance or designated mixtures listed in § 716.17, when the monitoring data are not analyzed to determine the exposure or concentration levels of the substances or designated mixture listed in § 716.17.

(i) Studies on a substance or designated mixture listed in § 716.17 that the person who is reporting has manufactured or processed or proposed to manufacture or process only as an impurity. When reporting of such studies is to be required, that reporting will be separately proposed in the **Federal Register.**

§ 716.12 File search.

Persons will satisfy the requirements of this Subpart if they limit their search for the required information to records in which such information is expected to be found in the ordinary course of their business, and to information kept by employees whose assigned duty is to advise the company on the health or environmental effects of chemicals. For purposes of this rule, persons do not have to search files retired prior to December 31, 1979.

§ 716.14 Reporting schedule.

(a) Except as provided in paragraphs (b) and (c) of this section, submissions under §§ 716.6 and 716.7 must be postmarked on or before 60 days after the effective date of the listing of a substance or designated mixture in § 716.17 or within 60 days of proposing to manufacture or process a substance or designated mixture if first done after the effective date of the substance's or designated mixture's listing in § 716.17.

(b) Persons subject to the listing requirement of § 716.7 must inform EPA of any study initiated by or for them within the three-year reporting period described in § 716.19 within 30 days of initiation of the study. Copies of studies listed as ongoing under § 716.7(a)(1), or studies initiated within the reporting

period, must be submitted within 30 days of their completion.

(c) Respondents who cannot meet a deadline under this section may apply for a reasonable extension of time. Requests for extensions should be addressed to: Document Control Officer, Office of Pesticides and Toxic Substances, (TS-793), Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, Attn: Section 8(d) extension.

§ 716.16 Confidentiality claims.

(a) Any person submitting a document under this Subpart may assert a business confidentiality claim covering all or part of the submitted material. Any information covered by a claim will be disclosed by EPA only as provided in procedures set forth at Part 2 of this title.

(b) If no claim accompanies a document at the time it is submitted to EPA, the document will be placed in an open file available to the public without further notice to the respondent.

(c)(1) Section 14(b) of TSCA states that EPA may not withhold from disclosure, on the grounds that they are confidential business information, health and safety studies of any substance that has been offered for commercial distribution or for which testing is required under TSCA section 4 or for which notice is required under TSCA section 5, except to the extent that disclosure of data from such studies would reveal: (i) processes used in the manufacturing or processing of a substance or mixture, or (ii) the portion of a mixture comprised by any of the substances in the mixture.

(2) Any respondent who wishes to assert a claim that part of a study should be withheld from disclosure because disclosure would reveal a confidential process or quantitative mixture composition or other confidential information, should briefly state the basis of the claim, i.e., by saying "reveals confidential process information" or "reveals confidential mixture proportion data," and clearly identify the material subject to the claim. Information in a study, such as company name or address, financial statistics, or product codes used by a company, which is irrelevant to any health or environmental effect of a chemical, may be claimed confidential and not subject to the disclosure requirements of section 14(b) of TSCA. Other information contained in a study, the disclosure of which would clearly be an unwarranted invasion of personal privacy (such as individual medical records), will be considered confidential as provided in Title 5, United States Code, section 552(b)(6).

(d) To assert a claim of confidentiality for data contained in a submitted document, the respondent must submit two copies of the document.

(1) One copy must be complete. In that copy, the respondent must indicate what data, if any, are claimed as confidential by marking the specific information on each page with a label such as "confidential," "proprietary," or "trade secret" and briefly state the basis of the claim.

(2) If some data are claimed as confidential, the respondent must submit a second copy. The second copy must be complete, except that all information claimed as confidential in the first copy must be deleted.

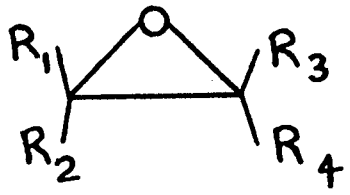
(3) The first copy will be for internal use by EPA. The second copy will be placed in an open file to be available to the public.

(4) Failure to furnish a second copy when information is claimed as confidential in the first copy will be considered a presumptive waiver of the claim of confidentiality. EPA will notify the respondent by certified mail that a finding of a presumptive waiver of the claim of confidentiality has been made. The respondent will be given 30 days from the date of receipt of notification to submit the required second copy. If the respondent fails to submit the second copy within the 30 days EPA will place the first copy in the public file.

§ 716.17 Substances and designated mixtures to which this subpart applies.

(a)(1) Substances. The following substances are subject to this subpart as of October 4, 1982.

Substances	CAS Numbers (examples for groups)
Acetonitrile.	75-05-8
Acrylamide.	79-06-1
Alkyl epoxides -- including all noncyclic aliphatic hydrocarbons with one or more epoxy functional groups.	75-21-8 75-56-9 106-88-7 1464-53-5



R_1 = H or alkyl
R_2 = H or alkyl
R_3 = H or alkyl
R_4 = H or alkyl

Groups R_1-R_4 may contain one or more epoxide functions

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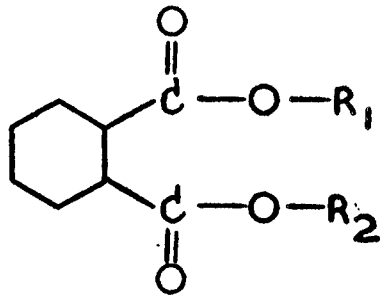
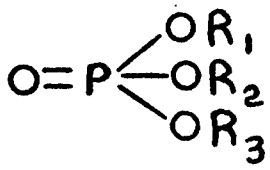
Substances	CAS Numbers (examples for groups)	
Alkyl phthalates -- all alkyl esters of 1,2-benzene dicarboxylic acid (orthophthalic acid).	84-61-7 84-66-2 84-74-2 117-81-7 117-84-0 119-06-2 119-07-3 131-11-3 26761-40-0 27554-26-3	

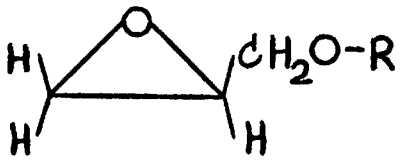


R_1 = alkyl
R_2 - alkyl

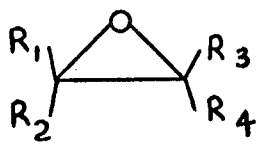
Aniline and chloro-, bromo-, and/or nitro-anilines.	62-53-3	108-42-9
	88-74-4	121-87-9
	89-63-4	141-85-5
	95-51-2	147-82-0
	95-76-1	554-00-7
	95-82-9	608-27-5
	97-02-9	626-43-7
	99-09-2	634-93-5
	99-29-6	635-22-3
	99-30-9	827-94-1
	100-01-6	1817-73-8
	106-40-1	5388-62-5
	106-47-8	6283-25-6
	3531-19-9	
Antimony.	7440-36-0	
Antimony trioxide.	1309-64-4	
Antimony sulfide.	1345-04-6	
Aryl phosphates - phosphate esters of phenol or of alkyl-substituted phenols. Try-aryl and mixed alkyl and aryl esters are included but trialkyl esters are excluded.	78-30-8	2528-36-1
	78-32-0	25155-23-1
	78-33-1	26444-49-5
	115-86-6	28108-99-8
	563-04-2	29761-21-5
	1241-94-7	51363-64-5
	1330-78-5	56803-37-3



Substances	CAS Numbers (examples for groups)	
R_1 = phenyl, either unsubstituted or substituted with one or more alkyl or aralkyl groups		
R_2 = alkyl; or phenyl, either unsubstituted or substituted with one or more alkyl or aralkyl groups		
R_3 = alkyl; or phenyl, either unsubstituted or substituted with one or more alkyl or aralkyl groups		
Asbestos - Asbestiform varieties of: chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonite-grunerite); anthophyllite; tremolite; and actinolite.	1332-21-4 12001-29-5 12172-73-5 17068-78-9	
Bisazobiphenyl dyes derived from benzidine and its congeners, orthotolidine (dimethylbenzidine) and dianisidine (dimethoxybenzidine).	72-57-1 91-92-9 91-96-3 573-58-0 992-59-6 1937-37-7 2150-54-1 2429-71-2 2429-73-4 2429-74-5 2429-79-0 2429-81-4 2429-82-5 2429-83-6 2429-84-7 2586-57-4 2586-58-5 20282-70-6	2602-46-2 2610-05-1 2893-80-3 3530-19-6 3567-65-5 3626-28-6 4335-09-5 6358-29-8 6360-54-9 6449-35-0 6637-88-3 6656-03-7 6739-62-4 8014-91-3 10401-50-0 16071-86-6 16143-79-6
Chlorinated benzenes, mono- and di-.	95-50-1 106-46-7 108-90-7 541-73-1	
Chlorinated benzenes, tri-, tetra- and penta-.	87-61-6 95-94-3 108-70-3 120-82-1 608-93-5 634-66-2 634-90-2	

Substances	CAS Numbers (examples for groups)
Chlorinated naphthalenes -- chlorinated derivatives of naphthalene (empirical formula $C_{10}H_xCl_y$ where x+y=8).	90-13-1 1321-64-8 1321-65-9
Chlorinated paraffins -- chlorinated paraffin oils and chlorinated paraffin waxes, with chlorine content of 35 percent through 70 percent by weight.	61788-76-9 63449-39-8 68920-70-7
Chloromethane (methyl chloride).	74-87-3
Cresols -- ortho, meta-, and para-cresol.	95-48-7 106-44-5 108-39-4
Cyclohexanone.	108-94-1
Dichloromethane. (methylene chloride)	75-09-2
1,2-Dichloropropane.	78-87-5
Glycidol and its derivatives.  R = H; alkyl, alkenyl or alkynyl; aryl; acyl Where R = alkyl, alkenyl, alkynyl, aryl, or acyl; any substituents or functional groups may be present with the alkyl, etc., groups.	77-83-8 101-90-6 106-90-1 106-91-2 106-92-3 121-39-1 122-60-1 556-52-5 930-37-0 2238-07-5 2425-79-8 2426-08-6 2461-18-9 4016-11-9 4016-14-2 13236-02-7 13561-08-5 25085-99-8 26447-14-3

Substances	CAS Numbers (examples for groups)
Halogenated alkyl epoxides -- halogenated noncyclic aliphatic hydrocarbons with one or more epoxy functional groups.	106-89-8 428-59-1 3083-25-8 3132-64-7



R_1 = X or $C_nH_{2n+1-y}X_y$ (y=1 to 2n+1)
R_2 = H or X or $C_nH_{2n+1-y}X_y$ (y=0 to 2n+1)
R_3 = H or X or $C_nH_{2n+1-y}X_y$ (y=0 to 2n+1)
R_4 = H or X or $C_nH_{2n+1-y}X_y$ (y=0 to 2n+1)

X = halogen

Groups R_1 - R_4 may contain one or more epoxide functions.

Hexachloro-1,3-butadiene.	87-68-3
Hexachlorocyclopentadiene.	77-47-4
Hydroquinone.	123-31-9
Isophorone.	78-59-1
Mesityl oxide.	141-79-7
4,4'-Methylenedianiline.	101-77-9
Methyl ethyl ketone.	78-93-3
Methyl isobutyl ketone.	108-10-1
Nitrobenzene.	98-95-3
p-Phenylenediamine.	106-50-3
Polychlorinated terphenyls -- polychlorinated ortho-, meta-, and para-terphenyls.	11126-42-4 12642-23-8 61788-33-8
Pyridine.	110-86-1
Quinone.	106-51-4
Toluene.	108-88-3
1,1,1-Trichloroethane (methyl chloroform).	71-55-6
Vinyl fluoride.	75-02-5
Vinylidene fluoride.	75-38-7
Xylenes -- ortho-, meta-, and para-xylene.	95-47-6 106-42-3 108-38-3

(2) [Reserved]

(b) [Reserved]

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§ 716.18 Additions to lists of substances and designated mixtures to which this subpart applies.

The requirements of this Subpart will periodically be extended to cover additional substances and designated mixtures. Two procedures will be used to add substances and mixtures.

(a) Except as provided in paragraph (b) of this section, substances and designated mixtures will be added after publication in the **Federal Register** of a notice of proposed amendment of this subpart. There will be a 30-day public comment period on the notice; after consideration of the comments, a final amendment will identify the substances and mixtures added.

(b) Substances and designated mixtures that have been recommended for testing by the Interagency Testing Committee, established under section 4 of TSCA, will become subject to this subpart 30 days after publication of a notice to that effect in the **Federal Register.**

§ 716.19 Sunset provision.

The reporting period on a substance or designated mixture will terminate no later than three years after that substance or designated mixture is added to the list in § 716.17. The automatic termination date for the three year reporting period on a substance or mixture will be the annual sunset date (May 1 or November 1) that falls no later than three years after reporting begins, e.g., a reporting requirement taking effect on January 1, 1982 would expire not later than November 1, 1984. A notice will be published in the **Federal Register** announcing the termination date for reporting for the substances and designated mixtures listed in § 716.17 (a) and (b). An earlier termination date may be published for a substance or designated mixture at the discretion of the Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 82-24058 Filed 9-1-82; 8:45 am]

BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 716

[OPTS-84003B; TSH-FRL 2112-3]

Health and Safety Data Reporting; Submission of Lists and Copies of Health and Safety Studies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This is a proposal to add to the list of chemical substances and mixtures for which lists and copies of unpublished health and safety studies must be submitted under section 8(d) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2607(d) (40 CFR Part 716 Subpart A). The chemical substances proposed to be added were recommended for testing by the Interagency Testing Committee (ITC), in their sixth through tenth reports to EPA (45 FR 35897, 45 FR 78432, 46 FR 28138, 47 FR 5456, and 47 FR 22585). The ITC was established under section 4 of TSCA.

DATE: Comments must be submitted on or before October 4, 1982.

ADDRESS: Written comments should bear the document control number OPTS-84003B and should be submitted to: Document Control Officer (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room E-409, 401 M St., SW., Washington, D.C. 20460.

All written comments filed under this notice will be available for public inspection in Rm. E-107 from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Douglas Bannerman, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065); in Washington, D.C.: (554-1404); Outside the U.S.A.: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: Elsewhere in today's **Federal Register** EPA is promulgating regulations under section 8(d) of TSCA to require submission of unpublished health and safety studies on specifically listed chemicals by chemical manufacturers and processors. Other persons in possession of such studies may be asked to submit them voluntarily. This rule establishes standardized reporting requirements and provides for amending the list of chemicals subject to the rule.

Under this proposal EPA would amend the list of chemicals by adding the chemicals recommended for testing by the ITC in its sixth through tenth reports. Comments are solicited on this amendment. In the future, all ITC-recommended chemicals will be subject to the rule effective 30 days after publication of a notice in the **Federal Register** to that effect. (See 40 CFR 716.18.)

We propose to add the following chemical substances and categories of chemical substances to 40 CFR 716.17. The ITC report number in which the recommendation was made follows each chemical substance or category of substances listed below.

Chemicals Proposed for Addition to Rule

Categories of Chemical Substances

Phenylenediamines—6th Report
Fluoroalkenes—7th Report

Chemical Substances

Benzyl butyl phthalate—7th Report
Biphenyl—10th Report
Butyl glycolyl butyl phthalate—7th Report
Chlorendic acid—9th Report
4-Chlorobenzotrifluoride—9th Report
2-Chlorotoluene—8th Report
Diethylenetriamine—8th Report
Ethyltoluene—10th Report
Formamide—10th Report
Hexachloroethane—8th Report
1,2,4-Trimethylbenzene—10th Report
Tris (2-Chloroethyl) phosphite—9th Report

Under the rule implementing section 8(d) of TSCA, EPA will acquire unpublished health and safety studies on these chemicals from manufacturers and processors of the chemicals. The Agency will use the studies to support its investigations of the risks posed by the chemicals and, in particular, to support its decisions whether to require industry to test chemicals under section 4 of TSCA. Use of the studies in this way was the subject of comment during the rulemaking proceeding for the rule. Our responses to section 8(d) issues raised in response to the proposal are part of the rulemaking record for that rule.

Economic Impact

EPA estimates that these additional chemicals will cost industry $195,000 to submit the required data. This consists of the following:

Corporate Rule Review	$22,000
Corporate Review (site identification)	26,000
File Search	46,000
Title Listing	3,000
Photocopying (materials)	4,000
Photocopying (labor)	11,000
Managerial Review	73,000
Ongoing Reporting	10,000
Total	195,000

If we assume ±30 percent margin of error in these estimates the range of probable cost varies from $136,000 to $254,000.

Public Record

EPA has established a public record (docket number OPTS-84003B) for this proposed rulemaking document which, along with a complete index, is available for inspection in Rm. E-107 from 8:00 a.m. to 4:00 p.m. on working days (401 M Street, SW., Washington, D.C., 20460). This record includes basic information considered by the Agency in developing this proposed rule. The Agency will supplement the record with additional information as it is received. The record includes the following categories of information:

(1) Health and Safety Study Reporting Regulations (40 CFR Part 716), Public Record, Docket No. 084003.

(2) Reports Impact Analysis for 40 CFR Part 716 and this proposed rulemaking.

(3) 6th-10th Reports of the Interagency Testing Committee (ITC); 45 FR 35897 (6th Report), 45 FR 78432 (7th Report), 46 FR 28138 (8th Report), 47 FR 5456 (9th Report), and 47 FR 22585 (10th Report).

EPA anticipates adding to the rulemaking record the following types of information:

(1) All comments on this proposed amendment.

(2) All relevant support documents and studies.

(3) Records of all communications between EPA personnel and persons outside the Agency pertaining to the development of this rule. (This does not include any inter- or intra-agency memoranda unless specifically noted in the index of the rulemaking record.)

(4) Minutes, summaries, or transcripts of any public meetings held to develop this rule.

(5) Any factual information considered by the Agency in developing the rule.

(6) Comments received from OMB under the Paperwork Reduction Act.

EPA will identify the complete rulemaking record on or before the date of promulgation of the regulation, as prescribed by section 19(a)(3) of TSCA, and will accept additional material for inclusion in the record at any time between this notice and such designation. The final rule will also permit persons to point out any errors or omissions in the record.

Regulatory Assessment Requirements; Paperwork Reduction Act

The reporting provisions of the final section 8(d) rule have been submitted for approval to the Office of Management and Budget (OMB) under section 3504(b) of the Paperwork Reduction Act of 1980 U.S.C. 3501 *et seq.* The final rule will explain how its

reporting provisions respond to any OMB or public comments.

This rule requires manufacturers and processors of eight chemicals and two chemical categories to submit unpublished health and safety studies relating to these chemicals. The studies to be submitted will be used by EPA in evaluating health and environmental effects of chemicals for purposes of assessing risks associated with the chemicals, as well as in determining whether the chemicals should be included in testing rules issued under section 4 of TSCA.

Regulatory Flexibility Act

This rule (amendment), if promulgated, will not have a significant economic impact on a substantial number of small entities. Based on our experience with a previous section 8(d) rule, we expect that only about 1 percent of the respondents will have gross sales of less than $20 million. Further, approximately 90 percent are expected to have gross sales over $100 million. Thus, of the approximately 172 companies expected to report under this rule, 156 are expected to have sales greater than $100 million. Only two companies are expected to have gross sales under $20 million. Therefore, in accordance with the Regulatory Flexibility Act (Pub. L. 96–354), EPA has determined that this rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this regulation is not major because it does not have an effect of $100 million or more on the economy. It is expected to have a one-time cost of about $195,000. It does not have a significant effect on competition, costs or prices.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

List of Subjects in 40 CFR Part 716

Chemicals, Health and safety, Environmental protection, Hazardous materials, Recordkeeping and reporting.

Dated: August 23, 1982.

John E. Daniel,
Acting Administrator.

PART 716—HEALTH AND SAFETY DATA REPORTING

Therefore, it is proposed that Title 40, Chapter I, be amended by adding § 716.17(a)(2) to read as follows:

§ 716.17 Substances and designated mixtures to which this subpart applies.

(a) * * *

(2) As of the date of publication of the final rule (amendment) in the **Federal Register**, the following chemical substances are subject to this subpart.

Substances	CAS numbers
Benzyl butyl phthalate	85-68-7
Biphenyl	92-52-4
Butyl glycolyl butyl phthalate	85-70-1
Chlorendic acid	115-28-6
4-Chlorobenzotrifluoride	98-56-6
2-Chlorotoluene	95-49-8
Diethylenetriamine	111-40-0
Ethyltoluene	25550-14-5
Fluoroalkenes:	
This category is defined as fluoroalkenes of the general formula:	
$C_nH_{2n-x}F_x$	
where n equals 2 or 3 and x equals 1 to 6.	
This category includes the following six fluoroalkenes but is not limited to them:	
Tetrafluoroethene	116-14-3
Trifluoroethene	359-11-5
Vinylidine fluoride	75-38-7
Vinyl fluoride	75-02-5
Hexafluoropropene	116-15-4
Trifluoromethylethene	677-21-4
Formamide	75-12-7
Hexachloroethane	67-72-1
Phenylendiamines:	
This category is defined as all nitrogen-unsubstituted phenylendiamines and their salts with zero to two substituents on the ring selected from the same or different members of the group of halo, nitro, hydroxy, hydroxy-lower alkoxy, lower-alkyl, and lower-alkoxy. For this purpose, the term "lower" is defined as a group containing between one and four carbons	
This category includes the following phenyendiamines but is not limited to them:	
o-Diaminobenzene	95-54-5
2,5-diaminotoluene	95-70-5
1,3-Diamono-4-methylbenzene	95-80-7
o-Phenylendiamine, 4-chloro-	95-83-0
o-Phenylenediamine, 4-nitro-	99-56-9
p-Diaminobenzene	106-50-3
m-Diaminobenzene	108-45-2
3,5-Diaminotoluene	108-71-4
2,4-Diaminophenol dihydrochloride	137-09-7
1,2-Diamino-4-methylbenzene	496-72-0
m-Phenylenediammonium dichloride	541-69-5
m-Phenylenediamine, sulfate (1:1)	541-70-8
m-Phenylenediamine, 4-methoxy, dihydrochloride	614-94-8
m-Phenylenediamine, 4-methoxy	615-05-4
1,2-Phenylenediamine dihydrochloride	615-28-1
1,4-Benzenediamine, 2-methyl-, dihydrochloride	615-45-2
p-Phenylenediamine, 2-chloro-, dihydrochloride	615-46-3
2,5-Diaminotoluene sulfate	615-50-9
p-Phenylenediamine, dihydrochloride	624-18-0
2,6-Diamino-1-methylbenzene	823-40-5
o-Phenylenediamine, 4.ethoxy-	1197-37-1
1,2-Diamino-3-methylbenzene	2687-25-4
o-Phenylenediamine, 4-butyl-	3663-23-9
m-Phenylenediamine, 5-nitro	5042-55-7
m-Phenylenediamine, 4-nitro	5131-58-8
m-Phenylenediamine, 4-chloro-	5131-60-2
p-Diaminoanisole	5307-02-6
p-Phenylenediamine, 2-nitro	5307-14-2
m-Phenylenediamine, 2-nitro-	6219-67-6
p-Phenylenediamine, 2-nitro-	6219-71-2
o-Phenylenediamine, 4-nitro-, sulfate	6219-77-8
1,4-Benzenediamine, 2-methyl-, dihydrochloride	6369-59-1
4,6-Diamino-o-cresol	15872-73-8
p-Phenylenediamine, sulfate	16245-77-5
p-Phenylenediamine, 2-nitro-, dihydrochloride	18266-52-9
p-Phenylenediamine, 2,5-dichloro-	20103-09-7
Diaminotoluene	25376-45-8
2,4-Diaminoanisole sulfate	39156-41-7
1,2-Benzenediamine, 5-chloro-3-nitro	42389-30-0
1,4-Benzenediamine, ethanedioate (1:1)	62654-17-5
4,6-Diamino-2-methylphenol, hyrohloride	65879-44-9
Ethanol, 2-(2,4-diaminophenoxy-, dihydrochloride	66422-95-5
1,3-Benzenediamine, 4-ethoxy-, dihydrochloride	67801-06-3
1,3-Benzenediamine, 4-ethoxy-, sulate (1:1)	68015-98-5
m-Phenylenediamine, 4-chloro-, sulfate	68239-80-5
1,2-Benzenediamine, 4-nitro-, sulfate (1:1)	68239-82-7
1,4-Benzenediamine, 2-nitro-, sulfate (1:1)	68239-83-8
1,2-Benzenediamine, 4-chloro, sulfate (1:1)	68459-98-3
1,3-Benzenediamine, ar-ethyl-methyl	68966-84-7
1,2,4-Trimethylbenzene	95-63-6
/Tris (2-Chloroethyl) phosphite	140-08-9

* * * * *

[FR Doc. 82-24059 Filed 9-1-82; 8:45 am]
BILLING CODE 6560-50-M

federal register

Thursday
September 2, 1982

Part IV

Department of the Interior

Bureau of Land Management

Amendment of Right-of-Way Regulations and Amendments to Oil and Gas Right-of-Way Regulations

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 2800

[Circular No. 2510]

Rights-of-Way, Principles and Procedures; Amendment of Right-of-Way Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking further eliminates needless, burdensome and counterproductive provisions contained in the existing right-of-way regulations for grants made under Title V of the Federal Land Policy and Management Act of 1976. This final rulemaking is the result of further study of the existing regulations made in an effort to reduce the paperwork burden on the using public and from analysis of the comments received from the public suggesting changes in the regulations.

EFFECTIVE DATE: October 4, 1982.

ADDRESS: Inquiries or suggestions should be sent to: Director (330), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Leon Kabat, (202) 343-5441, or Robert C. Bruce, (202) 343-8735.

SUPPLEMENTARY INFORMATION: The proposed rulemaking, making further amendments to the existing regulations in 43 CFR Part 2800—Rights-of-Way, Principles and Procedure—was published in the **Federal Register** on April 8, 1982, (47 FR 15284). Comments were invited for a 60-day period during which time a total of 36 comments was received. Nearly all of the comments were a combination of views on Part 2800 and Part 2880 and as a result the comments are treated as the same for both rulemakings. The comments came from the following sources: 23 from companies, 6 from associations, 6 from Federal agencies and 1 from a State government.

The comments were nearly universal in their support for the efforts of the Bureau of Land Management in reducing the paperwork burden on the using public, with specific support for this rulemaking that represents the second step in the Bureau's effort to make the right-of-way regulations less burdensome. Specific comments will be discussed in connection with the section to which they refer.

Section 2800.0-5

The comments were strong in their endorsement of the change made by the proposed rulemaking in the definition of the term "right-of-way corridor" to "designated right-of-way corridor." The comments noted that this change clarified the meaning of the term and was a better reflection of the Congressional intent to minimize adverse environmental impacts and the proliferation of separate rights-of-way by wholesale designation of right-of-way corridors. The final rulemaking adopts the language of the proposed rulemaking with the correction of a misspelled word.

The comments also strongly supported the addition of the term "transportation and utility corridor" made by the proposed rulemaking. However, the comments expressed the view that the definition was unnecessarily restrictive and recommended that it be amended. The main concern expressed by the comments was that a right-of-way corridor would, in most instances, need to be wider than existing rights-of-way if it were to accommodate additional right-of-way users. After careful review of the proposed changes, the final rulemaking has been amended to meet the objections raised in the comments.

Finally, several of the comments were concerned that the use of right-of-way corridors may become mandatory in obtaining right-of-way grants in the future. While corridors are the preferred locations for rights-of-way, there is no intent on the part of the Bureau of Land Management that all right-of-way grants be confined to designated corridors. While industry's concern with the concept of right-of-way corridors is appreciated, it is a mandate of the Federal Land Policy and Management Act of 1976 "to minimize environmental impacts and the proliferation of separate rights-of-way." The Bureau will work with affected users in the adoption of a right-of-way corridor program that will meet the needs of industry and protect the public lands to the greatest extent possible.

Section 2801.1

The comments on the changes made by the proposed rulemaking in this section were generally favorable to the removal of unnecessary language, but there was some disagreement as to what provisions were unnecessary. The comments were concerned about the removal of the language calling for consideration of land use plans, project financing and limitations imposed by State and Federal law. The review of the comments led to the conclusion that the final rulemaking should adopt the proposed rulemaking without change. Even though language concerning land use plans has been removed, it is a basic requirement for all land use decisions made concerning the public lands and will be included as part of the consideration for determining if a right-of-way grant should or should not be made. Project financing and limitations imposed by State and Federal law are items that are duplicative of the two items preceding them in paragraph (h) and are accordingly deleted.

Section 2802.1

A few comments objected to the removal of the examples of casual use made by the proposed rulemaking in this section. One comment expressed the view that the removal of the examples led to a standard that was too vague to promote and ensure environmental protection of the public lands. The examples which were deleted by the proposed rulemaking and by the final rulemaking are only four of many possible types of casual uses. The section, when combined with the definition of the term "casual use" that appears in § 2800.0-5(m), makes clear what is meant and the examples are not needed and, indeed, may confuse the issue.

Section 2802.4

A number of comments raised questions concerning the revision of this section made by the proposed rulemaking. The questions were directed to such issues as the effective date of a grant, rental charges and when they were effective and when a right-of-way grant became effective if an appeal were made. After careful review of the comments and the issues raised, the final rulemaking deletes the revision made by the proposed rulemaking and the language of the existing regulations continues in effect.

Section 2802.5

The comments on this section expressed the feeling that the changes made by the proposed rulemaking were not fair or equitable to those applicants who obtain the right to use the public lands for right-of-way purposes prior to such use. This special procedure, including the changes made by the proposed rulemaking, is provided as an incentive for those pre-Federal Land Policy and Management Act unauthorized users to file their applications within a four-year period after the effective date of the regulations. The hoped-for filing would reduce the number of unauthorized uses

and place the right-of-way users in a rental paying status. The special procedure is only applicable to pre-Federal Land Policy and Management Act unauthorized users, and if applications are not filed prior to July 31, 1984, then those uses, as well as all others, will be treated as a trespass. The final rulemaking adopts the changes made by the proposed rulemaking with the only changes being those needed to conform this rulemaking to the changes in numbering made by the previous amendment to this section.

Section 2803.1-2

Several comments made the point that the proposed rulemaking was based on the incorrect premise that rents could only increase. The final rulemaking corrects this error by adding words that allow for a refund of any overpayments.

Section 2803.4

The few comments received on this section and the changes made by the proposed rulemaking questioned that temporary use permits should be given the same status as right-of-way grants where the question of termination or suspension is concerned. The comments expressed the view that a temporary use permit was a privilege and the Secretary of the Interior should retain greater discretion in its revocation than in the case of a right-of-way grant. After considering this issue, the final rulemaking adopts the language of the proposed rulemaking without change. Further consideration will be given to the issues raised by the comments.

Section 2803.6-1

The two comments on this section questioned the amendment made by the proposed rulemaking. While agreeing that the wording of the existing regulations went too far, they suggested word changes other than that made by the proposed rulemaking. The changes suggested by the comments have not been adopted and the final rulemaking adopts the amendment made by the proposed rulemaking.

Section 2803.6-5

Three comments on the change made to this section by the proposed rulemaking recommended that the deleted language be retained. The deleted language contradicts the provisions of § 2801.1-1(j) requiring the right-of-way grant contain the terms of its renewability. The deletion removes the conflict created by the contradiction. The final rulemaking adopts the change made by the proposed rulemaking, without change.

Section 2806.1

All of the comments on this section were opposed to the deletion by the proposed rulemaking of the requirement that a right-of-way corridor designation be published in the **Federal Register**. The change, when considered with the provisions of § 2806.2-1(b), gives the authorized officer discretion to take those steps he/she deems appropriate to notify the public of the designation of a right-of-way corridor. This will allow publication in the **Federal Register** if that is determined appropriate. The final rulemaking adopts the provisions of the proposed rulemaking without change.

Section 2806.2-1

The comments on this section urged that the consultation requirements for designation of a right-of-way corridor deleted by the proposed rulemaking be retained. These requirements are unnecessary and redundant; the land use planning process has full and adequate provision for consultation with appropriate agencies, State and local governments and all parts of the interested public. The final rulemaking makes no change in the proposed rulemaking.

The principal author of this final rulemaking is Leon Kabat, Division of Rights-of-Way, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The changes made by this final rulemaking are applicable to all entities who apply for a right-of-way grant or temporary use permit on the public lands. The changes made by the final rulemaking will reduce the regulatory burden on all entities, regardless of size.

The information collection requirements contained in 43 CFR Part 2800 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004- ———.

List of Subjects in 43 CFR Part 2800

Administrative practice and procedure, Communications, Electric power, Highways and roads, Pipelines, Public lands—rights-of-way.

Under the authority of Title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761-1771), Part 2800, Group 2800, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations is amended as follows:

Dated: August 12, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

PART 2800—RIGHTS-OF-WAY, PRINCIPLES AND PROCEDURES

§ 2800.0-5 [Amended]

1. Section 2800.0-5 is amended by:

a. Revising paragraph (l) to read:

* * * * *

(l) "Designated right-of-way corridor" means a parcel of land either linear or areal in character that has been identified by law, by Secretarial Order, through the land use planning process or by other management decision as being a preferred location for existing and future right-of-way grants and suitable to accommodate more than 1 type of right-of-way or 1 or more rights-of-way which are similar, identical or compatible; and

* * * * *

b. Adding a new paragraph (n) to read:

* * * * *

(n) "Transportation and utility corridor" means a parcel of land, without fixed limits or boundaries, that is being used as the location for 1 or more transportation or utility right-of-way.

§ 2801.1-1 [Amended]

2. Section 2801.1-1(h) is amended by:

a. Removing from the fifth sentence the phrase "no longer than is";

b. Removing paragraph (h)(1) in its entirety;

c. Renumbering paragraph (h)(2) as paragraph (h)(1) and revising it to read:

* * * * *

(h) * * *

(1) Public purpose served;

* * * * *

d. Renumbering paragraph (h)(3) as paragraph (h)(2) and amending it by adding at the end the word "and";

e. Removing paragraph (h)(4) in its entirety;

f. Renumbering paragraph (h)(5) as paragraph (h)(3) and amending it by removing the word "; and" at the end and adding a period; and

g. Removing paragraph (h)(6) in its entirety.

§ 2802.1 [Amended]

3. Section 2802.1 is amended by removing the second sentence in its entirety.

§ 2802.5 [Amended]

4. Section 2802.5 is amended by:

a. Revising paragraph (a)(1) to read:

(a)(1) Required to reimburse the United States for the processing, monitoring or other costs provided for in § 2803.1-1 of this title

* * * * *

b. Removing paragraph (a)(2) in its entirety; and

c. Renumbering paragraph (a)(3) as paragraph (a)(2).

§ 2803.1-2 [Amended]

5. Section 2803.1-2 is amended by adding a new paragraph (f) to read:

* * * * *

(f) Upon the holder's written request, annual rentals, regardless of the amount, may be paid in advance. Such advance payments shall be made subject to the right of the authorized officer to adjust and collect additional rentals or refund overpayments when warranted by changes in fair market value.

§ 2803.4 [Amended]

6. Section 2803.4(b) is amended by removing the phrase "is unwilling, unable or",

§ 2803.6-1 [Amended]

7. Section 2803.6-1(b) is amended by removing from the first sentence the phrase "or are directed by the authorized officer".

§ 2803.6-5 [Amended]

8. Section 2803.6-5(a) is amended by removing the last sentence in its entirety.

§ 2806.1 [Amended]

9. Section 2806.1 is amended by:

a. Amending paragraph (b) by revising the first sentence to read:

* * * * *

b. Any existing transportation and utility corridor that is capable of accommodating an additional compatible right-of-way may be designated as a right-of-way corridor by the authorized officer without further review as required in § 2806.2 of this title. * * *; and

c. Removing paragraph (c) in its entirety.

§ 2806.2 [Amended]

10. Section 2806.2 is amended by removing the phrase "designations of" and replacing it with the phrase "of designated".

§ 2806.2-1 [Amended]

11. Section 2806.2-1 is amended by:

a. Revising paragraph (a) to read:

(a) The designation of a right-of-way corridor shall be by decision of the authorized officer. A land use plan or plan amendment which contains the designation of a right-of-way corridor(s) meets the notification requirements of this section.; and

* * * * *

b. Amending paragraph (b) by removing from the first sentence the phrase "utility transportation".

[FR Doc. 82-24138 Filed 9-1-82; 8:45 am]
BILLING CODE 4310-84-M

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43 CFR Part 2880

[Circular No. 2511]

Rights-of-Way Under the Mineral Leasing Act; Amendments to Oil and Gas Right-of-Way Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking further eliminates needless, burdensome and counterproductive provisions contained in the existing right-of-way regulations for grants issued under the Mineral Leasing Act of 1920, as amended.

EFFECTIVE DATE: October 4, 1982.

ADDRESS: Inquiries or suggestions should be sent to: Director (330), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Leon Kabat, (202) 343-5441, or Robert C. Bruce, (202) 343-8735.

SUPPLEMENTARY INFORMATION: The proposed rulemaking making further amendments to the existing regulations in 43 CFR Part 2880—Rights-of-Way Under the Mineral Leasing Act—was published in the **Federal Register** on April 8, 1982 (47 FR 15286). Comments were invited for a 60-day period during which time a total of 36 comments were received. Nearly all of the comments were a combination of views on Parts 2800 and 2880 and as a result the comments are treated as the same for both rulemakings. The comments came from the following sources: 23 from companies, 6 from associations, 6 from Federal agencies and one from a State government.

The comments were nearly unanimous in their praise of the efforts of the Bureau of Land Management in reducing the paperwork burden on the using public, with specific support for the changes made by this second in a series of rulemakings designed to make the right-of-way regulations less burdensome. Specific comments will be discussed in connection with the section to which they refer. Only those sections that were the subject of comments will be discussed.

Section 2882.1

The comments on this section were generally satisfied with the change made by the proposed rulemaking but requested some minor changes that would clarify the revised section. The revised section is clearly an improvement over the existing language and while there may be differences about the precise way the section might be stated, its meaning seems clear. Therefore, after careful consideration of the views expressed in the comments, the final rulemaking adopts the language of the proposed rulemaking without change.

Section 2882.3

All of the comments on the revision of this section made by the proposed rulemaking raised several questions that were of concern. The questions were directed to such issues as the effective date of a grant, rental charges and when they were effective and when a right-of-way grant became effective if an appeal were made. After careful review of the comments and the issues raised, the final rulemaking deletes the revision made by the proposed rulemaking and the language of the existing regulations continues in effect.

Section 2883.7

The comments on the revision of this section made by the proposed rulemaking, while generally agreeing that the change clarified the situation, raised several questions concerning the revision and suggested some minor changes. Several of the suggested changes conflicted with other proposed changes and tended to complicate the revised section. The revision made by the proposed rulemaking was adopted without change by the final rulemaking.

Section 2883.8

The comments strongly favored the revision of this section made by the proposed rulemaking. Some of the comments expressed the desire that the term "reasonable time" be replaced by a definitely established time period. The term "reasonable time" is one that allows the authorized officer needed flexibility to arrive at an acceptable time period with the holder of the right-of-way grant. Further, the question of what is a reasonable time is subject to appeal if a party feels that it is inadequate. Another concern raised in the comments was the deletion of the language covering the procedure for release of a right-of-way holder's bond. This legitimate concern is answered by the language in the revised section that the holder remains liable for costs

connected with removal and restoration of the site. The revision made by the proposed rulemaking is adopted without change by the final rulemaking.

The principal author of this final rulemaking is Leon Kabat, Division of Rights-of-Way, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The changes made by this final rulemaking are applicable to all entities who apply for a right-of-way grant or temporary use permit on the public lands. The changes made by the final rulemaking will reduce the regulatory burden on all entities, regardless of size.

The information collection requirements contained in 43 CRF Part 2880 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004- ———.

List of Subjects in 43 CFR Part 2880

Administrative practice and procedure, Common carriers, Oil and gas industry, Pipelines, Public lands—rights-of-way.

Under the authority of section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Part 2880, Group 2800, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Dated: August 12, 1982.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

PART 2880—RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

1. Paragraph (c) of § 2882.1 is revised to read as follows:

§ 2882.1 [Amended]

* * * * *

(c) No right-of-way applications processing work, other than that incurred in the processing of applications for permits for temporary use of public lands in furtherance of the filing of an application and preapplication guidance under paragraph (b) of this section, shall be undertaken by the authorized officer prior to the filing of an application together with an advance payment as required by § 2803.1-1 of this title. Such processing work includes, but is not limited to, special studies such as environmental analyses, environmental impact statements, engineering surveys, resource inventories and detailed land use or record analyses.

* * * * *

2. Section 2883.1-2 is revised to read:

§ 2883.1-2 Rental payments.

Holders of right-of-way grants and temporary use permits issued under this part shall make rental payments in accordance with § 2803.1-2 of this title, except that the provisions of § 2803.1-2(c) of this title shall not apply.

§ 2883.6-1 [Amended]

3. Section 2883.6-1(a)(1) is amended by removing the phrase "is unwilling, unable or".

4. Section 2883.7 is revised to read:

§ 2883.7 Change in Federal jurisdiction or disposal of lands.

(a) Where a right-of-way grant or temporary use permit administered under these regulations traverses Federal lands that are transferred to another Federal agency, administration of the right-of-way shall, at the discretion of the authorized officer, be assigned to the acquiring agency unless such assignment would diminish the rights of the holder.

(b) Where a right-of-way grant or temporary use permit traverses Federal lands that are transferred out of Federal ownership, the transfer of the lands shall, at the discretion of the authorized officer, either include an assignment of the right-of-way, or be made subject to the right-of-way or the United States may reserve unto itself the lands encumbered by the right-of-way.

5. Section 2883.8 is revised to read:

§ 2883.8 Restoration of Federal lands.

Within a reasonable time after termination, revocation or cancellation of a right-of-way grant, the holder shall, unless directed otherwise in writing by the authorized officer, remove such structures and improvements and restore the site to a condition satisfactory to the authorized officer. If the holder fails to remove all such structures and improvements within a reasonable period, as determined by the authorized officer, they shall become the property of the United States, but the holder shall remain liable for the cost of removal of the structures and improvements and for restoration of the site.

[FR Doc. 82-24139 Filed 9-1-82; 8:45 am]

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federal register

Thursday
September 2, 1982

Part V

Environmental Protection Agency

Textile Mill Point Source Category Effluent Guidelines, Pretreatment Standards and New Source Performance Standards

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 410

[WH-FRL 2181-3]

Textile Mills Point Source Category Effluent Limitations Guidelines, Pretreatment Standards and New Source Performance Standards

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This regulation limits the discharge of pollutants into navigable waters from existing and new sources where intermediate and finished textile products are manufactured from various types of fiber, yarn and fabric; it supersedes all existing regulations for the textile mills point source category, except the best practicable control technology currently available effluent limitations (promulgated July 5, 1974 (39 FR 24739)). The Clean Water Act and a Settlement Agreement between EPA and several environmental groups require EPA to issue this regulation.

The purpose of this regulation is to specify "best practicable technology" effluent limitations for certain subcategories, and "best available technology" effluent limitations and "new source performance standards" for the entire textile industry.

DATES: In accordance with 40 CFR 100.01 (45 FR 26048), this regulation will be considered issued for purposes of judicial review at 1:00 P.M. Eastern time on September 16, 1982. It will become effective October 18, 1982.

Under section 509(b)(1) of the Clean Water Act, any petition for judicial review of this regulation must be filed in the United States Court of Appeals within 90 days after the regulation is considered issued for purposes of judicial review. Under section 509(b)(2) of the Clean Water Act, the regulation may not be challenged later in civil or criminal proceedings brought by EPA to enforce its requirements.

ADDRESSES: Technical information may be obtained by writing to Richard E. Williams, Effluent Guidelines Division, (WH-552), EPA, 401 M Street, SW., Washington, D.C. 20460 or through calling (202) 426-2554. On September 16, 1982 copies of the development document and the economic analysis will be available for public review in EPA's Public Information Reference Unit, Room 2404 (Rear) (EPA Library), 401 M Street, SW., Washington, D.C. On November 8, 1982 the complete Record will be available for public review at the Public Information Reference Unit. The EPA information regulation (40 CFR Part 2) allows the Agency to charge a reasonable fee for copying. Copies of the development document and the economic analysis may also be obtained from the National Technical Information Service, Springfield, Virginia 22161 (703/487-6000). A notice will be published in the **Federal Register** announcing the availability of these documents from NTIS. (This should occur within 60 days of today's date.)

FOR FURTHER INFORMATION CONTACT: Richard E. Williams, (202) 426-2554.

SUPPLEMENTARY INFORMATION:

I. Legal Authority

This regulation is promulgated under the authority of Sections 301, 304, 306, 307, 308 and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1251 *et seq.*, as amended by the Clean Water Act of 1977 (Pub. L. 95-217)), also called the "Act." It is also promulgated in response to the Settlement Agreement in *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), *modified*, 12 ERC 1833 (D.D.C. 1979).

II. Scope of This Rulemaking

This regulation applies to the fiber preparation and manufacturing/processing parts of the textile industry which together make up the textile mills category (Standard Industrial Classification (SIC) Major Group 22). Textile apparel (SIC 23) is excluded here because plants in this group do not generate process wastewater.

Previously promulgated best available technology economically achievable (BAT) limitations, new source performance standards (NSPS), pretreatment standards for existing sources (PSES) and pretreatment standards for new sources (PSNS) are superseded by this regulation. The regulation promulgated today establishes effluent limitations and standards to control specific toxic, nonconventional and conventional pollutants for nine subcategories in the textile mills category: (1) Wool scouring, (2) wool finishing, (3) low water use processing, (4) woven fabric finishing, (5) knit fabric finishing, (6) carpet finishing, (7) stock and yarn finishing, (8) nonwoven manufacturing and (9) felted fabric finishing.

Best practicable control technology currently available (BPT) effluent limitations are established for the nonwoven manufacturing and the felted fabric finishing subcategories and for the water jet weaving subdivision of the low water use processing subcategory for which BPT effluent limitations guidelines have never been issued. The technology basis of BPT is biological treatment. These limitations control one toxic pollutant (total chromium), three nonconventional pollutants (COD, sulfide and total phenol) and three conventional pollutants (BOD5, TSS and pH).

BAT limitations are established for all nine subcategories in the textile mills point source category. The technology basis of BAT is biological treatment. BAT limitations for the seven existing subcategories are equal to the previously promulgated BPT limitations. For the two new subcategories and for the water jet weaving subdivision of the low water use processing subcategory, BAT limitations are being established equal to the BPT limitations being promulgated today. These BAT limitations control one toxic pollutant, total chromium, and the nonconventional pollutants chemical oxygen demand (COD), sulfide and phenols (as measured by the procedures listed in 40 CFR Part 136).

NSPS are established for all subcategories and control one toxic pollutant (total chromium), three nonconventional pollutants (COD, sulfide and phenols), and three conventional pollutants (biochemical oxygen demand (BOD5), total suspended solids (TSS) and pH). NSPS are based on the median performance of the best biological treatment systems currently used to treat textile mill wastewaters.

Finally, this regulation does not establish categorical pretreatment standards for the control of toxic pollutants at existing or new source textile mills. Rather, the textile mills point source category is required to comply with General Pretreatment Regulations (40 CFR Part 403).

In this regulation, the Agency is not making substantive changes to the previously promulgated BPT limitations for Subparts A-G. For the sake of completeness, BPT limitations, which are in effect, are printed in this final rule. The only change is that a new format is being used. Because this is not a substantive change, BPT limitations for Subparts A-G are not subject to legal challenge.

III. Summary of Legal Background

The Federal Water Pollution Control Act Amendments of 1972 established a comprehensive program to "restore and maintain the chemical, physical and biological integrity of the Nation's waters" (Section 101(a)). To implement the Act, EPA was required to issue effluent limitations guidelines,

pretreatment standards and new source performance standards for industrial dischargers.

The Act included a timetable for issuing these standards. However, EPA was unable to meet many of the deadlines and, as a result, in 1976, it was sued by several environmental groups. In settling this lawsuit, EPA and the plaintiffs executed a court-approved "Settlement Agreement." This Agreement required EPA to develop a program and adhere to a schedule in promulgating effluent limitations guidelines and pretreatment standards for 65 "priority" pollutants and classes of pollutants, for 21 major industries. [*See Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), *modified*, 12 ERC 1833 (D.D.C. 1979)].

Many of the basic elements of this Settlement Agreement were incorporated into the Clean Water Act of 1977 ("the Act"). Like the Settlement Agreement, the Act stressed control of the 65 classes of toxic pollutants. In addition, to strengthen the toxic control program, section 304(e) of the Act authorizes the Administrator to prescribe "best management practices" (BMP) to prevent the release of toxic and hazardous pollutants from plant site runoff, spillage or leaks, sludge or waste disposal and drainage from raw material storage associated with, or ancillary to, the manufacturing or treatment process.

Under the Act, the EPA program is to set a number of different kinds of effluent limitations. These are discussed in detail in the proposed regulation and development document. The following is a brief summary:

1. *Best Practicable Control Technology Currently Available (BPT).* BPT limitations generally are based on the average of the best existing performance at plants of various sizes, ages and unit processes within the industry or subcategory. In establishing BPT limitations, we consider the total cost of applying the technology in relation to the effluent reduction derived, the age of equipment and facilities involved, the process employed, the engineering aspects of the control technologies, process changes and nonwater-quality environmental impacts (including energy requirements). We balance the total cost of applying the technology against the effluent reduction.

2. *Best Available Technology Economically Achievable (BAT).* BAT limitations, in general, represent the best existing performance in the industrial subcategory or category. The Act establishes BAT as the principal national means of controlling the direct discharge of toxic and nonconventional pollutants to navigable waters. In arriving at BAT, the Agency considers the age of the equipment and facilities involved, the process employed, the engineering aspects of the control technologies, process changes, the cost of achieving such effluent reduction and nonwater-quality environmental impacts. The Administrator retains considerable discretion in assigning the weight to be accorded these factors.

3. *Best Conventional Pollutant Control Technology (BCT).* The 1977 Amendments added section 301(b)(2)(E) to the Act establishing "best conventional pollutant control technology" (BCT) for discharges of conventional pollutants from existing industrial point sources. Conventional pollutants are those defined in section 304(a)(4) (biological oxygen demanding pollutants (e.g., BOD5), total suspended solids (TSS), fecal coliform and pH) and any additional pollutants defined by the Administrator as "conventional," i.e., oil and grease. (See 44 FR 44501; July 30, 1979.)

BCT is not an additional limitation but replaces BAT for the control of conventional pollutants. In addition to other factors specified in section 304(b)(4)(B), the Act requires that BCT limitations be assessed in light of a two part "cost-reasonableness" test. *American Paper Institute* v. *EPA*, 660 F.2d 954 (4th Cir. 1981). The first test compares the cost for private industry to reduce its conventional pollutants with the cost to publicly owned treatment works (POTWs) for similar levels of reduction in their discharge of these pollutants. The second test examines the cost-effectiveness of additional industrial treatment beyond BPT. EPA must find that limitations are "reasonable" under both tests before establishing them as BCT. In no case may BCT be less stringent than BPT.

EPA published its methodology for carrying out the BCT analysis on August 29, 1979 (44 FR 50732). In the case mentioned above, the Court of Appeals ordered EPA to correct data errors underlying EPA's calculation of the first test, and to apply the second cost test. (EPA had argued that a second cost test was not required.)

EPA has determined that biological treatment, filtration and coagulation technologies are capable of removing significant amounts of conventional pollutants. However, EPA will soon propose a revised BCT methodology in response to the *American Paper Institute* v. *EPA* decision mentioned earlier. We will apply the new proposed BCT methodology to these technology options and will propose the appropriate BCT limitations for this industry shortly.

4. *New Source Performance Standards (NSPS).* NSPS are based on the best available demonstrated technology. New plants have the opportunity to install the best and most efficient production processes and wastewater treatment technologies.

5. *Pretreatment Standards for Existing Sources (PSES).* PSES are designed to control the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of a publicly owned treatment works (POTW). They must be achieved within three years of promulgation. The Clean Water Act of 1977 requires pretreatment for pollutants that pass through the POTWs in amounts that would violate direct discharger effluent limitations or interfere with the POTW's treatment process or chosen sludge disposal method. The legislative history of the Act indicates that pretreatment standards are to be technology-based, analogous to the best available technology. EPA has generally determined that there is pass through of pollutants if the percent of pollutants removed by a well-operated POTW achieving secondary treatment is less than the percent removed by the BAT model treatment system. The general pretreatment regulations, which served as the framework for the categorical pretreatment regulations, are found at 40 CFR Part 403 (43 FR 27736 (June 26, 1978); 46 FR 9462 (January 28, 1981)).

6. *Pretreatment Standards for New Sources (PSNS).* Like PSES, PSNS control the discharge of pollutants to POTWs that pass through, interfere with, or are otherwise incompatible with the operation of POTWs. PSNS are issued at the same time as NSPS. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate the best available demonstrated technologies. The Agency considers the same factors in promulgating PSNS as it considers in promulgating PSES.

IV. Methodology and Data Gathering Efforts

The methodology and data gathering efforts used in developing the proposed regulation were discussed in the preamble to the proposal, 44 FR 62207–62209 (October 29, 1979), and the notice of availability, 46 FR 8590, *et seq.* (January 27, 1981). In summary, before publishing the proposed regulation in 1979, the Agency conducted a data collection, analytical screening, and analytical verification program for the textile mills industry. This program

stressed the acquisition of data on the presence and treatability of the 65 toxic pollutants and classes of toxic pollutants discussed previously. The 65 toxic pollutants and classes of pollutants potentially includes thousands of specific pollutants. EPA selected 129 specific toxic pollutants for study in this rulemaking and other industry rulemakings. (Analytical methods are discussed in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants* (U.S. E.P.A., April 1977)). Based on the results of that program, EPA identified several distinct treatment technologies, including both end-of-pipe and in-plant technologies, that are or can be used to treat textile industry wastewaters.

For each of these technologies, the Agency (i) compiled and analyzed historical and newly-generated data on effluent quality, (ii) identified its reliabilities and constraints, (iii) considered the nonwater quality impacts (including impacts on air quality, solid waste generation and energy requirements), and (iv) estimated the costs and economic impacts of applying it as a treatment and control system. Costs and economic impacts of the technology options considered are discussed in detail in *Economic Impact Analysis of Effluent Limitations and Standards for the Textile Mills Industry* (E.P.A. 440/2-82-001, August 1982). A more complete description of the Agency's study methodology, data gathering efforts and analytical procedures supporting the regulation can be found in the *Final Development Document for Effluent Limitations Guidelines New Source Performance Standards and Pretreatment Standards for the Textile Mills Point Source Category* (U.S. E.P.A., August 1982).

Subsequent to the October 1979 proposal, we reviewed all available information and found that additional data, especially daily monitoring data, were needed in order to determine accurately the performance of wastewater treatment systems. Therefore, EPA requested and received from ten mills daily results of treatment technology performance for the most recent full year of operation. All available data have been used to determine the capabilities of wastewater treatment systems applicable to textile wastewaters. EPA published a notice of availability of this additional information on January 27, 1981 (46 FR 8590) which resulted in some modifications to the proposed effluent limitations.

V. Changes From Proposal/Notice of Availability

The final regulation is significantly different from the proposed regulation. The changes are the result of the Agency's consideration of public comments provided in response to the proposal and the notice of availability, and further evaluation of the information upon which the proposal was based, the amounts of pollutants discharged at the BPT level of control, the treatability of the pollutants present in BPT effluents, the cost per pound of pollutant removed by the proposed BAT technology and the economic impact that would result from the implementation of proposed BAT limitations. Following are a review of the proposed regulation, a summary of the changes from proposal to promulgation and an explanation of the reasons for the changes.

A. Subcategorization

With two exceptions, the subcategorization scheme that formed the basis of the proposed regulations is identical to the subcategorization scheme in the current BPT regulations (40 CFR Part 410, Subparts A-G) promulgated in 1974. At proposal, the Agency proposed the establishment of two new subcategories, the nonwoven manufacturing subcategory (Subpart H) and the felted fabric processing subcategory (Subpart I). (See 44 FR 62204, October 29, 1979.) The nine subcategories of the promulgated regulations are the same as proposed.

In addition, the Agency proposed separate BAT limitations and NSPS for new subdivisions of the woven fabric finishing subcategory (Subpart D) (simple, complex and desizing operations) and the knit fabric finishing subcategory (Subpart E) (simple, complex and hosiery operations). (See 44 FR 62204, October 29, 1979.) Promulgated NSPS include separate limitations for these new subdivisions, but the promulgated BAT limitations do not. As stated previously and discussed in detail below, for these two subcategories the Agency is establishing BAT effluent limitations controlling toxic and nonconventional pollutants equal to the previously promulgated BPT limitations. BPT limitations were based on biological treatment and apply to all of the different operations employed in the woven fabric finishing and the knit fabric finishing subcategories, even though separate BPT limitations applicable to the specific new subdivisions were never established. BPT does include COD allowances to account for the higher COD raw waste loads typical of more complex operations in both subcategories. It is likely that costs would be incurred at some mills if BAT limitations required attainment of specific new limitations for the new subdivisions (simple, complex and desizing or hosiery operations) different from those specified in existing permits based on the BPT regulation. The Agency does not have sufficient information to determine the magnitude of these costs and, therefore, cannot assess the economic impact of establishing different limitations. Accordingly, other than those allowances included in the existing BPT regulation, this regulation does not establish separate BAT limitations for simple, complex and desizing operations in the woven fabric finishing subcategory or for simple, complex and hosiery operations in the knit fabric finishing subcategory.

Also, the Agency announced its intention to establish separate limitations for a new process, water jet weaving, in the low water use processing (formerly, dry processing) subcategory (Subpart C). (See 46 FR 9462; January 27, 1981.) The regulations promulgated today include separate limitations for the water jet weaving subdivision of the low water use processing subcategory.

B. Applicability

The Agency proposed to change the applicability of the regulations contained in Subparts A-F (compare 44 FR 62204 (October 29, 1979) and 39 FR 24739 (July 5, 1974)). Upon further consideration, regulations being promulgated today will continue the applicability reflected in Subparts A-F of the current BPT regulations. We have determined that continuation of the original applicability will facilitate the issuance of permits. Because of the general familiarity of affected parties with existing regulations, the administrative burden required of both premit applicants and permit-issuing officials will be greatly reduced through continuation of the original applicability.

C. Best Practicable Technology Limitations

In these regulations, EPA is promulgating BPT effluent limitations guidelines for the nonwoven manufacturing and the felted fabric processing subcategories and the water jet weaving subdivision of the low water use processing subcategory. EPA did not specifically propose BPT effluent limitations for these subcategories; we did propose BAT limitations and

provided information on the pollutant removal effectiveness of biological treatment and multimedia filtration of biologically-treated effluents. For the reasons discussed below, we are establishing BPT effluent limitations based on biological treatment.

As discussed in the notice of availability, the raw waste characteristics of wastewaters discharged from mills in the nonwoven manufacturing subcategory and the felted fabric processing subcategory are substantially the same as those discharged from mills in the carpet finishing and wool finishing subcategories, respectively, (See 46 FR 8593; January 27, 1981.) BPT limitations for the nonwoven manufacturing and the felted fabric processing subcategories are based on transfer of the performance of biological treatment from the carpet finishing and wool finishing subcategories, respectively. The methodology used to develop BPT limitations is further discussed in Section VIII of the development document. In making the decision to base the BPT limitations for these two new subcategories on the performance of technology in two existing subcategories, the Agency determined that the technology, biological treatment, was clearly available and could be employed by the mills in the two new subcategories. It is also reasonable to predict that biological treatment will be capable of removing that increment of pollutants necessary to meet the new BPT limitations. This prediction is supported by the data on the performance of biological treatment in removing the same pollutants from mills in the carpet and wool finishing subcategories. A complete discussion of the Agency's consideration of the statutory factors for establishing BPT and the Agency's methodology are included in Section VIII of the development document.

The water jet weaving process is a recent technological development. In fact, sufficient data upon which effulent limitations and standards can be based are available from only two mills, both of which employ biological treatment. EPA is establishing BPT limitations for the water jet weaving subdivision of the low water use processing subcategory equal to the average performance levels being achieved at the two existing mills. A complete discussion of EPA's methodology in establishing this new BPT limitation is presented in Section VIII of the development document.

While these new BPT limitations are being established without formal proposal, the Agency has determined that there is good cause for promulgation without separate notice and comment. The new BPT limitations are based on the use of the same technology, biological treatment, as all of the existing BPT limitations.

Data on the preformance of biological treatment was included in the record of the proposal since biologial treatment alone was one option considered by the Agency in originally proposing BAT limitations. See 44 FR 62212. While the Agency elected to propose BAT limitations based on biological treatment plus the end-of-pipe controls, the public comments predominantly favored establishing limitations based upon the performance of biological treatment alone. The Agency believes that all commenters had an opportunity to present their views; it is unlikely that the comments would have differed fundamentally if the commenters had known that EPA would establish BPT and BAT limitations rather than only BAT limitations for the two new subcategories and new subdivision. Accordingly, it was unnecessary to provide separate opportunity for public comment.

D. Best Available Technology Limitations

The technology basis of the proposed BAT effluent limitations was biological treatment followed by multimedia filtration, except in the case of the wool scouring and wool finishing subcategories and the hosiery subdivisions of the knit fabric finishing subcategory where limitations were based on biological treatment, chemical coagulation and dissolved air flotation and the felted fabric processing subcategory where limitations were based on biological treatment. The proposed BAT effluent limitations would have controlled three toxic pollutants (total chromium, total copper and total zinc). Three nonconventional pollutants would have been controlled (chemical oxygen demand (COD), total phenols (as measured by the procedure listed in 40 CFR Part 136, *Standard Methods*) and color (as measured by the method developed by the American Dye Manufacturers Institute (ADMI) and described in the proceedings of the 28th Industrial Waste Conference, Purdue University)). One conventional pollutant (total suspended solids (TSS)) was proposed as an indicator for the control of toxic organic pollutants discharged from textile mills.

Comments received on the proposed regulations questioned the need for controls more stringent than existing BPT for these pollutants. The commenters stated that the level of control proposed for existing mills is too costly in relation to the effluent reduction benefits.

Since proposal, EPA has completed an analysis of all available data to determine the quantity of pollutants discharged by this industry, the treatability of pollutants present in BPT effluents, the cost per pound of pollutant removed by the proposed BAT technology and the economic impact that would result from the implementation of proposed BAT limitations.

EPA determined that the amount of toxic pollutants being discharged from the textile industry when BPT limitations are attained is less than 3.2 kg (7 lbs) per day per plant and that the total industry discharge is about 209 kkg (230 tons) per year. The total chromium being discharged is less than 1.2 kg (2.7 lbs) per day per plant. The Agency calculated that attainment of proposed BAT would result in costs of over $327 per pound equivalent of total toxics removed (1981 dollars). [A pound equivalent is calculated by multiplying the number of pounds of pollutant discharged by a weighting factor for that pollutant. The weighting factor is equal to the water quality criterion for a standard pollutant, copper, divided by the water quality criterion for the pollutant being evaluated). This cost is significantly higher than that for other industries for which BAT limitations have been established (e.g., iron and steel, inorganic chemicals). EPA has been unable to identify any reasonable, less costly technology option. In addition, EPA has estimated that attainment of proposed BAT limitations might cause the closure of nine mills and the unemployment of some 1800 workers. The Agency found that these closures might affect the local communities in which the mills are located because of the unavailability of alternative employment.

The proposed BAT limitations were aimed at controlling 15 organic toxic pollutants and 12 toxic metals. All the other toxic pollutants were excluded from regulation under Paragraph 8 of the modified Settlement Agreement (44 FR 62218, 62228–229; October 29, 1979). Since proposal, we have compared the concentrations of these 27 toxic pollutants present in textile industry wastewaters to the lowest concentration of each pollutant that can reasonably be achieved by the application of known technologies. (These lowest achievable concentrations are hereafter called "lowest theoretical treatability levels.") We also determined the degree and frequency that these lowest

concentrations are exceeded. We found that of the 27 toxic pollutants of interest, 17 pollutants were found above lowest theoretical treatability levels in the raw waste only in a few isolated instances, six pollutants were found above lowest theoretical treatability levels in treated effluents only in a few isolated instances, two pollutants were detected at only a small number of sources and are uniquely related to those sources and one pollutant was not detectable with the use of state-of-the-art analytical methods because it is a common laboratory contaminant. The remaining pollutant, total chromium, is controlled by existing BPT effluent limitations. Establishment of BAT as proposed would result in only an estimated 10 percent reduction in the discharge of chromium (i.e., only 0.3 pounds per plant per day) at an estimated capital investment cost of approximately $78 million (First Quarter, 1982 dollars). The costs of additional removal of chromium and the potential economic impact do not justify further control.

In reviewing all available data and information, we found that (1) the amounts of toxic pollutants discharged at the BPT level of control are generally low, (2) the removal costs at the proposed BAT level of control are relatively high when compard to other industries, (3) toxic pollutants are found above the lowest achievable concentrations in only isolated instances, and (4) attainment of proposed BAT limitations might result in the closure of nine mills and the loss of 1800 jobs. Based on these findings, the Agency has determined that more stringent regulation of toxic pollutant discharges from the textile industry is not justified and that BAT effluent limitations should be established equal to BPT limitations. The Agency recently completed an environmental assessment in which we compared the predicted in-stream concentrations of toxic pollutants found in textile discharges after attainment of BPT and after attainment of proposed BAT effluent limitations with EPA's ambient water quality criteria. This analysis confirms our decision not to control toxics beyond a BPT level.

The Agency recognizes that the quantity of toxic pollutants discharged from individual mills may, in some cases, be higher than the industry average and may not be insignificant when viewed as a single point source discharge. As explained above and in the preamble to the proposed rule (44 FR 62204; October 29, 1979), several toxic pollutants have been found above minimum treatability levels in a few isolated instances. These include 1,2,4-trichlorobenzene, 2,4,6-trichlorophenol, toluene and tetrachloroethylene use as dye carriers and napthalene, pentachlorophenol and ethylbenzene used in the synthesis of dyes. Permit-issuing authorities may find it necessary to require representatives of individual mills to provide information on toxic pollutant usage, to analyze for specific toxic pollutants, and/or to conduct bioassay testing prior to issuing a NPDES permit. Permit-issuing authorities may limit specific pollutants on a case-by-case basis when limitations are necessary to carry out the purposes of the Act, even if the polluant is not controlled in this regulation (see Relationship to NPDES Permits).

EPA has also decided that the nonconventional pollutant color should be controlled on a case-by-case basis as dictated by water quality considerations, rather than through establishing uniform national standards. Color, in many instances, is an aesthetic pollutant, although in some instances color can interfere with sunlight transmission and the process of photosynthesis in the aquatic environment. Color is a mill-specific problem related to the combination of dyes and finishing chemicals used.

In addition, the Agency has found that the quantity of the nonconventional pollutants sulfide and total phenols now discharged by the textile industry are adequately controlled by existing BPT limits. Accordingly, more stringent BAT limitations are not needed. This is because of several factors including (a) substitution of sulfur dyes, (b) use of nonphenolic dye carriers and preservatives and (c) the effectiveness if biological treatment in removing these pollutants. EPA has not identified a technology option that is more effective than current industry practices. Therefore, EPA is incorporating existing BPT limitations for sulfide and total phenols in the BAT regulations promulgated today.

Furthermore, EPA has determined that it is not appropriate to establish more stringent COD limitations. Biological treatment is capable of removing on the order of 70 percent of the COD raw waste load typical of this industry. The technology on which proposed BAT limitations were based is relatively ineffective in reducing COD. (The application of multimedia filtration in addition to biological treatment increases COD removal to only about 75 percent.) The application of other technologies considered during development of the proposed rule [e.g., multimedia filtration (MMF) plus granular activated carbon (GAC), or chemical coagulation (CC), sedimentation (SED), MMF plus GAC] can be very effective in reducing COD discharges. However, these technologies have total annual costs as much as three to six times that of the proposed BAT. As discussed previously, EPA predicts that nine mills might close if required to attain proposed BAT limitations. The economic impact analysis predicted that the application of MMF plus GAC or the application of CC, SED, MMF plus GAC could result in the closure of 12 and 27 plants, respectively. Because the costs of application of more advanced technologies to control COD are high in relation to the effluent reduction benefits and because of a potential for adverse economic impact, the Agency has determined that COD should continue to be controlled at the BPT level.

For the reasons discussed above, EPA is establishing BAT limitations for toxic and nonconventional pollutants equal to the previously promulgated BPT limitations (for the seven existing subcategories) or equal to the BPT limitations promulgated today (for the two new subcategories and for the water jet weaving subdivision of the low water use processing subcategory). We expect that Federal and State permitting authorities will establish toxic and nonconventional pollutant limitations more stringent than the existing BPT, where needed, to account for unusal manufacturing or treatment circumstances or to achieve or maintain the receiving water quality.

E. New Source Performance Standards

The technology basis of proposed NSPS was biological treatment followed by chemical coagulation and multimedia filtration. The proposed NSPS would have controlled three toxic pollutants (total chromium, total copper and total zinc), three nonconventional pollutants (COD, total phenols and color) and three conventional pollutants (BOD5, TSS and pH).

Promulgated NSPS are more stringent than BPT/BAT effluent limitations. The technology basis of promulgated NSPS is the best demonstrated biological treatment performance in the textile industry. As discussed previously, biological treatment (the technology basis of BPT effluent limitations) provides good control of the discharge of toxic pollutants and results in a significant reduction of nonconventional and conventional pollutants discharged textile mills. We have also determined

that application of biological treatment at new sources will not change the rate of entry into the industry or slow the industry growth rate. Specific standards for this industry are generally based on the median discharge levels attained at existing best performers in each subcategory of the textile industry. This level of control represents the best demonstrated performance of existing biological treatment systems in this industry. The specific methodology used to calculate the final NSPS for each subcategory is discussed in detail in the development document.

F. Pretreatment Standards

The technology basis of proposed PSES was screening and equalization plus chemical coagulation/sedimentation. The proposed PSNS was based on segregation of waste streams followed by screening and equalization plus chemical coagulation/sedimentation and multimedia filtration. Proposed pretreatment standards would have controlled total chromium, total copper and total zinc.

Commenters on the proposed standards for indirect dischargers (PSES and PSNS) argued that when existing general pretreatment standards are met, textile wastewaters do not interfere with the operation of POTWs, including disposal of sludge, or pass through a POTW inadequately treated.

The Clean Water Act of 1977 requires pretreatment for pollutants that pass through POTWs in amounts that would violate direct discharger effluent limitations or interfere with the POTW's treatment process or chosen sludge disposal method. The legislative history of the 1977 Act indicates that pretreatment standards are to be technology-based, analogous to the best available technology. EPA has generally determined that there is pass through of pollutants if the percent of pollutants removed by a well-operated POTW achieving secondary treatment is less than the percent removed by the BAT model treatment system.

We have reviewed available information and have determined that textile wastewaters are susceptible to treatment in and do not interfere with the operation of POTWs. Comparison of metal removal efficiencies at 20 POTWs and at textile industry biological treatment systems shows that POTW removal of copper, chromium and zinc is equal to or better than removal in industry biological treatment systems. [*Fate of Priority Pollutants in Publicly Owned Treatment Works* (EPA 440/1-80-301, October 1980)]. Therefore, these pollutants do not pass through POTWs.

Accordingly, under the authority of Paragraph 8(b)(i) of the modified Settlement Agreement, this regulation does not establish categorical pretreatment standards for the textile industry. The textile industry will, however, remain subject to the General Pretreatment Regulations. The development document includes information on the capability of various pretreatment technologies in controlling textile industry discharges to POTWs. We expect that operators of POTWs will be able to control the discharge of specific pollutants, if required, on a case-by-case basis and could make use of the information contained in the development document that EPA will publish.

VI. Costs and Economic Impact

Executive Order 12291 requires EPA and other agencies to provide regulatory impact analyses for rules that result in an annual cost to the economy of 100 million dollars or more or that meet other economic impact criteria. In addition, the Clean Water Act specifies that best available technology limitations must be economically achievable. The Regulatory Flexibility Act requires EPA to consider the effects of certain rules on small entities, and if they are significant and affect a substantial number of small entities, to prepare a Regulatory Flexibility Analysis. The Agency does not consider this to be a major rule. Similarly, there will not be a significant impact on a substantial number of small entities and, therefore, a Regulatory Flexibility Analysis is not required.

As discussed above, EPA is making substantial changes to the regulations that were proposed in October 1979 (and modified in the January 1981 notice of availability). BPT limitations are established for the new nonwoven manufacturing and felted fabric processing subcategories and the water jet weaving subdivision of the low water use processing subcategory. These limitations are based on the performance of biological treatment, the same technology on which existing BPT limitations were established. For the two new subcategories and the new subdivision, investment costs are $3.7 million; total annualized costs are $1.9 million, including depreciation and interest (First quarter, 1982 dollars). These compliance costs are not projected to result in any plant closures or cause other significant economic impacts. The BAT limitations promulgated today for the remaining seven subcategories do not reflect any treatment requirements beyond biological treatment for existing direct dischargers. EPA is not establishing categorical pretreatment standards for existing indirect dischargers; these dischargers will only be subject to general pretreatment regulations already in effect for indirect dischargers (40 CFR Part 403). Accordingly, EPA expects no incremental costs or impacts for existing plants from this rulemaking. Additionally, NSPS are not expected to change the rate of entry into the industry or slow the industry growth rate.

In developing this rule, the Agency considered various technology options and analyzed their economic impacts. This analysis is presented in *Economic Impact Analysis of Effluent Limitations and Standards for the Textiles Mills Industry* (E.P.A. 440/2-82-001, August 1982). For each of the options considered during rulemaking, this analysis details the investment and annual costs for the industry as a whole and for typical plants; assesses the impact of effluent control in terms of price and production changes, plant closures and employment effects; and assesses the potential impacts on the small plants in this industry.

EPA also considered cost-effectiveness in developing the final regulation. The results of EPA's analysis are detailed in a separate report, "Cost Effectiveness Analysis for Effluent Limitations and Standards in the Textile Mills Industry," which is included in the Record.

VII. Nonwater Quality Environmental Impacts

Sections 304(b) and 306 of the Act require EPA to consider the nonwater quality environmental impacts (including energy requirements) of certain regulations. Because this regulation does not impose any additional pollution control requirements on existing sources, implementation will not result in any substantial increase in air pollution, energy use or solid waste generation.

VIII. Pollutants and Subcategories Not Regulated

Paragraph 8 of the modified Settlement Agreement, approved by the District Court for the District of Columbia on March 9, 1979 (12 ERC 1833), contains provisions authorizing the exclusion from regulation, in certain circumstances, of toxic pollutants and industry categories and subcategories.

A. Exclusion of Pollutants

On December 18, 1980, EPA submitted an affidavit explaining that the Agency decided not to regulate 102 of the 129

toxic pollutants under the authority of Paragraph 8(a)(iii) of the modified Settlement Agreement. Of those 102 pollutants, 65 were excluded from regulation because "they are not detectable by Section 304(h) analytical methods or other state-of-the-art methods," 22 were excluded from regulation because "they are detected at only a small number of sources within a subcategory and are uniquely related to those sources," and 15 were excluded from regulation because "they are present only in trace amounts and neither cause nor are likely to cause toxic effects."

We have completed our analysis of the amount and frequency of occurrence of specific toxic pollutants not previously excluded from regulation. We are excluding all remaining pollutants, with the exception of total chromium, under the authority of Paragraph 8(a)(iii). The pollutants and the specific reasons for their exclusion are presented in Appendix B.

The pollutant total chromium was controlled under the original BPT; because BAT is being promulgated equal to BPT, total chromium is controlled.

B. Exclusion of Subcategories

On May 10, 1979, the Agency submitted an affidavit excluding from regulation the apparel manufacturing, padding and upholstery filling and cordage and twine portions of the textile industry under the authority of Paragraph 8(a)(iv) because the amount and toxicity of each pollutant in the discharges do not justify the development of national regulations. This affidavit also explained that the low water use processing subcategory, for which BPT had been established, would be excluded from further regulation development, also under authority of Paragraph 8(a)(iv). Subsequently, however, the Agency decided to establish a separate subdivision and new BPT limitations for the new water jet weaving process in the low water use processing subcategory. (See 46 FR 9462; January 27, 1981.) The water jet weaving subdivision is included in the low water use processing subcategory because the wastewater discharges from the water jet weaving process are similar to those discharged in the low water use processing subcategory. The new limitations allow the discharge of higher levels of BOD, TSS and COD than current low water use processing limitations because of the greater water usage in the water jet weaving process.

In addition, under the authority of Paragraph 8(b)(i), this regulation does not establish categorical pretreatment standards for existing and new sources in the textile mills point source category. We have found that textile wastewaters are susceptible to treatment in and do not interfere with or pass through publicly owned treatment works.

IX. Best Management Practices

Section 304(e) of the Clean Water Act gives the Administrator authority to prescribe "best management practices" (BMPs). EPA, through its Office of Water Enforcement, is offering guidance to permit authorities in establishing BMPs required by unique circumstances for a given plant. BMPs are not addressed in this regulation.

X. Upset and Bypass Provisions

A recurring issue is whether industry guidelines should include provisions authorizing noncompliance with effluent limitations during periods of "upset" or "bypass." An upset, sometimes called an "excursion," is an unintentional noncompliance occurring for reasons beyond the reasonable control of the permittee. It has been argued that an upset provision in EPA's effluent limitations is necessary because such upsets will inevitably occur even in properly operated control equipment. Because technology-based limitations require only what technology can achieve, it is claimed that liability for such situations is improper. When confronted with this issue, courts have disagreed on whether an explicit upset or excursion exemption is necessary, or whether upset or excursion incidents may be handled through EPA's exercise of enforcement discretion. Compare *Marathon Oil Co.* v. *EPA*, 564 F. 2d 1253 (9th Cir. 1977) with *Weyerhaeuser* v. *Costle*, 590 F. 2d 1011 (D.C. Cir. 1978) and *Corn Refiners Assn., et al.* v. *Costle*, 594 F. 2d 1223 (8th Cir. 1979). [See also *American Petroleum Institute* v. *EPA*, 540 F. 2d 1023 (10th Cir. 1976); *CPC International, Inc.* v. *Train*, 540 F. 2d 1320 (8th Cir. 1976); *FMC Corp.* v. *Train*, 539 F. 2d 973 (4th Cir. 1976).]

An upset is an unintentional episode during which effluent limits are exceeded; a bypass, however, is an act of intentional noncompliance during which waste treatment facilities are circumvented in emergency situations. We have, in the past, included bypass provisions in NPDES permits.

We determined that both upset and bypass provisions should be included in NPDES permits and have promulgated Consolidated Permit Regulations that include upset and bypass provisions. (See 40 CFR 122.60, 45 FR 33290 (May 19, 1980).) The upset provision establishes an upset as an affirmative defense to prosecution for violation of technology-based effluent limitations. The bypass provision authorizes bypassing to prevent loss of life, personal injury, or severe property damage. Consequently, although permittees in the textile mills industry will be entitled to upset and bypass provisions in NPDES permits, this final regulation does not address these issues.

XI. Variances and Modifications

Upon the promulgation of this regulation, the effluent limitations for the appropriate subcategory must be applied in all Federal and State NPDES permits thereafter issued to direct dischargers in the textile industry. For the BPT effluent limitations, the only exception to the binding limitations is EPA's "fundamentally different factors" variance. [See *E.I. du Pont de Nemours & Co.* v. *Train*, 430 U.S. 112 (1977); *Weyerhaeuser Co.* v. *Costle, supra.*] This variance recognizes factors concerning a particular discharger that are fundamentally different from the factors considered in this rulemaking. Although this variance clause was set forth in EPA's 1973–1976 industry regulations, it is now included in the NPDES regulations and will not be included in the textile or other industry regulations. (See the NPDES regulations at 40 CFR Part 125, Subpart D.)

The BAT limitations in this regulation are also subject to EPA's "fundamentally different factors" variance. BAT limitations for nonconventional pollutants are subject to modifications under Sections 301(c) and 301(g) of the Act. These statutory modifications do not apply to toxic or conventional pollutants. To apply for these modifications a discharger must be in compliance with BPT. Because this rule will make BAT equal to BPT, EPA does not expect any applications for section 301(c) or 301(g) modifications. [See 43 FR 40895 (September 13, 1978).]

NSPS are not subject to EPA's "fundamentally different factors" variance or any statutory or regulatory modifications. (See *E. I. du Pont de Nemours and Co.* v. *Train*, supra.)

XII. Relationship to NPDES Permits

The BPT and BAT limitations and NSPS in this regulation will be applied to individual textile mills through NPDES permits issued by EPA or approved State agencies, under section 402 of the Act. As discussed in the preceding section of this preamble, these limitations must be applied in all Federal and State NPDES permits except to the extent that variances and modifications are expressly authorized.

Other aspects of the interaction between these limitations and NPDES permits are discussed below.

One issue that warrants consideration is the effect of this regulation on the powers of NPDES permit-issuing authorities. The promulgation of this regulation does not restrict the power of any permitting authority to act in any manner consistent with law or these or any other EPA regulations, guidelines, or policy. For example, even if this regulation does not control a particular pollutant, the permit-issuer may still limit such pollutant on a case-by-case basis when limitations are necessary to carry out the purposes of the Act. Where manufacturing practices or treatment circumstances warrant additional controls, such limitations may be technology-based in conformance with the legislative history of the Act. However, such limitations are subject to administrative and judicial review as part of the permit issuance process. In addition, to the extent that State water quality standards or other provisions of State or Federal law require limitation of pollutants not covered by this regulation (or require more stringent limitations on covered pollutants), such limitations must be applied by the permit-issuing authority.

A second topic that warrants discussion is the operation of EPA's NPDES enforcement program, many aspects of which were considered in developing this regulation. We emphasize that although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary. We have exercised and intend to exercise that discretion in a manner that recognizes and promotes good-faith compliance efforts and conserves enforcement resources for those who fail to make good-faith efforts to comply with the Act.

XIII. Public Participation and Summary of the Major Issues

Numerous agencies and groups participated during this study of the textile mills point source category. The Agency solicited public comment on the proposed rules and the notice of availability of additional information published in the **Federal Register** on October 29, 1979, and January 27, 1981, respectively. In addition, the Agency accepted public comment on the development document and economic analysis supporting the proposed rules. The Agency received one hundred and twenty comment submittals. Also, on February 15, 1980, in Washington, D.C., the Agency held a public hearing on the proposed regulations for the textile industry.

Individual public comments received on the proposed regulation, and our responses, are presented in a report, "Responses to Public Comments, Proposed Textile Industry Effluent Guidelines and Standards," August 1982, which is part of the public record for this regulation. A summary of the major comments and the Agency's responses follow.

1. *Comment:* Toxic pollutants are not present in textile wastewaters in significant amounts, the proposed BAT limits are not cost beneficial and further control beyond existing BPT is not warranted.

Response: The Clean Water Act (Pub. L. 95–217) and the Settlement Agreement require the Agency to establish technology-based effluent limitations and standards for each of 21 industrial categories, including the textile mills point source category. However, as discussed previously, Paragraph 8 of the Settlement Agreement authorizes the Administrator to exclude subcategories or pollutants from regulation under certain conditions where development of national regulations is not justified. Since proposal, we have reconsidered the total amount of toxic pollutants discharged from the textile industry when BPT is attained, the cost per pound of toxic pollutants removed at proposed BAT, the treatability of toxic pollutants that remain in textile discharges after application of biological treatment and the economic impact that would result from the implementation of proposed BAT limitations. In reviewing all available data, we have concluded that further regulation of the textile industry is not warranted. Therefore, we are establishing BAT limitations equal to previously promulgated BPT limitations.

2. *Comment:* The low levels of metals present in textile wastewaters do not interfere with the operation of publicly owned treatment works (POTWs) or the use and disposal of POTW sludge. Therefore, categorical pretreatment standards are unnecessary.

Response: We are unaware of any documented instance of POTW interference because of the impact of toxic or nonconventional pollutant discharges from textile mills. While the potential exists for interference in individual cases where little dilution occurs, these interference problems, should they exist, are more appropriately handled at the local level. We have also determined that textile wastewaters are susceptible to treatment in POTWs and that toxic pollutants found in mill discharges are unlikely to pass through POTWs. Therefore, there is no need to establish categorical pretreatment standards for this industry. The indirect dischargers are, however, subject to the General Pretreatment Regulations (40 CFR Part 403).

3. *Comment:* The proposed NSPS, based on the application of coagulation and filtration of biologically-treated effluent, are too stringent; NSPS should be based on the same technology as proposed BAT (biological treatment plus filtration).

Response: NSPS are being promulgated based on the application of biological treatment, rather than more advanced technology (i.e., filtration or chemical coagulation). Biological treatment provides adequate control of the discharge of toxic pollutants and results in a significant reduction of nonconventional and conventional pollutants. Application of this technology level will not change the rate of entry into the industry or slow the industry growth rate. Promulgated NSPS are more stringent than BPT effluent limitations. Specific standards are generally based on the median discharge levels attained at existing best performers in each subcategory of the textile industry. This level of control represents the best demonstrated performance of existing biological treatment systems in this industry.

4. *Comment:* The Agency did not have sufficient information and data available to support the proposed effluent limitations and standards.

Response: Proposed limitations were based on all information available to the Agency prior to proposal. The Agency reviewed the information from previous studies of the industry, the Census of Manufactures and the industry's commercial directory. We requested detailed information on about 1150 mills, including 600 low water use processing facilities. EPA and its contractors conducted visits, sampled fifty mills and participated in numerous meetings with individuals and industry committees. The Agency actively solicited industry comments and suggestions over the course of this study. Our approach has assured the availability of sufficient information on the performance of treatment technologies and the presence of toxic pollutants to enable the Agency to make sound regulatory decisions. The development document supporting these rules includes a comprehensive description of the information used to develop the limitations and standards and to support our decision that no further regulation of the textile industry is warranted. All available information and data are included in the record and

are available for review by interested parties.

5. *Comment:* The technologies identified as the basis of the proposed BAT limitations cannot achieve and maintain this level of control.

Response: Proposed BAT limitations were based on the Agency's evaluation of all available treatment performance data, both full-scale and pilot-scale, including the results of the EPA/Industry BATEA Pilot Plant Research Project. Our methodology assumed that mills were already achieving BPT, since existing plants were required to comply with BPT by July 1, 1977. The results of our analysis of all available treatment performance data indicated that the technologies on which proposed BAT limitations were based were capable of effectively controlling pollutants discharged in textile wastewaters to the levels specified in the proposed rules or as modified in the notice of availability of additional information.

6. *Comment:* A definite relationship has not been established between TSS and toxic organic pollutants. Therefore, the use of TSS as an indicator for the presence of toxic organic pollutants is inappropriate. In addition, TSS violations are likely to result from normal variations in treatment system performance that have no relation to the discharge of toxic pollutants.

Response: At proposal, the Agency was aware that filtration of biologically-treated textile wastewaters reduces the amount of toxic organic pollutants discharged. Therefore, by removing additional quantities of TSS, toxic organic pollutants would also be removed. The proposed use of an indicator was intended to obviate the expensive analytical procedures for measuring toxic organic pollutants present in textile wastewaters. Since proposal, as discussed previously, the Agency has decided not to impose specific controls on the discharge of toxic organic pollutants or to require attainment of BAT limitations for an indicator pollutant (i.e., TSS). Therefore, this comment and many others both favoring or opposing the use of TSS as an indicator pollutant are no longer germane.

7. *Comment:* All color limitations should be eliminated from the final regulation. Problems related to color discharged by the textile industry should be handled on a case-by-case basis by local authorities.

Response: The Agency has decided not to establish either BAT effluent limitations or NSPS for color. The decision is based on an evaluation of color discharged by the textile industry in terms of its national significance. Color, in many instances, is simply an aesthetic pollutant. In some cases, it has been shown that color can interfere with the transmission of sunlight and the process of photosynthesis in the aquatic environment. In the textile industry, color is a mill-specific problem related o the combination of dyes and finishing chemicals used. For this reason, EPA feels that color should be controlled on a case-by-case basis by local authorities as dictated by water quality considerations.

8. *Comment:* An industry-sponsored economic analysis shows that the impacts of the proposed rules are considerably greater than those indicated by the Agency's economic impact analysis.

Response: We have carefully reviewed the industry's analysis. We have determined that the differences in conclusions between the industry-sponsored analysis and the Agency's economic impact analysis are mainly attributable to (1) higher compliance cost estimates in the industry's analysis, and (2) the aggregation scheme used to project impacts for the total industry from a sample of plants. The estimated compliance costs of attaining proposed BAT limitations in the industry's analysis, when aggregated to the total industry, were nearly five times higher than the Agency's estimates. This is due, in part, to a more limited data base, the cost estimation procedure, and including the costs of achieving both BPT and proposed BAT levels of control. The Agency's analysis is based on a larger data base, and uses a model plant analysis that accounts for the number and size distribution of plants in each subcategory. In addition, the Agency's analysis does not include the costs of achieving the BPT level of control because BPT was already to have been achieved by July 1977. The aggregation scheme in the industry's analysis is a simple extrapolation that overestimated the size of the industry by using a data base that is biased toward large plants. These differences in compliance costs and in methodology result in higher projections of plant closures and unemployment impacts in the industry's analysis. The Agency's analysis is based on a more representative data base, and the methodological assumptions are better supported by financial information about the industry. Thus, we believe the Agency's analysis presents an accurate assessment of the impacts of achieving the proposed BAT level of control.

9. *Comment:* If production processes employed at an individual mill are characteristic of more than one subcategory, the allowable discharge of pollutants should be determined by proration. Proration provides a more equitable method for determining allowable discharge levels than basing the total allowable discharge on the predominant operation.

Response: The development document supporting the 1974 BPT limitations includes the recommendation that allowable discharge levels be established by proration. Therefore, we recommend that this practice continue in the development of BAT permits because BAT limitations are being established equal to BPT. NSPS are based on the best performance of existing biological treatment systems applied within each specific subcategory. We encourage new source permits to be established by proration. Therefore, if more than one production process is employed at a new source direct discharger, the total allowable discharge should be determined by multiplying the production associated with each subcategory by the appropriate standard for each subcategory.

10. *Comment:* Promulgated standards should allow an additional discharge allowance if at least fifty percent of a facility's production is commission finishing.

Response: Since proposal, the Agency has reviewed available data to determine the need for an additional allowance for mills where commission finishing is practiced. The results show that raw waste characteristics for commission finishers are not substantially different than for other mills. In fact, in some subcategories, raw waste loadings for commission finishers are lower than for some other mills where commission finishing is not employed. Therefore, the Agency is not providing an allowance for commission finishing in promulgated NSPS.

Current BPT limitations allow an additional discharge allowance for commission finishing. The Agency has not investigated the economic impact on existing mills of the elimination of the commission finishing allowance. Because the Agency is establishing BAT limitations equal to BPT limitations for the textile industry, the Agency has decided that existing dischargers shall still be entitled to this allowance.

11. *Comment:* The low water use processing subcategory is very broad. The information presented in the proposed development document fails to assess adequately all processes, particularly in the areas of functional finishing and fabric coating. Allowances should be made for greige mills having

more than simple rinse water discharges.

Response: The low water use subcategory is established to include textile mills that engage in textile processing operations where process water volume requirements are minimal. Examples include production of greige goods, laminating or coating fabrics and tire cord fabric; texturizing of yarn; and tufting or backing of carpet. Wastewaters discharged from plants in this subcategory are primarily composed of nonprocess waters from lavatories and food preparation/consumption areas, boiler blowdown and noncontact cooling water. The process related wastewater is usually less then 20 percent of the total discharge volume. In cases where a portion of a mill's production is in the low water use subcategory and a portion is in another subcategory, e.g., woven fabric—complex manufacturing operations, the total allowable discharge of regulated pollutants should be calculated by prorating the production between the appropriate subcategories.

We have developed limitations for the water jet weaving segment of the low water use processing subcategory. Water jet weaving is a relatively new weaving technology; it is included as a subdivision of the low water use processing subcategory because it is used to produce greige goods. Water jet weaving generates more wastewater per unit of production than other low water use operations and separate limitations have been developed to account for this difference.

XIV. Small Business Administration (SBA) Financial Assistance

The Agency is continuing to encourage small manufacturers to use Small Business Administration (SBA) financing as needed for pollution control equipment. Three basic programs are in effect: the Guaranteed Pollution Control Program, the Section 503 Program, and the Regular Guarantee Program. All the SBA loan programs are only open to businesses with net assets less than $6 million, with an average annual after-tax income of less than $2 million and with fewer than 250 employees.

The guaranteed pollution control program authorizes the SBA to guarantee the payments on qualified contracts entered into by eligible small businesses to acquire needed pollution control facilities when the financing is provided through pollution control bonds, bank loans and debentures. Financing with SBA's guarantee of payment makes available long-term financing comparable with market rates. The program applies to projects that cost from $150,000 to $200,000.

The Section 503 Program, as amended in July 1980, allows for long-term loans to small and medium-sized businesses. These loans are made by SBA-approved local development companies, which for the first time are authorized to issue Government-backed debentures that are bought by the Federal Financing Bank, an arm of the U.S. Treasury.

Through SBA's Regular Guarantee Program, loans are made available by commercial banks and are guaranteed by the SBA. This program has interest rates equivalent to market rates.

For additional information on the Regular Guarantee and Section 503 Programs contact your district or local SBA Office. The SBA coordinator at EPA headquarters is Ms. Frances Desselle who may be reached at (202) 426-7874.

For further information and specifics on the Guaranteed Pollution Control Program contact:

U.S. Small Business Administration, Office of Pollution Control Financing, 4040 North Fairfax Drive, Rosslyn, Virginia 22203, (703) 235-2902

XV. List of Subjects in 40 CFR Part 410

Textiles, Water pollution control, Waste treatment and disposal.

XVI. OMB Review

The regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. This is not a major regulation as required by E.O. 12291.

Dated: August 27, 1982.

John W. Hernandez,

Acting Administrator.

Appendix A—Abbreviations, Acronyms and Other Terms Used in This Notice

Agency—The U.S. Environmental Protection Agency

BAT—The best available technology economically achievable, under section 301(b)(2)(A) of the Act

BCT—The best conventional pollutant control technology, under section 301(b)(2)(E) of the Act

BMPs—Best management practices, under section 304(e) of the Act

BPT—The best practicable control technology currently available, under section 301(b)(1)(A) of the Act

Clean Water Act—The Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1251 *et seq.*), as amended by the Clean Water Act of 1977 (Pub. L. 95-217)

Direct discharger—A facility where wastewaters are discharged or may be discharged into waters of the United States

Indirect discharger—A facility where wastewaters are discharged or may be discharged into a publicly owned treatment works

NPDES permit—A National Pollutant Discharge Elimination System permit issued under section 402 of the Act

NSPS—New source performance standards under section 306 of the Act

POTW (POTWs)—Publicly owned treatment works

PSES—Pretreatment standards for existing sources of indirect discharges, under section 307(b) of the Act

PSNS—Pretreatment standards for new sources of indirect discharges, under section 307(c) of the Act

RCRA—Resource Conservation and Recovery Act of 1976 (Pub. L. 94-580), Amendments to Solid Waste Disposal Act

The Act—The Clean Water Act of 1977

Appendix B—Toxic Pollutants Excluded

(1) Toxic pollutants present in trace amounts too small to be effectively reduced by the technologies known to the Administrator:

2,4,6-trichlorophenol	Copper
Chloroform	Cyanide
1,2,4-trichlorobenzene	Lead
1,2-dichlorobenzene	Mercury
Pentachlorophenol	Nickel
Parachlorometacresol	Selenium
Tetrachloroethylene	Silver
Arsenic	Zinc
Cadmium	

(2) Toxic pollutants detected at only a small number of sources within a subcategory and uniquely related to those sources:

Acrylonitrile	Antimony

(3) Toxic pollutants effectively controlled by the technologies on which other effluent limitations and standards are based:

Benzene	Naphthalene
Trichloroethylene	Phenol
Ethylbenzene	Toluene

(4) Toxic pollutant not detectable with the use of analytical methods approved pursuant to section 304(h) of the Act:

Bis(2-ethylhexyl)phthalate

Part 410 of Title 40 is revised to read as follows:

PART 410—TEXTILE MILLS POINT SOURCE CATEGORY

General Provisions

Sec.
410.00 Applicability.
410.01 General definitions.
410.02 Monitoring requirements. [Reserved]

Subpart A—Wool Scouring Subcategory

Sec.
410.10 Applicability; description of the wool scouring subcategory.
410.11 Specialized definitions.
410.12 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
410.13 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
410.14 Pretreatment standards for existing sources (PSES).
410.15 New source performance standards (NSPS).
410.16 Pretreatment standards for new sources (PSNS).
410.17 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Subpart B—Wool Finishing Subcategory

410.20 Applicability; description of the wool finishing subcategory.
410.21 Specialized definitions.
410.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
410.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
410.24 Pretreatment standards for existing sources (PSES).
410.25 New source performance standards (NSPS).
410.26 Pretreatment standards for new sources (PSNS).
410.27 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Subpart C—Low Water Use Processing Subcategory

410.30 Applicability; description of the low water use processing subcategory.
410.31 Specialized definitions.
410.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
410.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
410.34 Pretreatment standards for existing sources (PSES).
410.35 New source performance standards (NSPS).
410.36 Pretreatment standards for new sources (PSNS).
410.37 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Subpart D—Woven Fabric Finishing Subcategory

Sec.
410.40 Applicability; description of the woven fabric finishing subcategory.
410.41 Specialized definitions.
410.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
410.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
410.44 Pretreatment standards for existing sources (PSES).
410.45 New source performance standards (NSPS).
410.46 Pretreatment standards for new sources (PSNS).
410.47 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Subpart E—Knit Fabric Finishing Subcategory

410.50 Applicability; description of the knit fabric finishing subcategory.
410.51 Specialized definitions.
410.52 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
410.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
410.54 Pretreatment standards for existing sources (PSES).
410.55 New source performance standards (NSPS).
410.56 Pretreatment standards for new sources (PSNS).
410.57 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Subpart F—Carpet Finishing Subcategory

410.60 Applicability; description of the carpet finishing subcategory.
410.61 Specialized definitions.
410.62 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
410.63 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
410.64 Pretreatment standards for existing sources (PSES).
410.65 New sources performance standards (NSPS).
410.66 Pretreatment standards for new sources (PSNS).
Sec.
410.67 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Subpart G—Stock and Yarn Finishing Subcategory

410.70 Applicability; description of the stock and yarn finishing subcategory.
410.71 Specialized definitions. [Reserved]
410.72 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
410.73 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
410.74 Pretreatment standards for existing sources (PSES).
410.75 New source performance standards (NSPS).
410.76 Pretreatment standards for new sources (PSNS).
410.77 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Subpart H—Nonwoven Manufacturing Subcategory

410.80 Applicability; description of the nonwoven manufacturing subcategory.
410.81 Specialized definitions. [Reserved]
410.82 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
410.83 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
410.84 Pretreatment standards for existing sources (PSES).
410.85 New source performance standards (NSPS).
410.86 Pretreatment standards for new sources (PSNS).
410.87 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Subpart I—Felted Fabric Processing Subcategory

410.90 Applicability; description of the felted fabric processing subcategory.
410.91 Specialized definitions. [Reserved]
410.92 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).
410.93 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Sec.
410.94 Pretreatment standards for existing sources (PSES).
410.95 New source performance standards (NSPS).
410.96 Pretreatment standards for new sources (PSNS).
410.97 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Authority: Secs. 301, 304(b), (c), (e), and (g), 306(b) and (c), 307(b) and (c), and 501 of the Clean Water Act (the Federal Water Pollution Control Act Amendments of 1972, as amended by the Clean Water Act of 1977) (the "Act"); 33 United States C. 1311, 1314(b), (c), (e), and (g), 1316(b) and (c), 1317(b) and (c), and 1361; 86 Stat. 186 et seq., Pub. L. 92-500; 91 Stat. 1567, Pub. L. 95-217.

General Provisions

§ 410.00 Applicability.

This part applies to any textile mill or textile processing facility which discharges or may discharge process wastewater pollutants to the waters of the United States, or which introduces or may introduce process wastewater pollutants into a publicly owned treatment works.

§ 410.01 General definitions.

In addition to the definitions set forth in 40 CFR Part 401, the following definitions apply to this part:

(a) "Sulfide" shall mean total sulfide (dissolved and acid soluble) as measured by the procedures listed in 40 CFR Part 136.

(b) "Phenols" shall mean total phenols as measured by the procedure listed in 40 CFR Part 136.

(c) Total Chromium shall mean hexavalent and trivalent chromium as measured by the procedures listed in 40 CFR Part 136.

(d) The term "commission finishing" shall mean the finishing of textile materials, 50 percent or more of which are owned by others, in mills that are 51 percent or more independent (i.e., only a minority ownership by company(ies) with greige or integrated operations); the mills must process 20 percent or more of their commissioned production through batch, noncontinuous processing operations with 50 percent or more of their commissioned orders processed in 5000 yard or smaller lots.

(e) The term "product," except where a specialized definition is included in the subpart, shall mean the final material produced or processed at the mill.

§ 410.02 Monitoring requirements. [Reserved]

Subpart A—Wool Scouring Subcategory

§ 410.10 Applicability; description of the wool scouring subcategory.

The provisions of this subpart are applicable to process wastewater discharges resulting from the following types of textile mills: wool scouring, topmaking, and general cleaning of raw wool.

§ 410.11 Specialized definitions.

In addition to the definitions set forth in 40 CFR Part 401 and § 410.01 of this Part, the following definitions apply to this subpart:

(a) The term "wool" shall mean the dry raw wool as it is received by the wool scouring mill.

(b) The term "oil and grease" shall mean total recoverable oil and grease as measured by the procedure listed in 40 CFR Part 136.

(c) The term "commission scouring" shall mean the scouring of wool, 50 percent or more of which is owned by others, in mills that are 51 percent or more independent (i.e., only a minority ownership by company(ies) with greige or integrated operations); the mills must process 20 percent or more of their commissioned production through batch, noncontinuous processing operations.

§ 410.12 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of wool	
BOD5	10.6	5.3
COD	138.0	69.0
TSS	32.2	16.1
Oil and grease	7.2	3.6
Sulfide	0.20	0.10
Phenol	0.10	0.05
Total chromium	0.10	0.05
pH	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

(b) Additional allocations equal to the effluent limitations established in paragraph (a) of this section are allowed any existing point source subject to such effluent limitations that scours wool through "commission scouring" as defined in § 410.11.

§ 410.13 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

Pollutant or pollutant property	BAT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of wool	
COD	138.0	69.0
Sulfide	0.20	0.10
Phenols	0.10	0.05
Total chromium	0.10	0.05

(b) Additional allocations equal to the effluent limitations established in paragraph (a) of this section are allowed any existing point source subject to such effluent limitations that scours wool through "commission scouring" as defined in § 410.11.

§ 410.14 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart that introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 410.15 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of wool	
BOD5	3.6	1.9
COD	52.4	33.7
TSS	30.3	13.5
Sulfide	0.20	0.10

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
Phenols	0.10	0.05
Total chromium	0.10	0.05
pH	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.
NOTE.—Additional allocations for "commission scouring" are not available to new sources.

§ 410.16 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart that introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 410.17 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Subpart B—Wool Finishing Subcategory

§ 410.20 Applicability; description of the wool finsihing subcategory.

The provisions of this subpart are applicable to process wastewater discharges resulting from the following types of textile mills: wool finishers, including carbonizing, fulling, dyeing, bleaching, rinsing, fireproofing, and other such similar processes.

§ 410.21 Specialized definitions.

In addition to the definitions set forth in 40 CFR Parts 401 and § 410.01 of this Part, the following definition applies to this subpart:

(a) The term "fiber" shall mean the dry wool and other fibers as received at the wool finsihing mill for processing into wool and blended products.

§ 410.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pound per 1,000 lb) of fiber	
BOD5	22.4	11.2
COD	163.0	81.5
TSS	35.2	17.6
Sulfide	0.28	0.14
Phenol	0.14	0.07
Total chromium	0.14	0.07
pH	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

(b) Additional allocations equal to the effluent limitations established in paragraph (a) of this section are allowed any existing point source subject to such effluent limitations that finishes wool or blended wool fabrics through "commission finishing" as defined in § 410.01.

§ 410.23 Effluent limitation representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

Pollutant or pollutant property	BAT limitation	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of fiber	
COD	163.0	81.5
Sulfide	0.28	0.14
Phenols	0.14	0.07
Total Chromium	0.14	0.07

(b) Additional allocations equal to the effluent limitations established in paragraph (a) of this section are allowed any existing point source subject to such effluent limitations that finishes wool or blended wool fabrics through "commission finishing" as defined in § 410.01.

§ 410.24 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart that introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 410.25 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of fiber	
BOD5	10.7	5.5
COD	113.8	73.3
TSS	32.3	14.4
Sulfide	0.28	0.14
Phenols	0.14	0.07
Total Chromium	0.14	0.07
pH	(1)	(1)

Note: Additional allocations for "commission finishers" are not available to new sources.
[1] Within the range 6.0 to 9.0 at all times.

§ 410.26 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart that introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 410.27 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Subpart C—Low Water Use Processing Subcategory

§ 410.30 Applicability; description of the low water use processing subcategory.

The provisions of this subpart are applicable to process wastewater discharges resulting from the following types of textile mills: yarn manufacture, yarn texturizing, unfinished fabric manufacture, fabric coating, fabric laminating, tire cord and fabric dipping, and carpet tufting and carpet backing. Rubberized or rubber coated fabrics regulated by 40 CFR Part 428 are specifically excluded.

§ 410.31 Specialized definitions.

In addition to the definitions set forth in 40 CFR Part 401 and § 410.01 of this Part, the following definitions apply to this subpart:

(a) The term "general processing" shall mean the internal subdivision of the low water use processing subcategory for facilities described in § 410.30 that do not qualify under the water jet weaving subdivision.

(b) The term "water jet weaving" shall mean the internal subdivision of the low water use processing subcategory for

facilities primarily engaged in manufacturing woven greige goods through the water jet weaving process.

§ 410.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BPT):

GENERAL PROCESSING

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
BOD5	1.4	0.7
COD	2.8	1.4
TSS	1.4	0.7
ph	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

WATER JET WEAVING

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 1lb) of product	
BOD5	8.9	4.6
COD	21.3	13.7
TSS	5.5	2.5
ph	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

§ 410.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

GENERAL PROCESSING

Pollutant or pollutant property	BAT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
COD	2.8	1.4

WATER JET WEAVING

Pollutant or pollutant property	BAT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
COD	21.3	13.7

§ 410.34 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart that introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 410.35 New source performance standards (NSPS)

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

GENERAL PROCESSING

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
BOD5	1.4	0.7
COD	2.8	1.4
TSS	1.4	0.7
pH	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

WATER JET WEAVING

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (pounds per 1,000 lb) of product	
BOD5	8.9	4.6
COD	21.3	13.7
TSS	5.5	2.5
pH	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

§ 410.36 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart that introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 410.37 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Subpart D—Woven Fabric Finishing Subcategory

§ 410.40 Applicability; description of the woven fabric finishing subcategory.

The provisions of this subpart are applicable to process wastewater discharges resulting from the following types of textile mills: woven fabric finishers, which may include any or all of the following unit operations: desizing, bleaching, mercerizing, dyeing, printing, resin treatment, water proofing, flame proofing, soil repellency application and a special finish application.

§ 410.41 Specialized definitions.

In addition to the definitions set forth in 40 CFR Part 401 and § 410.01 of this Part the following definitions apply to this subpart:

(a) The term "simple manufacturing operation" shall mean all the following unit processes: desizing, fiber preparation and dyeing.

(b) The term "complex manufacturing operation" shall mean "simple" unit processes (desizing, fiber preparation and dyeing) plus any additional manufacturing operations such as printing, water proofing, or applying stain resistance or other functional fabric finishes.

(c) For NSPS (§ 410.45) the term "desizing facilities" shall mean those facilities that desize more than 50 percent of their total production. These facilities may also perform other processing such as fiber preparation, scouring, mercerizing, functional finishing, bleaching, dyeing and printing.

§ 410.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent

reduction attainable by the application of the best practicable control technology currently available (BPT):

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD5	6.6	3.3
COD	60.0	30.0
TSS	17.8	8.9
Sulfide	0.20	0.10
Phenol	0.10	0.05
Total Chromium	0.10	0.05
pH	(1)	(1)

1 Within the range 6.0 to 9.0 at all times.

(b) Except as provided in paragraph (e) of this section for commission finishing operations, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the finishing of woven fabrics through simple manufacturing operations employing a synthetic fiber or through complex manufacturing operations employing a natural fiber, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section.

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
COD	20.0	10.0

(c) Except as provided in paragraph (e) of this section for commission finishing operations, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the finishing of woven fabrics through simple manufacturing operations employing a natural and synthetic fiber blend or through complex manufacturing operations employing a synthetic fiber, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section.

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
COD	40.0	20.0

(d) Except as provided in paragraph (e) of this section for commission finishing operations, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the finishing of woven fabrics through complex manufacturing operations employing a natural and synthetic fiber blend, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this subpart.

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pound per 1,000 lb) of product	
COD	60.0	30.0

(e) Additional allocations equal to the effluent limitations established in paragraph (a) of this section are allowed any existing point source subject to such effluent limitations that finishes woven fabrics through "commission finishing" as defined in § 410.01.

§ 410.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

Pollutant or pollutant property	BAT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pound per 1,000 lb) of product	
COD	60.0	30.0

Pollutant or pollutant property	BAT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Sulfide	0.20	0.10
Phenols	0.10	0.05
Total Chromium	0.10	0.05

(b) Except as provided in paragraph (e) of this section for commission finishing operations, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the finishing of woven fabrics through simple manufacturing operations employing a synthetic fiber or through complex manufacturing operations employing a natural fiber, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section.

Pollutant or pollutant property	BAT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
COD	20.0	10.0

(c) Except as provided in paragraph (e) of this section for commission finishing operations, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the finishing of woven fabrics through simple manufacturing operations employing a natural and synthetic fiber blend or through complex manufacturing operations employing a synthetic fiber, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section.

Pollutant or pollutant property	BAT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
COD	40.0	20.0

(d) Except as provided in paragraph (e) of this section for commission finishing operations, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the finishing of woven fabrics through complex manufacturing operations employing a natural and synthetic fiber blend, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this subpart.

Pollutant or pollutant property	BAT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
COD	60.0	30.0

(e) Additional allocations equal to the effluent limitations established in paragraph (a) of this section are allowed any existing point source subject to such effluent limitations that finishes woven fabrics through "commission finishing" as defined in § 410.01.

§ 410.44 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart that introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 410.45 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

SIMPLE MANUFACTURING OPERATIONS

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD5	3.3	1.7
COD	41.7	26.9
TSS	8.8	3.9
Sulfide	0.20	0.10
Phenols	0.10	0.05
Total Chromium	0.10	0.05
pH[1]	([1])	([1])

[1] Within the range 6.0 to 9.0 at all times.
NOTE.—Additional allocations for "commission finishers" are not available to new sources.

COMPLEX MANUFACTURING OPERATIONS

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD5	3.7	1.9
COD	68.7	44.2
TSS	14.4	6.4
Sulfide	0.20	0.10
Phenols	0.10	0.05
Total Chromium	0.10	0.05
pH[1]	([1])	([1])

[1] Within the range 6.0 to 9.0 at all times.
NOTE.—Additional allocations for "commission finishers" are not available to new sources.

DESIZING

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD5	5.5	2.8
COD	59.5	38.3
TSS	15.6	6.9
Sulfide	0.20	0.10
Phenols	0.10	0.05
Total Chromium	0.10	0.05
pH	([1])	([1])

[1] Within the range 6.0 to 9.0 at all times.
NOTE.—Additional allocations for "commission finishers" are not available to new sources.

§ 410.46 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart that introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 410.47 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Subpart E—Knit Fabric Finishing Subcategory

§ 410.50 Applicability; description of the knit fabric finishing subcategory.

The provisions of this subpart are applicable to process wastewater discharges resulting from the following types of textile mills: knit fabric finishers, which may include any or all of the following unit operations: bleaching, mercerizing, dyeing, printing, resin treatment, water proofing, flame proofing, soil repellency application and a special finish application.

§ 410.51 Specialized definitions.

In addition to the definitions set forth in 40 CFR Part 401 and § 410.01 of this Part, the following definitions apply to this subpart:

(a) The term "simple manufacturing operation" shall mean all the following unit processes: desizing, fiber preparation and dyeing.

(b) The term "complex manufacturing operation" shall mean "simple" unit processes (desizing, fiber preparation and dyeing) plus any additional manufacturing operations such as printing, water proofing, or applying stain resistance or other functional fabric finishes.

(c) For NSPS (Section 410.55) the term "hosiery products" shall mean the internal subdivision of the knit fabric finishing subcategory for facilities that are engaged primarily in dyeing or finishing hosiery of any type.

§ 410.52 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD5	5.0	2.5
COD	60.0	30.0
TSS	21.8	10.9
Sulfide	0.20	0.10
Phenols	0.10	0.05
Total chromium	0.10	0.05
pH	([1])	([1])

[1] Within the range 6.0 to 9.0 at all times.

(b) Except as provided in paragraph (d) of this section for commission finishing operations, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the finishing of knit fabrics through simple manufacturing operations employing a natural and synthetic fiber or through complex manufacturing operations employing a synthetic fiber, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section.

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
COD	20.0	10.0

(c) Except as provided in paragraph (d) of this section for commission finishing operations, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the finishing of knit fabrics through complex manufacturing operations employing a natural and synthetic fiber blend, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section.

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
COD	40.0	20.0

(d) Additional allocations equal to the effluent limitations established in paragraph (a) of this section are allowed any existing point source subject to such effluent limitations that finishes knit fabrics through "commission finishing" as defined in § 410.01.

§ 410.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

Pollutant or pollutant property	BAT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
COD	60.0	30.0
Sulfide	0.20	0.10
Phenols	0.10	0.05
Total Chromium	0.10	0.05

(b) Except as provided in paragraph (d) of this section for commission finishing operations, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the finishing of knit fabrics through simple manufacturing operations employing a natural and synthetic fiber or through complex manufacturing operations employing a synthetic fiber, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section.

Pollutant or pollutant property	BAT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
COD	20.0	10.0

(c) Except as provided in paragraph (d) of this section for commission finishing operations, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the finishing of knit fabrics through complex manufacturing operations employing a natural and synthetic fiber blend, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section.

Pollutant or pollutant property	BAT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
COD	40.0	20.0

(d) Additional allocations equal to the effluent limitations established in paragraph (a) of this section are allowed any existing point source subject to such effluent limitations that finishes knit fabrics through "commission finishing" as defined in § 410.01.

§ 410.54 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart that introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 410.55 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

SIMPLE MANUFACTURING OPERATIONS

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD5	3.6	1.9
COD	48.1	31.0
TSS	13.2	5.9
Sulfide	0.20	0.10
Phenols	0.10	0.05
Total chromium	0.10	0.05
pH	(1)	(1)

1 Within the range 6.0 to 9.0 at all times.

NOTE.—Additional allocations for "commission finishers" are not available to new sources.

COMPLEX MANUFACTURING OPERATIONS

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD5	4.8	2.5
COD	51.0	32.9
TSS	12.2	5.4
Sulfide	0.20	0.10
Phenols	0.10	0.05
Total Chromium	0.10	0.05
pH	(1–)	(1–)

1 Within the range 6.0 to 9.0 at all times.

NOTE.—Additional allocations for "commission finishers" are not available to new sources.

HOSIERY PRODUCTS

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD5	2.3	1.2
COD	30.7	19.8
TSS	8.4	3.7
Sulfide	0.20	0.10
Phenols	0.10	0.05
Total Chromium	0.10	0.05
pH	(1–)	(1–)

1 Within the range 6.0 to 9.0 at all times.

NOTE.—Additional allocations for "commission finishers" are not available to new sources.

§ 410.56 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart that introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 410.57 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Subpart F—Carpet Finishing Subcategory

§ 410.60 Applicability; description of the carpet finishing subcategory.

The provisions of this subpart are applicable to process wastewater discharges resulting from the following types of textile mills: carpet mills, which may include any or all of the following unit operations: Bleaching, scouring, carbonizing, fulling, dyeing, printing, resin treatment, waterproofing, flameproofing, soil repellency, looping, and backing with foamed and unfoamed latex and jute. Carpet backing without other carpet manufacturing operations is included in Subpart C.

§ 410.61 Specialized definitions.

In addition to the definitions set forth in 40 CFR Part 401 and § 410.01 of this Part, the following definitions apply to this subpart:

(a) The term "product" shall mean the final carpet produced or processed including the primary backing but excluding the secondary backing.

(b) The term "simple manufacturing operation" shall mean the following unit processes: fiber preparation and dyeing with or without carpet backing.

(c) The term "complex manufacturing operation" shall mean "simple" unit processes (fiber preparation, dyeing and carpet backing) plus any additional manufacturing operations such as printing or dyeing and printing.

§ 410.62 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD5	7.8	3.9
COD	70.2	35.1
TSS	11.0	5.5
Sulfide	0.08	0.04
Phenol	0.04	0.02
Total Chromium	0.04	0.02
pH	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the manufacture of carpets through complex manufacturing operations, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section.

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
COD	20.0	10.0

§ 410.63 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

Pollutant or pollutant property	BAT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
COD	70.2	35.1
Sulfide	0.08	0.04
Phenols	0.04	0.02
Total chromium	0.04	0.02

(b) The following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section and attributable to the manufacture of carpets through complex manufacturing operations, which may be discharged by a point source subject to the provisions of this subpart, in addition to the discharge allowed by paragraph (a) of this section.

Pollutant or pollutant property	BAT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
COD	20.0	10.0

§ 410.64 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart that introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 410.65 New source performance standards (NSPS).

Any new source subject to this subject must achieve the following new source performance standards (NSPS):

Pollutant or pollutant property	NSPS limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	kg/kkg (or pounds per 1,000 lb) of product	
BOD5	4.6	2.4
COD	26.6	17.1
TSS	8.6	3.8
Sulfide	0.08	0.04
Phenols	0.04	0.02
Total chromium	0.04	0.02
pH	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

NOTE.—Additional allocations for "commission finishers" are not available to new sources.

§ 410.66 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart that introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 410.67 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Subpart G—Stock and Yarn Finishing Subcategory

§ 410.70 Applicability; description of the stock and yarn finishing subcategory.

The provisions of this subpart are applicable to process wastewater discharges resulting from the following types of textile mills: stock or yarn dyeing or finishing, which may include any or all of the following unit operations and processes: cleaning, scouring, bleaching, mercerizing, dyeing and special finishing.

§ 410.71 Specialized definitions. [Reserved]

§ 410.72 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

(a) Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD5	6.8	3.4
COD	84.6	42.3
TSS	17.4	8.7
Sulfide	0.24	0.12
Phenol	0.12	0.06
Total chromium	0.12	0.06
pH	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

§ 410.73 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

Pollutant or pollutant property	BAT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
COD	84.6	42.3
Sulfide	0.24	0.12
Phenols	0.12	0.06
Total chromium	0.12	0.06

§ 410.74 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart that introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 410.75 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD5	3.6	1.9
COD	33.9	21.9
TSS	9.8	4.4
Sulfide	0.24	0.12
Phenols	0.12	0.06
Total chromium	0.12	0.06
pH	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

NOTE.—Additional allocations for "commission finishers" are not available to new sources.

§ 410.76 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart that introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 410.77 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Subpart H—Nonwoven Manufacturing Subcategory

§ 410.80 Applicability; description of the nonwoven manufacturing subcategory.

The provisions of this subpart are applicable to process wastewater discharges resulting from facilities that primarily manufacture nonwoven textile products of wool, cotton, or synthetics, singly or as blends, by mechanical, thermal, and/or adhesive bonding procedures. Nonwoven products produced by fulling and felting processes are covered in Subpart I—Felted Fabric Processing.

§ 410.81 Specialized definitions. [Reserved]

§ 410.82 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD5	4.4	2.2
COD	40.0	20.0
TSS	6.2	3.1
Sulfide	0.046	0.023
Phenol	0.023	0.011
Total chromium	0.023	0.011
pH	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

§ 410.83 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

Pollutant or pollutant property	BAT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
COD	40.0	20.0
Sulfide	0.046	0.023
Phenols	0.023	0.011
Total chromium	0.023	0.011

§ 410.84 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart that introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 410.85 New source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
BOD^5	2.6	1.4
COD	15.2	9.8
TSS	4.9	2.2
Sulfide	0.046	0.023
Phenols	0.023	0.011
Total Chromium	0.023	0.011
pH	(1)	(1)

[1] Within the range 6.0 to 9.0 at all times.

NOTE.—Additional allocations for "commission finishers" are not available to new sources.

§ 410.86 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart that introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 410.87 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

Subpart I—Felted Fabric Processing Subcategory

§ 410.90 Applicability; description of the felted fabric processing subcategory.

The provisions of this subpart are applicable to process wastewater discharges resulting from facilities that primarily manufacture nonwoven products by employing fulling and felting operations as a means of achieving fiber bonding.

§ 410.91 Specialized definitions. [Reserved]

§ 410.92 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology currently available (BPT):

Pollutant or pollutant property	BPT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
$BOD5$	35.2	17.6
COD	256.8	128.4
TSS	55.4	27.7
Sulfide	0.44	0.22
Phenol	0.22	0.11
Total chromium	0.22	0.11
pH	(1)	(1)

[1] Within the range 6.0 to 9.0.

§ 410.93 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).

Except as provided in 40 CFR 125.30–125.32, any existing point source subject to this subpart must achieve the following effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT):

Pollutant or pollutant property	BAT limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
COD	256.8	128.4
Sulfide	0.44	0.22
Phenols	0.22	0.11
Total Chromium	0.22	0.11

§ 410.94 Pretreatment standards for existing sources (PSES).

Any existing source subject to this subpart that introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 410.95 New Source performance standards (NSPS).

Any new source subject to this subpart must achieve the following new source performance standards (NSPS):

Pollutant or pollutant property	NSPS	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
	Kg/kkg (or pounds per 1,000 lb) of product	
$BOD5$	16.9	8.7
COD	179.3	115.5
TSS	50.9	22.7
Sulfide	0.44	0.22
Phenols	0.22	0.11
Total Chromium	0.22	0.11
pH	(1)	(1)

[1] Within the range of 6.0 to 9.0 at all times.

NOTE.—Additional allocations for "commission finishers" are not available to new sources.

§ 410.96 Pretreatment standards for new sources (PSNS).

Any new source subject to this subpart that introduces process wastewater pollutants into a publicly owned treatment works must comply with 40 CFR Part 403.

§ 410.97 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT). [Reserved]

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Part VI

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Lime Manufacturing Plants; Proposed Response To Court Remand and Proposed Rule Change

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[A-FRL-2058-4]

Standards of Performance for New Stationary Sources; Lime Manufacturing Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed response to court remand and proposed rule change.

SUMMARY: This is a proposed response to the remand of new source performance standards for lime manufacturing plants by the United States Court of Appeals for the District of Columbia Circuit. This response addresses the questions raised by the Court in *National Lime Association v. EPA*, 627 F.2d 416 (1980) and proposed amendments to the standards. The standards as amended will apply to all affected facilities constructed, reconstructed, or modified after May 3, 1977.

A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentations of data, views, or arguments concerning the proposed standards.

DATES: *Comments.* Comments must be received by November 1, 1982

ADDRESSES:

Comments. Comments should be submitted (in duplicate if possible) to: Central Docket Section (A-130), Attention: Docket Number A-80-53, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Public Hearing. Persons wishing to request a hearing should notify Mrs. Naomi Durkee, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578. If requested, the public hearing will be announced in the **Federal Register.**

Docket. Docket No. A-80-53, containing supporting information used in developing the proposed remand response and amendments, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. Throughout this notice, numbers which appear in parentheses are citations to the docket. Material cited in this way may be obtained from the Central Docket Section if both the docket and citation numbers are provided. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. John Crenshaw, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5624.

SUPPLEMENTARY INFORMATION:

Background

New source performance standards (NSPS) for lime manufacturing plants were proposed on May 3, 1977 (Docket No. A-80-53/74-5-I-G-2; hereinafter "Docket No. A-80-53/74-5" will be omitted from the docket references in this document). Final rules were promulgated on March 7, 1978 (I-K-3). As promulgated, standards of performance for lime manufacturing plants limited particulate emissions from rotary lime kilns to no greater than 0.15 kilogram per megagram (kg/Mg) (0.30 pound per ton (lb/ton)) of limestone feed. Opacity from rotary lime kilns was limited to less than 10 percent. The particulate emission limit for any lime hydrator was 0.075 kg/Mg (0.15 lb/ton) of lime feed.

The National Lime Association (NLA) filed a petition for review of the lime manufacturing NSPS with the United States Court of Appeals for the District of Columbia Circuit. On May 19, 1980, the Court of Appeals remanded the standard to the EPA Administrator. This notice contains the EPA's proposed response to the remand and proposed amendments to the NSPS.

Summary of Court's Decision

In *National Lime Association v. EPA*, 627 F.2d 416 (1980), the Court held that there was inadequate support in the administrative record for the standards promulgated and, therefore, remanded the case to the Agency for additional explanation or analysis. The Court felt that there were a number of process variables that could affect the generation and controllability of particulate emissions from lime plants and that the Agency had not adequately evaluated these variables with respect to the achievability of the standards. In characterizing the performance of emission control systems, the Agency had relied on emission tests from several lime manufacturing plants. The Court found that, by failing to establish the representativeness of the tested plants with respect to process operating variables, the Agency had not demonstrated that the standard was achievable under the most adverse conditions which reasonably could be expected to recur. While the remand focused chiefly on the mass emission standard for lime kilns, the Court concluded that the hydrator and opacity standards were subject to some of the same problems, and they were remanded as well.

In discussing the representativeness of data relied upon for the kiln mass emission standard, the Court identified three main issues. First variations in the quantity of dust generated in a kiln may affect the achievability of the standard. The Court specified factors that may contribute to the quantity of dust generated: Feedstock variation (size and chemical composition), gas velocity, plant operating level, and rate of kiln rotation. Second, the Court was concerned with variations in the controllability of particulate matter generated in the kiln. Given the emphasis in the 1977 Clean Air Act amendments on coal usage, the Court thought the effect of coal usage on emissions should be specifically examined and a rationale offered to demonstrate the standard's achievability for the full range of coal types in supply. The Court also thought that particle size was an important factor in controllability. Third, the Court was dissatisfied with the EPA's explanation of test data which were discarded from the Agency's data base. The Court found that there was inadequate support for the EPA's conclusions that emission controls at two tested plants (identified as Plants A and F) were not representative of well-designed or well-operated systems.

The Court concluded that inadequate account was taken of significant variables relevant to the achievability of the hydrator standard. The Court felt that the hydrator standard should be examined with respect to many of the same variables examined in the lime kiln standard, especially particle size and surface area. The impact on emisssions from the use of dolomitic limestone feedstock was also felt to deserve further consideration. In addition, the Agency had previously agreed to review the standard as it applies to pressure hydrators. In its brief to the Court, the Agency conceded that additional study of emissions from pressure hydrators was needed to determine what standards of performance, if any, should be established for pressure hydrators.

The opacity standard for lime kilns was remanded for two purposes. First, the EPA was directed to give careful consideration to variables that may

affect opacity, especially stack diameter, particle size and shape, and stack gas exit velocity. Second, the Court felt the Agency should examine the representativeness of the lime kiln opacity standard with respect to the variables investigated in the kiln mass emission standard.

EPA Response to the Remand

After a comprehensive study of the issues of this case, the Administrator decided that some changes to the manufacturing NSPS are appropriate. The changes are to revise the rotary lime kiln emission to 0.30 kg/mg (0.60 lb/ton) of limestone feed and to delete the standard for hydrators. The changes are based on reanalysis of the data base and on inclusion of some previously discarded emission test data. With the inclusion of these data, the Administrator has concluded that the emission tests which comprise the data base are representative of the full range of emission control conditions which are likely to recur in future lime plants and that these emission data demonstrate the achievability of the proposed amended standards throughout the industry.

In addition to examining the emission test data, the Agency also conducted an extensive examination of the impact of process variables on the performance of particulate control devices. The Agency has investigated the effects on emissions of variations in raw materials, fuels, and plant operating parameters. All of these factors affect to some degree the amount of particulate matter generated in lime kilns. The Administrator has determined, however, that the range of emissions caused by process variables can be controlled at reasonable cost through proper design and operation of emission control systems. The record shows that the capability of the designated particulate control systems to meet the proposed standards is not limited by process variations that are expected to occur in the lime manufacturing industry.

The proposed revision to the particulate standard for rotary lime kilns is based on the use of either a fabric filter (baghouse) or an electrostatic precipitator (ESP) control device. The proposed revision would limit particulate emissions from new, modified, and reconstructed rotary lime kilns to 0.30 kg/Mg (0.60 lb/ton) of limestone feed. The original standard limited emissions to 0.15 kg/Mg (0.30 lb/ton) of limestone feed.

With respect to kilns, the proposed revision to the standard is based on the inclusion in the data base of emission test data from Plant A, which were excluded from consideration in promulgating the standard. After reevaluation, the EPA has concluded that the design of the fabric filter unit at Plant A is representative of other well-designed baghouses in the lime manufacturing industry. Although the Agency was unable to determine how well the Plant A baghouse had been operated and maintained at the time of the EPA emission testing, in the absence of contrary information, the EPA has determined that emission data from Plant A should be included in the data base. The Agency has also concluded that wet scrubbers are not the best demonstrated technology for control of particulate emissions from lime kilns. Therefore, emission data from Plant F (scrubber equipped) were not considered in establishing the proposed emission limit.

The standard for lime hydrators is being deleted. While available test data for wet fan scrubbers controlling emissions from lime hydrators support the promulgated emission limit (0.15 lb/ton), data to document the effect of particle size distribution on scrubber performance are limited. At this time, the Agency is not able to demonstrate that the standard for lime hydrators is achievable under the most adverse conditions which reasonably could be expected to recur.

The EPA reevaluated the achievability of the lime kiln opacity standard with regard to variations in stack diameter, particle size and shape, and stack gas exit velocity and concluded that the original lime kiln opacity standard was reasonable. In reaching this conclusion, the Administrator found that the data base was established under conditions that are representative for the entire lime manufacturing industry. The highest raw opacity 6-minute average reading observed among the 1,247 6-minute average readings taken at tested plants during normal operating was 6.7 percent. When the opacity averages were normalized to a 3.0-meter stack diameter, more than 99 percent of the normalized opacity averages did not exceed 10 percent. The Agency has concluded that the lime kiln opacity standard is achievable for stack diameters less than or equal to 3.0 meters. Therefore, the opacity standard should not be changed.

The Agency recognizes that a question exists whether this standard should apply to all sources that commenced construction after the date of the original proposal of the standard in 1977, or whether it should apply only to sources that commence construction after today's date. The Agency invites comment on this issue.

Discussion of Technical Issues Raised by the Court

The Agency has investigated and analyzed the issues raised by the Court of Appeals. For the purposes of analysis, these issues were divided into five major areas: (1) The controllability of particulate matter generated in a lime kiln; (2) the representatives of the data base with respect to factors that may contribute to variations in dust generation and the impact of those factors on the achievability of the kiln standard; (3) the data from Plants A and F that were originally discarded; (4) the representatives of the data base and achievability of the hydrator standard; and (5) the effect of stack diameter, particle size and shape, and gas velocity on the opacity standard. These areas are discussed in detail below.

Issue: Controllability of Dust Generated in Rotary Lime Kilns

A major question raised by the Court was how variations in uncontrolled inlet dust concentration and particle size distribution to a control device affect the achievability of the standard. The operating variables noted by the Court (feedstock characteristics, plant operating level, gas velocity through the kiln, kiln rotation rate, and fuel type) may affect the amount and the particle size of dust generated in a kiln. However, as discussed below, because of the performance characteristics of fiber filter and ESP control devices that are properly designed for a given application, these variables do not affect the controllability of the dust generated. These control device performance characteristics are well documented in the technical literature, through empirical data, and by the experience of control device vendors. As described in a later section ("Basis for Proposed Amendment"), wet scrubbers are not a basis for the lime kiln standard and, therefore, are not addressed in the following discussion.

a. *Fabric Filters.* Filtration theory is based on the interaction of a single particle with a filter medium. According to theory, particles are collected in fabric filtration by one or more of the following mechanisms (II–I–8):

(1) Impaction of a particle on the filter fibers or on previously retained particles due to the inertia of the particle;

(2) Diffusion of a particle to a filter fiber or other particle on the filter as a result of random molecular (Brownian) motion;

(3) Interception of a particle as a result of the particle diameter relative to the pore diameter of the filter medium;

(4) Gravitational settling due to the mass of the particle; and

(5) Electrostatic attraction between a particle and the filter medium.

Impaction, diffusion, and interception are the most important mechanisms for particle removal and are influenced by fabric face (filtration) velocity, particle mass, and particle diameter. Impaction efficiency increases with increasing filtering velocity and increasing particle size, whereas diffusional efficiency improves with reduced filtration velocity and decreasing particle size (II-I-8). An increase in the concentration of particles in the inlet gas stream increases the efficiency of particle removal by the above filtration mechanisms (II-D-33).

Particle-laden gas passing through the porous fabric causes dust particles to be deposited on individual fiber surfaces and within the interstices of the fiber matrix. Continued particle deposition on the fabric creates a uniform dust cake that functions as a porous filter medium. Because the pores of the fabric matrix are large relative to the diameter of the incoming particles, some particles at the dust cake/fabric interface will migrate through the fabric and escape into the effluent gas stream. Outlet dust concentration is relatively constant over time (except for short-term variations following cleaning of a compartment) and substantially independent of the dust concentration entering the fabric filter (II-A-31, II-D-33).

There are many examples that support this theory. Empirical data from a reverse-air baghouse on a pulp mill lime recovery kiln show that inlet particulate concentrations of 2.17 and 10.9 grains per dry standard cubic foot (gr/dscf) were both reduced by fabric filtration to an outlet concentration of 0.0005 gr/dscf (II-A-32). The lowest outlet concentration (0.0002 dr/dscf) was associated with an inlet concentration of 2.97 gr/dscf while the highest outlet concentration (0.0012 gr/dscf) was associated with an inlet concentration of 3.75 gr/dscf. Fly ash emissions from a reverse-air baghouse at the Sunbury Station power plant were 0.002 and 0.001 gr/dscf when inlet concentrations were 1.348 and 4.123 gr/dscf, respectively (II-A-20). In this case, the lowest outlet concentration was associated with the highest inlet concentration. By comparison, the outlet dust concentrations from EPA-tested baghouses in the lime industry were 0.0148, 0.029, 0.022, and 0.0059 gr/dscf for calculated inlet concentrations of 4.4, 10.0, 13.6, and 10.6 gr/dscf, respectively (I-K-1, I-I-20, II-B-20). It is clear that there is no correlation between high inlet dust concentration and high inlet concentration for properly designed and operated fabric filters.

The experience of fabric filter manufacturers confirms that outlet dust concentration is essentially independent of inlet dust concentration. Vendors routinely guarantee outlet concentrations between 0.01 and 0.015 grains per actual cubic foot (gr/acf) from baghouses on rotary lime kilns (II-D-33). At two recently constructed plants, baghouse vendors have guaranteed outlet concentrations of 0.01 gr/acf for inlet concentrations as high as 14 gr/acf (I-K-1; II-D-27, 32.)

Filtration theory predicts that particle size will have a limited effect on the efficiency of particle capture by the mechanisms previously described. For particles less than approximately 1 micrometer (μm) in diameter, diffusion is the primary capture mechanism; for particles greater than approximately 2 μm, impaction is the primary capture mechanism (II-E-8, II-I-8). Many fractional penetration curves show a dip in the fabric filter collection efficiency curve for particles between approximately 0.5 and 2 μm caused by the crossover of the primary collection mechanism from diffusion to impaction (II-E-8). Vendor experience with baghouse applications in the lime industry reveals no variations in the particle size distribution from rotary lime kilns that are great enough to affect the performance of a baghouse on a rotary lime kiln (II-D-33).

The design of a baghouse requires that certain information be known about the exhaust stream to be cleaned. If baghouses have not previously been used for a particular source category, the information that is needed includes expected mass emission rate, volumetric flow rate, and particle characteristics. This information is then compared with similar information and experience from other applications to establish the air-to-cloth (A/C) ratio, pressure drop, cleaning mechanism and frequency, and bag construction (e.g., material, weave). Once initial experience has been gained with the performance of baghouses in a particular industry (as it has in the lime manufacturing industry), control device vendors can predict the range within which the key design parameters must be maintained to achieve desired outlet emission concentrations. Accordingly, baghouse design in an industry such as lime manufacturing no longer requires specification of site-specific gas characteristics except the gas volume to be cleaned. After installation of the unit, the cleaning cycle is adjusted to optimize baghouse operation.

The general approach that is used to establish baghouse design parameters and to determine how they interrelate is described in the following paragraphs. The range of values for design parameters that have been employed in the lime industry and that would be expected at plants designed to meet the proposed lime kiln standard are discussed under "Discarded Emission Data From Plants A and F."

For a given baghouse, pressure drop is controlled largely by the cleaning cycle of the baghouse—pressure drop decreases as the frequency and/or intensity of cleaning increases. Overcleaning can cause a decrease in overall baghouse collection efficiency and can damage the bag fabric. Therefore, optimum pressure drop is determined by the dual consideration of collection efficiency and bag maintenance costs (II-I-8).

The A/C ratio is defined as the total volumetric air flow filtered divided by the total cloth filter area. The A/C ratio for a baghouse unit is selected on the basis of dust characteristics (e.g., particle shape, density, electrical charge, adsorptive properties), fabric type, and cleaning method. This parameter is affected by the tradeoff between initial baghouse capital cost and recurring energy costs (II-I-8). Typically, woven fabric bags and reverse-air or shake cleaning mechanisms are associated with A/C ratios ranging from 1:1 to 5:1 (II-I-8). However, there is no analytical method for selecting the best A/C ratio; baghouse vendors use general guidelines and rely on their previous design experience to select an A/C ratio for a specific industry or application (II-I-8).

Cleaning mechanisms and bag construction (i.e., fabric type, weight, permeability, weave, strength) are interrelated and are typically determined simultaneously in the design process. Woven fabrics are most commonly cleaned by shake or reverse-air cleaning mechanisms, while felted fabrics are almost exclusively cleaned by pulse- or reverse-air jet methods (II-I-8). Of the approximately eight conventional fabric media available, most are eliminated as candidates for a given application by consideration of gas temperature, corrosion wear, abrasion wear, permeability, and dust release characteristics. Therefore, ultimate selection of compatible cleaning/fabric combination is determined by a process of elimination as well as the vendor's previous experience with similar applications (II-I-8).

Inlet dust concentration does not directly influence the size of the baghouse. Size is determined by the gas flow volume to be cleaned and the A/C

ratio selected. Inlet dust concentration does affect the size of dust handling systems in a baghouse (e.g., hoppers and conveyors) and the frequency of bag cleaning. Therefore, the variables noted by the Court as "contributing factors" to the amount of dust generated in a rotary kiln do not affect the achievability of the standard.

b. *Electrostatic Precipitators.* In an ESP, particle-laden gas passes between multiple sets of oppositely charged electrodes. Particles in the gas stream acquire a charge from one electrode (usually a wire or pipe) and are attracted to the oppositely charged electrode (the collecting plate). The objective is to make particles migrate from the gas stream to the collecting plates before passing through the ESP unit. The rate of particle migration depends on a number of variables, the most important of which are the particle size, density, resistivity and charge, and the applied voltage. Particles that collect on the plates are periodically dislodged into hoppers by rapping the plates with a hammer mechanism.

Electrostatic precipitator design for lime applications is based on empirical formulas and relationships. Important design parameters are the collection efficiency, collection plate area, and power input (II-A-30). Total collection plate area is calculated from the Deutsch-Anderson equation and is a function of the desired ESP efficiency, the gas flow rate, and the effective migration velocity (EMV) (II-I-6). EMV is determined by vendor experience with a particular dust; it varies as a result of dust properties, especially resistivity and particle size (II-I-6). Power input for a specific unit is determined on an empirical basis and is a function of desired efficiency, gas volume, and particle size and resistivity (II-I-6).

Inlet dust concentration determines both the frequency of rapping (cleaning) and the size of the dust removal systems. Increased inlet dust concentration affects ESP performance and requires a higher power input so that all the particles are charged. Alternatively, a larger collection plate area can compensate for increased dust concentration. Therefore, there are tradeoffs between capital costs and operating (energy) costs. If power input is not increased in response to a higher inlet dust concentration (assuming fixed plate area), particles in the gas stream will not acquire sufficient charge to migrate to the collecting plate before being swept through the ESP by the gas flow. However, ESP units, including those used on rotary lime kilns, are currently designed with automatic power controls that determine the optimum applied power for variable dust concentrations within the unit (II-A-30, II-E-19).

According to theory, there is no lower limit to the particle size that can be captured in an ESP (II-A-9). ESP efficiencies between 99 and 99.998 percent are predicted from empirical data for the control of fly ash particles between 0.2 and 10 μm in diameter. Actual field data for a fly ash system show ESP efficiencies from 99.94 to 99.995 percent (II-D-12). Variations in particle size which may occur at lime plants are not a design problem because the vendors' extensive experience with this industry has made them aware of the size range to be expected (II-E-19). It is not necessary for ESP vendors to know the specific particle size distribution of the dust to be collected; they will design units for the lime industry that are warranted to achieve outlet emission levels of 0.01 gr/acf or less. In actual installations employing good operation and maintenance, outlet dust concentrations of 0.007 gr/acf have been reported (II-A-10, II-D-33).

Issue: Representativeness of Tested Plants

The Court noted in its opinion that the Agency had not confirmed the representativeness of data relied upon to propose a standard. The Court stated:

> From what appears in the record, both variations in dust volume produced and its contributing factors received inadequate attention from the Agency in the development and explanation of this standard. (627 F.2d at 439)

The contributing factors identified by the Court included size and chemical composition of the feedstock, plant operating level, gas velocity, and kiln rotation rate.

The Court identified two additional variables that were discussed in the record but not adequately considered by EPA in the development of the standard—coal usage and particle size. The Court stated:

> The record strongly supports the relevance of coal usage to the efficiency of at least the ESP control method and it also suggests a relationship between particle size and the efficiency of both the ESP and the baghouse control method. Nothing indicates how—if at all—variations in these factors were considered in proposing an "achievable" standard. (627 F.2d at 439)

In the discussion of controllability of dust from rotary lime kilns, the EPA described why neither the dust concentration nor the particle size distribution of the inlet gas stream (to a control device) will affect the achievability of the rotary lime kiln standard. However, the Administrator has investigated the variables noted by the Court that may affect dust generation and has reevaluated the Agency's data base to ascertain the representativeness of the tested plants with respect to these variables.

To assess the representativeness of the variables noted by the Court, the EPA sought new data on the amounts of dust generated, size and chemical composition of feedstocks, plant operating levels, process air flow rates (gas velocity), kiln rotation rates, and particle size distributions from all known lime plants built, modified, or reconstructed since 1977 (hereinafter referred to as "new" plants). Information was requested in writing from 14 plants, and 12 responses were received. The Agency also surveyed new or modified lime plants to determine if process and emission control technology had changed since the development of standards for lime manufacturing plants. No emission tests have been conducted on any of the new or modified rotary kilns found by the Agency; therefore, no new test data were obtained. In addition, EPA sought information from the Industrial Gas Cleaning Institute (IGCI), a national organization of manufacturers of industrial air pollution control equipment, from the NLA, and from a review of the technical literature on lime manufacturing. The IGCI was contacted to determine the relative importance of various parameters in the design of control equipment. Because of its potential as a reservoir of technical information, the NLA was asked to supply available data that supported the claims made in its brief to the Court challenging the promulgated NSPS.

Based on its investigation, the Agency has concluded that the emission data on which the proposed standard is based are representative of the range of conditions (amount of dust generated, feedstock size and chemical composition, plant operating level, gas velocity, and kiln rotation rate) reasonably expected to recur in the industry with respect to the generation of particulate matter. Controlled particulate emission levels at all plants tested by the EPA were less than the level of the proposed standard for particulate matter. Each of these variables is discussed in detail below.

a. *Generation of Dust Emissions.* The Standards Support and Environmental Impact Statement (SSEIS) stated that the mass rate of uncontrolled emissions, also called the "dusting rate," ranged

from 22 to 25 percent (pounds of dust per 100 pounds of lime product) at the tested plants (I-K-1). These data were obtained by collecting dust from the baghouse in a dump truck and weighing the dust. The accuracy of this method is doubtful because steady-state conditions such as the moisture content of the dust, the time period involved, and the accuracy of truck scales cannot be assured. Based on its own survey of plants, the NLA stated that dusting rates range from 5 to 35 percent but supplied no supporting data (II-D-22).

To standardize uncontrolled emission rates at the tested plants and the rates from other plants, the Agency calculated dusting rates based on a mass balance involving feed rate, production rate, and limestone chemical composition (II-B-19). These dusting rates are shown in Table 1 for the six plants tested and for five new plants. Dusting rates at the tested plants (i.e., plants tested during original NSPS development, Plants A to F) ranged from 5.9 to 14.9 percent. At new or modified plants (i.e., plants subject to the lime NSPS, Plants II to SS), the rate of dust generation ranged from 5.3 to 19.9 percent. Although none of the tested plants exhibited dusting rates as high as 19.9 percent, the Agency believes that there is no real difference between dusting rates of 14.9 and 19.9 percent with regard to the achievability of the proposed standard. The Agency has shown, in the discussion of controllability of dust generated in rotary lime kilns, that the performance of properly designed and operated high efficiency fabric filter and ESP control devices is essentially independent of the inlet dust concentration to be controlled.

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TABLE 1. DUST GENERATED PER UNIT OF LIME PRODUCED

Plant[a]	Feedstock type[b]	Percent dust (by weight)
A2	C	13.5
A3	C	14.0
B	C	14.0
C	D	5.9
D1	D	12.3
D2	D	11.2
E	C	14.9
F	C	14.0
II	N/A	N/A
JJ	C	14.0
KK	C	N/A
LL	C	10.1
MM	C	N/A
NN	D	5.3
OO	C	9.6
PP	N/A	N/A
QQ	C	N/A
RR	C	19.9
SS	D	N/A

$$\text{Percent dust} = \frac{\text{Stone input} - (\text{Lime output} + \text{LOI})^{c}}{\text{Lime output}} \times 100$$

[a]Plants A through F were tested by EPA; Plants II through SS are new, modified, or reconstructed facilities that have not been tested by EPA.
[b]C = calcitic; D = dolomitic.
[c]LOI = loss on ignition; assumed to be 43 percent of stone input (by weight) for calcitic stone and 47 percent for dolomitic stone (II-D-7, 8, 17-19, 24, 25, 30-32, 34; II-I-4, 5).
N/A = not available; insufficient data to calculate.

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b. *Feedstock Size.* No quantitative data on the relationship between feedstock size and dust generation were found during the EPA survey. The opinions of plant operators are not consistent; some operators state that feedstock size does affect dusting, while others state that size is not important (II-B10, 14).

Table 2 presents data on the feedstock size at plants surveyed by the EPA. The data include both calcitic and dolomitic limestone feedstocks. The technical literature on lime manufacturing states that feedstock size for rotary kilns ranges from ¼ to 2½ inches (II-I-4). Data supplied by the NLA (based on a survey of 103 kilns) and the data from Plants A through E cover the same range of feedstock size (II-D-22). Therefore, the Agency considers the tested plants to be representative of the industry.

c. *Feedstock Composition.* Data from the agency's survey show that there is little variation in feedstock composition other than the generic difference between calcitic and dolomitic stone. The data in Table 2 show that, for calcitic limestones, the feedstock composition at plants tested by the Agency (Plants A, B, and E) is nearly identical to the feedstock composition at other plants in the industry. No data were found in the technical literature to show any relationship between the amount of dust generated and the chemical composition of either calcitic or dolomitic limestone. The NLA, when questioned about the relationship between dust generation and feedstock composition, offered no data to show that any relationship exists. Therefore, it is the Agency's judgment that the tested plants are representative of the industry.

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TABLE 2. LIME PLANT FEEDSTOCK AND PRODUCT CHARACTERISTICS[a]

Parameter	Tested plants					New or modified plants									
	A	B	C	D	E	JJ	KK	LL	MM	NN	OO	PP	QQ	RR	SS
Feedstock size (in.)	1/4 - 2	1/4 - 2-1/2	1/2 - 1-1/2	1 - 2-1/4	1/4 - 1-1/2	1/2 - 2-1/2	3/8 - 3/4	3/4 - 2	--[b]	3/4 - 1-1/2	3/8 - 2-1/2	3/8 - 1-1/2	--	1/4 - 2	1/8 - 3/4
Type of rock[c]	C	C	D	D	C	C	C	C	C	D	C	C	C	C	D
Feedstock composition (weight %)															
LOI[d]	43.77	43.53	--	--	43.8	43.03	43.8	41.99	--	46.60	--	--	--[e]	43.86	46.83
CaO	54.37	54.53	--	--	53.8	53.30	53.5	54.39	--	32.56	54.6	--	--	53.85	30.66
MgO	0.99	0.63	--	--	1.4	1.59	1.7	0.39	--	19.38	0.3	--	--	0.17	22.23
SiO_2	0.47	1.02	--	--	--	0.81	--	0.96	--	0.27	--	--	--	0.56	0.17
R_2O_3	0.33	0.61	--	--	--	0.33	0.5	0.48	--	0.60	--	--	--	0.46	0.29

[a]References: II-D-7, 8, 17-20, 24-27, 30-32, 34, 36; II-I-15; I-K-1.
[b]Not available.
[c]C = calcitic; D = dolomitic.
[d]LOI = Loss on ignition.
[e]Source of feedstock is same as for Plant A.

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d. *Operating Capacity.* During emission testing, the production rates at Plants A through E ranged from 86 to 111 percent of design capacity (Table 3). Compliance testing is conducted at the maximum production rate for a given plant (II-I-16). In most cases this production rate will be within approximately 10 percent of design capacity. Therefore, the EPA's tests conducted at ±14 percent of design capacity are considered to be representative of production conditions that would exist during compliance testing of lime plants.

The Agency believes that data cited by the Court regarding operating capacity were misunderstood because they were presented incorrectly in background technical reports used by the Agency during development of the standard. The Court stated:

> * * * in one plant studied an increase in production—from 100 percent to 135 percent of design capacity—resulted in double the rate of emission where a reduction from 100 percent to 75 percent resulted in only an eight percent reduction. (627 F.2d at 437)

Although it is unclear from the above citation, the original source of this information makes it clear that these data actually describe events at two different lime plants—one in the U.S. and one in Canada (II-I-2). The referenced journal article provided no additional information about either of these plants. It is unclear whether the emissions noted are uncontrolled or controlled; the Agency has assumed them to be uncontrolled. In addition, the method(s) used to obtain the emission levels, as well as the validity of the method(s), cannot be determined from the information presented. Therefore, it is incorrect to attribute any change in dust generation from rotary lime kilns to under- or over-capacity production on the basis of limited data from these two plants. In any case, it is the Agency's judgment that Plants A through E were tested under representative conditions with respect to operating capacity.

e. *Process Air Flow Rate.* In this discussion, the Agency, like the Court, has used air (gas) flow rate to indicate air (gas) velocity. Process air flow rate refers to the air required to sustain combustion in the kiln. It is equivalent to the air flow rate entering (or leaving) an emission control device in the absence of the injection of dilution air between the kiln and the control device exhaust stack. Gas velocity through a kiln is a function of the gas flow rate and the cross-sectional area of the kiln. For a given kiln, an increase in gas flow rate would result in an increase in gas velocity. The experience of control device vendors indicates that the smaller particles are entrained even at the lower kiln gas velocities and as gas velocity through a kiln increases, there is an increase in the amount of large particles (easily removed by emission control devices) that become entrained in the gas stream (II-D-33). This observation follows the principles of fluid and particle mechanics (II-I-11).

Air flow rates at plants tested by the Agency (measured at the control device exhaust stack) ranged from 48,100 to 211,000 actual cubic feet per minute (acfm) (Table 3). For new or reconstructed lime plants, the range of (design) air flow rates is from 26,500 to 389,000 acfm (Table 4). Air flow in acfm is a function of the production capacity of a kiln. To compare air flows among kilns at different lime plants, the amount of air per unit of lime produced, e.g., actual cubic feet of air per pound of lime (acf/lb) is a more useful measure than acfm. On this basis, air flows at plants tested by the EPA ranged from 111 to 317 acf/lb (when Plant A was operating with excess dilution air flow on the clean air side of the fabric filter) or from 111 to 165 acf/lb (when Plant A air flow was measured subsequent to sealing leaks in the pressure baghouse). Air flows at new or reconstructed plants range from 88 to 188 acf/lb based on the operating air flows and production rates reported. Therefore, when only the air flow through the kiln is considered (by excluding dilution air entering the fabric filter), the range of air flow per unit of product at the tested plants is representative of the range of air flow per unit of product at new or modified plants.

f. *Kiln Rotation Rate.* The rate of kiln rotation is not an independent variable with respect to dust generation; it is a function of production rate. An increase in production rate is typically associated with an increase in kiln speed. The EPA knows of no studies that evaluate the impact of kiln speed on dust generation from a rotary lime kiln, and no plant operating data were received that demonstrate any relationship between kiln speed and the level of uncontrolled emissions.

Data on the range of design and operating rotation rates for rotary lime kilns are presented in Table 4. The data show that new kilns have been constructed with design rotation rates up to 2 revolutions per minute (rpm). The NLA reported oeprating rates from 0.4 to 1.75 rpm based on a survey of its members (II-D-22). The design rotation rates at plants tested by the EPA range up to 1.6 rpm. During the tests at Plants A and B (the only two plants at which this information was recorded), actual operating rates of 1.1 and 1.3 rpm, respectively, were reported (Table 3).

With respect to the effect of kiln speed, the NLA stated that:

> There is a difference of opinion in the industry on the impact of kiln rotation speed on dust loading. Some contend that attrition loss as dust (dust loss) increases with speed of rotation; others have observed no measurable difference. (II-D-22)

It is the Agency's judgment that, since kiln rotation rate is a function of production rate and the EPA tests were run at representative production rates, its test data were collected under representative kiln rotation rate conditions.

g. *Impact of Coal Burning on Achievability of the Standard.* The use of coal may affect uncontrolled kiln emissions in several ways. The uncontrolled mass emission rate may increase because coal contains more ash than oil or natural gas. The ash may have different properties than those of lime dust (i.e., particle size, resistivity). Kiln emissions will also include sulfur dioxide (SO_2) gas.

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TABLE 3. PLANT OPERATING CONDITIONS DURING EMISSION TESTING[a]

Parameter	Plant						
	A2	A3	B	C	D1	D2	E
Stone feed rate (tph)	37.7-38.6	41.1-44	60	40.4	32.6	26.3	19
Percent of design capacity	91-96	99-106	111	97	100-106	86	86
Production rate (tph)	19-20	20.5-22[b]	30	20.2	14.6-15.4	12.5	9.4
Coal feed rate (tph)	5.7	6.1	5.4	--[c]	322-375[d]	294-316[d]	2.9[b]
Air flow rate x 10^3 (acfm)	211[e]	132	134	180	64-69	66	48
Kiln rotation rate (rpm)	1.1	--[c]	1.3	--[c]	--[c]	--[c]	--[c]

[a]References: I-K-1; I-I-20; II-A-10, 11-13, 24.
[b]Estimated.
[c]Not recorded.
[d]Fuel oil, gallons per hour.
[e]Includes unknown amount of dilution air.

TABLE 4. DESIGN AND CURRENT OPERATING PROCESS DATA[a]

Parameter	Tested plants					New or modified plants									
	A	B	C	D	E	JJ	KK	LL	MM	NN	OO	PP	QQ	RR	SS
Stone feed rate (tph)															
Design	44	54	20.8[b]	29	22	100	6.7	40	79-100	15-30[c]	64	--[d]	29.2	140	28.7
Operating	35-48	35	--	--	20	83	--	40.2	--	15	64	--	--	120	27
Production rate (tph)	20.8	16.8	10.1[e]	15[e]	10	41.5	3.8	20.8	39.5-50[e]	7.5	33	11-12	15[e]	57	16
Fuel feed rate (tph)[f]															
Design	6.8	6.77	--	--	3.3	1-20	1.75	0.6-4.5	8-12	800-1500[g]	0-15	--	8.9	18.8	6.3
Operating	5.7	4	--	--	3.0	13.7	1.75	0.6-4.5	--	800[g]	15	4	--	17	--
Air flow rate x 10^3 (acfm)															
Design	140	143	--	--	65	240	26.5	61.3	185	31-58	--	65	170	420	165
Operating	--	--	--	--	37-45	--	21.5	61.3	--	30	--	50	--	--	--
Kiln rotation rate (rpm)															
Design	0.4-1.6	0-1.3	--	--	0-1.5	0-1.4	0-2	0.1-1.9	0-1.3	0-1.5	0.6-1.6	0-1.4	0.9-1.8	0.7-1.7	0.3-0.9
Operating	1-1.6	0.8-1	--	--	1.2	1.2	--	--	0.9	0.6-1.6	--	1.3-1.8[h]	--	1.3-1.5	0.7-0.8

[a]References: I-K-1; I-I-14, 23; II-D-7, 8, 17-20, 24-27, 30-32, 34, 36.
[b]Per kiln rate calculated from total plant design rate.
[c]Design data are for production from two kilns; only one kiln currently operating.
[d]Not available.
[e]Calculated from design feed rate.
[f]Fuel is coal unless noted otherwise.
[g]Cubic feet per minute of natural gas.
[h]Estimated.

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The Agency's data base included three baghouse-controlled kilns (Plants A, B, and E) firing coal. These three coal-fired kilns represent one half of the facilities tested by the EPA in developing the standard. All three kilns had emissions well below the proposed revised standard. Therefore, since the standard has been set based on these coal-fired plants, the Administrator has concluded that coal firing has been adequately taken into consideration. Tests at these kilns may not represent the full range of emission control conditions because, in all three cases, the plants used low sulfur coal (less than 2 percent sulfur), and the coal ash content was not measured. However, based on studies of other industries, the Administrator has concluded that variations in fuel-firing rate, sulfur content, and ash content beyond the range tested will not affect the ability of a properly designed baghouse to meet the proposed standard.

In one study, where coal was the only particulate source, the variables most likely to affect particulate formation (fuel-firing rate, sulfur content, and ash content) were examined. During a series of 31 sampling runs at Sunbury Station power plant, no statistically significant deviations from the average outlet emission rate (0.00195 gr/dscf) were observed for variations in fuel-firing rate, sulfur content (1.2 to 3.2 percent), or ash content (16.0 to 31.6 percent) (II-A-20, 28). The design characteristics of the Sunbury Station baghouses are very similar to those of lime plants tested by the EPA. It is the Agency's judgment that the performance of baghouses on lime kilns can reasonably be expected to parallel the performance of Sunbury Station baghouse units with respect to variations in fuel-firing rate, sulfur content, and ash content (II-A-28, II-E-18). Therefore, the Administrator has concluded that a properly designed, operated, maintained fabric filter can achieve an outlet grain loading less than that required to meet the proposed standard for lime kilns regardless of the type of coal burned.

While the data base does not include a well-designed and well-operated ESP on a coal-fired kiln, the Agency has concluded that the performance of an ESP is similar to that of a baghouse when coal is fired. Vendors will guarantee the same outlet emission concentration for ESP's on coal-fired kilns as they will for ESP's on kilns that burn gas or oil (II-D-33). Sulfur in the coal favorably alters the electrical properties (resistivity) of the fly ash, causing more efficient collection and removal of the ash in an ESP (II-E-1, II-I-6). Therefore, coal-firing would not necessarily represent the worst-case conditions with respect to controllability of dust.

ESP test data were obtained at Plants C and D on kilns burning natural gas and oil. Emissions at these two plants were controlled to well below the level of the proposed standard (0.068 kg/Mg (0.135 lb/ton) at C, 0.133 and 0.141 kg/Mg (0.266 and 0.282 lb/ton) at D versus 0.30 kg/Mg (0.60 lb/ton) for the proposed standard). The highest emission rate observed was 47 percent of the emission rate that would be allowed under the proposed standard.

Because no data were available, an engineering analysis was performed to determine the effect of coal firing on kiln emissions when an ESP control device is used. To perform this analysis, the EPA computed the amount of fly ash that would be generated at Plants C and D if they fired coal and the level of controlled ash emissions that would result. For the analysis, an ash content in the coal of 20 percent and an ESP efficiency of 99.5 percent (the calculated capture efficiency for lime dust at Plants C and D) were assumed. These assumptions represent a worst-case situation, and this analysis should, therefore, overestimate the impact of coal burning on kiln emissions from these plants. The results showed that controlled particulate emissions from coal firing would be 0.150 kg ash/Mg (0.300 lb ash/ton) of limestone feedstock (II-B-19; II-B-23). Adding this to the measured emissions at Plants C and D, the highest estimated emission level would be 0.291 kg/Mg (0.582 lb/ton) for the kiln at Plant D. Therefore, it is EPA's judgment that a properly designed, operated, and maintained ESP can achieve the proposed standard when coal is burned in a rotary lime kiln.

Of less importance to the Court was the NLA's claim that SO_2 may react with the lime dust to form calcium sulfate ($CaSO_4$) and, therefore, cause the mass weight of the particulate emissions to increase (627 F.2d at 439-440; II-D-22). No data were supplied by the NLA to support this claim. However, any reaction between SO_2 and lime dust that occurs prior to the control device would not affect the controllability of the emissions. The EPA studies show that SO_2 reactions on the filter are insignificant under the conditions found during emission testing of lime kilns by the Agency. Test data show that if the SO_2 concentration is less than 600 parts per million (ppm) and gas moisture content is less than 22 percent, calcium sulfate will not form on the filter in amounts significant enough to affect the mass weight of particulate matter captured (II-B-1, 2, 3). The highest uncontrolled SO_2 level reported for separate EPA tests of SO_2 emissions from lime plants was 450 ppm when coal with a sulfur content of 3.53 percent was burned (I-K-1). In addition, data supplied to the EPA from an NLA survey showed that the sulfur contents of coals burned in 51 kilns ranged from 0.6 percent to only 2.8 percent—well below the 3.53 percent sulfur content of the coal tested by the Agency. Therefore, it is the Agency's judgment that SO_2 reactions on the filter would not prevent the proposed standard from being achieved.

h. *Particle Size.* Table 5 presents all known data for particle size distributions in uncontrolled rotary lime kiln exhaust gases. These data represent particle size tests at 24 plants (reference UU represents composite data from 19 lime plants) and show a wide range of particle sizes in the lime dust—from less than 0.2 to greater than 20.0 μm. As shown in the section on controllability of dust from a rotary lime kiln, fine particles can be more difficult to control than larger particles. Table 5 shows that the largest fraction of fine particles was recorded at Plant D, with 32 percent of the particles less than 2.0 μm in diameter. Plant D, which had emissions of 0.133 and 0.141 kg/Mg (0.266 and 0.282 lb/ton), easily met the proposed mass emission level of 0.30 kg/Mg (0.060 lb/ton).

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TABLE 5. PARTICLE SIZE DISTRIBUTION OF UNCONTROLLED ROTARY LIME KILN EXHAUST GASES FROM 24 PLANTS[a]
(Cumulative percent less than stated size)

Particle diameter (μm)	Plant or reference									
	D[b]		F[c]			RR	TT[d]		UU[e]	NLA
0.2	4.0	--	--	--	--	--	1.4	--	--	--
0.4	6.5	4.8	1.5	0.8	1.5	--	1.8	2.0	--	--
0.6	8.0	5.5	1.9	1.0	1.6	--	2.0	2.2	--	--
0.8	9.0	6.0	2.4	1.2	1.6	--	2.2	2.5	--	--
1.0	13.0	6.5	2.7	1.6	1.7	--	2.5	2.7	--	--
2.0	32.0	16.0	7.5	4.5	4.2	--	3.0	3.1	5-12	3.2
5.0	--	--	--	--	--	29	--	--	9-28	14.0
10.0	--	--	--	--	--	50	--	--	15-48	30.0
20.0	--	--	--	--	--	70	--	--	25-75	50.0

[a]References: II-A-1, 12, 17, 19, 22; II-D-22, 34.
[b]Dolomitic lime, two different kilns.
[c]Three test runs on one kiln.
[d]Two test runs on one kiln.
[e]Composite range for 19 plants.

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It is the Agency's judgment that particle size variations would not prevent the proposed standard from being achieved. This judgment is based on information from control device vendors, the data in Table 5, and the fact that the largest fraction of small particles in the exhaust gas reported in this industry was recorded from an EPA tested plant that easily met the proposed revised standard. Control equipment vendors report that the particle size variations in lime kiln emissions are not great enough to affect baghouse or ESP performance (II-D-33). Vendor experience in the lime industry is sufficient to allow the vendor to design a control system that will achieve the standard for the range of dust particle sizes emitted from rotary lime kilns. Additional justification for this judgment has been presented in the discussion of fabric filter and ESP performance characteristics, under "Controllability of Dust Generated in Rotary Lime Kilns."

Issue: Discarded Emission Data From Plants A and F

In the opinion of the Court, the EPA failed to offer a supportable reason for the exclusion of emission data for Plant A and, to some degree, Plant F from the data base. The Court thought that it is:

> * * * incumbent upon the Agency, at least where it chooses to propose a standard on a data base as apparently limited as this one, to offer some supportable reason for its conclusion that a tested plant, chosen as likely to be well controlled, does not represent best technology * * *.

The Court recognized that:

> * * * the fact that Plant A did not meet the proposed standard does not itself prove the standard is unachievable. However, ignoring Plant A results merely because they were not satisfactory would suggest that the process by which the standard was promulgated was an arbitrary one. (627 F. 2d at 444)

The EPA's reasons for concluding that Plant A did not represent best technology (i.e., large quantities of dilution air on the clean air side of the baghouse and poor performance) were not felt by the Court to be adequately supported or explained.

The Court was less critical of the EPA's analysis of data from Plant F:

> EPA's handling of the Plant F (scrubber) results does not seem as troubling, primarily because neither the trend in the industry nor this standard favor the use of scrubbers for rotary kilns. It was, however, the only scrubber-controlled plant tested and it did not meet the standard. (627 F. 2d at 444)

The EPA hypothesized that a high energy scrubber could meet the standard, citing a non-EPA emission test to support its hypothesis. However, the test conditions were not specified in the emission test referenced.

To determine whether tests at Plant A were representative of well-controlled facilities, the EPA reviewed test data from this plant and revisited Plants A, B, and E to inspect the production process and baghouse units. The Agency also reviewed the literature regarding scrubber and fabric filter design and operation. Additional design and operating data were collected from the NLA, from new or reconstructed lime plants, and from control device vendors. The information collected was then evaluated to determine whether the exclusion of emission data from Plant A was justified.

The EPA has determined that operating and design parameters of the Plant A baghouse are within the range of operating and design parameters typical of best control for baghouses in the lime manufacturing industry. Pollution control vendors confirmed that the design and operating parameters of the baghouse units tested, with the possible exception of the operating pressure drop (Plants A and E), are representative of current technology with respect to fabric filtration (II-D-33). Therefore, the EPA has concluded that the emission data from Plant A should be considered in establishing a particulate emission standard for rotary kilns in the lime manufacturing industry. As explained later, wet scrubbers are not considered best demonstrated control technology. Therefore, the emission data for Plant F have not been used to support the proposed standard.

Design and operating data were collected for the baghouse units (Plants A, B, and E) that were tested during standards development. The data from each plant were compared to data from the remaining plants and also to design data from new or modified plants (II-B-9, 10, 14). The EPA evaluated the design and operating parameters for baghouses in use on rotary lime kilns built since 1977 to determine the design parameters and features that could be expected at new, modified, or reconstructed plants. The data are presented in Tables 6 and 7 along with data for the three baghouses (A, B, and E) previously tested.

The data in Table 6 indicate that the design parameters for 10 of the 11 baghouse units (exception is Plant KK) are within the range that would be expected for a well-designed baghouse on a rotary lime kiln. The baghouse at Plant KK is atypical of the industry at this time because its bags are constructed of Nomex fabric rather than fiberglass, it operates at a higher A/C ratio, and it employes pulse-jet rather than reverse-air cleaning. The other 10 units had comparable A/C ratios, operating temperatures, and cleaning mechanisms.

The one variable that is not consistent is the pressure drop. The variations observed in pressure drop could be due to variations in cleaning cycles, and few data were available on this aspect of the baghouse operations. Operating pressure drops were reported for seven units (three tested plants and four new, modified, or reconstructed plants); of this group of seven, three reported operating at pressure drops of 2.2 inches of water column or less. The range of design pressure drops for both tested and new, modified, or reconstructed plants is from 1 to 8 inches of water column; however, in two of the three cases with design pressure drops as high as 8 inches and where operating data were reported, the operating pressure drops were 2.2 and 3 to 5.5 inches. Vendors indicated that 3 to 5 inches of water column is typical of the pressure drop utilized in fabric filtration of nonmetallic mineral dusts, including lime (II-D-33). The Agency believes that the operating pressure drops of baghouses at the tested plants are representative of the pressure drops for newer, well-designed and well-operated baghouse units.

The data in Table 7 indicate that the fabric filter cloths used at the tested plants are generally within the range that would be used in a well-designed baghouse. The weight, burst strength, and permeability were lower for the cloth used at Plant A than for cloths used at most of the other facilities. However, the Agency believes that the design specifications of the Plant A baghouse are not significantly different from those of the other baghouses investigated.

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TABLE 6. ROTARY LIME KILN BAGHOUSE DESIGN AND OPERATING DATA[a]

Baghouse parameters	Tested plants			New or modified plants							
	A	B	E	JJ	KK	MM	NN	OO	QQ	RR	SS
Design inlet loading	10 gr/acf	12.5 gr/acf	1,110 lb/h (0.93 gr/acf)[b]	20 gr/acf	1.65 gr/acf	2.37 gr/acf	7,500 lb/h[c] (7.5 gr/acf)[b]	--[d]	14 gr/acf	14 gr/acf	5 gr/acf
Inlet temperature (°F)	550	550	550	500	400[e]	550	500	510	600	550	550
Design outlet loading	--	0.025 gr/dscf (0.007 gr/acf)[b]	0.018 gr/acf	--	0.008 gr/acf	0.01 gr/acf	0.30 lb/ton (0.0003 gr/acf)[b]	0.30 lb/ton (0.0007 gr/acf)[b]	0.01 gr/acf	0.01 gr/acf	--
Outlet temperature (°F)	420	--	--	--	280	400	--	450	350-450	350-450	350-450
A/C ratio (n:1)											
Gross	1.75	1.66	1.57	--	7.03	1.67	1.59	1.60	--	--	--
Net	--	--	1.89	--	--	1.91	1.82	1.78	1.8	2.0	1.92
Pressure drop (in. H_2O)											
Design	1-6	8	1.6-1.8	6-8	6	1-4	8	3	1-6	1-6	1-6
Operating	2	3-5.5	1.0-1.8	2.2	--	--	--	3	--	2.5-3.0	3.5-4.0
Cleaning mechanism	RA[f]	RA	RA	RA	PJ[g]	RA	RA	RA	RA	RA	RA
Cleaning cycle (per compartment)											
Cleaning (min)	2.25	1.5	1.76	2	--	--	2	--	--	3.5	--
Dwell (min)	5	2.1	8.8	--	--	--	3	--	--	4	--

[a] References: I-K-1; II-D-8, 17-20, 24-28, 30, 31, 34, 36.
[b] Calculated from given data.
[c] Baghouse is designed to capture emissions from two kilns.
[d] Not available.
[e] Nomex bags in use.
[f] RA = Reverse air.
[g] PJ = Pulse jet.

TABLE 7. ROTARY LIME KILN FABRIC FILTER CLOTH SPECIFICATIONS[a]

Baghouse parameters	Tested plants			New or modified plants						
	A	B	E	JJ	KK	MM	NN	OO	QQ	RR
Material	Fiberglass	Fiberglass	Fiberglass (No. 604)	Fiberglass	Nomex	Fiberglass	Fiberglass	Fiberglass	Fiberglass	Fiberglass
Finish	Silicon-Graphite/ Teflon	Silicon-Graphite	Silicon-Graphite	Silicon-Graphite/ Teflon	--[b]	--	Silicon-Graphite/ Teflon	Silicon-Graphite/ Teflon	Silicon-Graphite/ Teflon	Silicon-Graphite/ Teflon
Weight (oz/yd^2)	8.7	14	12.2	14	--	13	8.2-8.7	13.2	12.7-13.7	11.0
Mullen burst strength (psi)	380	--	--[c]	1,000	--	580-810	--	750	500-550	600
Permeability (cfm/ft^2)	15-20	40-60	50-70	40-60	--	45-60	--	45-60	50-65	45-65
Thread count (per inch)	54x52	48x24	42x30	--	--	44x48	54x52	44x24	46x24	65x33
Weave	Crowfoot	3x1 Twill	3x1 Twill	Twill	--	3x1 Twill	Crowfoot	Crowfoot	Twill	3x1 Twill
Warp yarn	150's 1/2	--	150's 2/2	--	--	75's 1/2	--	--	--	--
Fill yarn	75's 1/0	--	150's 1/4	--	--	75's 1/3[d]	--	--	--	--

[a]References: I-K-1; II-D-8, 17-20, 24-28, 30, 31, 34, 36.
[b]Not available.
[c]Literature value for No. 604 material is 550 psi (II-A-9).
[d]Texturized; fill count 23 to 25 pics per inch.

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It is the Agency's judgment that wet scrubbers do not represent best demonstrated technology for the control of rotary lime kiln emissions. This judgment is explained in a later section of this document ("Basis for Proposed Amendment"). The reasons for this determination include the trend toward use of coal as a process fuel, the high energy costs associated with scrubber operation, and the sensitivity to particle size and variable dust levels in the gas stream. Therefore, emission data from Plant F (wet scrubber) have not been used to establish an emission limit for rotary lime kilns.

Issue: Achievability of the Standard for Lime Hydrators

In remanding the hydrator standard, the court directed the EPA to reevaluate "* * * whether adequate account was taken of significant variables relevant to the standard's achievability" (627 F.2d at 445). The variables noted by the Court as being potentially relevant were particle size and particle surface area. The Court also noted that the EPA had not explained the impact of the use of calcitic versus dolomitic lime or of the feedstock chemical composition on the achievability of the promulgated standard.

To assess the relevance of particle size, particle surface area, and feedstock composition with respect to hydrator operation, the EPA requested design and operating data from all known new lime hydrating plants, from the NLA, and from the IGCI. Two hydrators were observed during the course of baghouse inspections at Plants B and E. Emission test data were requested from a plant with a new hydrator that had been recently tested for State compliance. To dertermine the best demonstrated technology with respect to control of hydrator emissions, the Agency reviewed the technical literature and obtained vendor-related information from the IGCI.

The EPA found that none of the variables noted by the Court are specified in the design of an atmospheric hydrator scrubber, with the possible exception of the type of lime being hydrated. The EPA also found that vendors will design a scrubber for an atmospheric hydrator with only the production rate known. Conditions regarding installation, operation, and maintenance are also specified by the vendor. Therefore, available information indicates that scrubber design for atmospheric hydrators is not dependent on plant-by-plant knowledge of the particle size, surface area, or chemistry of the feedstock found in the lime industry. Furthermore, emission test data obtained from a scrubber on a recently constructed hydrator support the promulgated emission limit and the achievability of the standard. However, this and other test data do not permit the Agency to conclude that the standard for lime hydrators is achievable under the most adverse conditions which reasonably could be expected to recur. Such a conclusion cannot be reached without additional information on particle size distribution. Therefore, for this reason and the reasons discussed in the section titled "Basis for Proposed Amendment," the EPA has decided to delete the standard for hydrators.

The original standard was based on the use of, and test data from, wet scrubbers on atmospheric lime hydrators. The technical literature reports that all atmospheric hydrators produce dry hydrate (hydrated or slaked lime) by the same process. Based on vendor statements, it appears that parameters such as the size of the lime feedstock and the particle size of the hydrated product do not vary appreciably from plant to plant. Lime feedstock is typically ground into pieces between 0.25 and 0.5 inch in diameter called "pebble quicklime" and fed to a mixing chamber where the appropriate amount of water is sprayed on the lime to initiate hydration (II-I-4). The mixture is agitated to promote continuous and uniform contact of water and pebble quicklime and the resulting slurry is fed to a curing chamber where drying is completed. A uniform and restricted particle size range is indicative of high-quality hydrated lime, and the majority of commercial dry hydrates have particle diameters between 1 and 5 μ (II-I-4).

Vendors design scrubber units to control particulate emissions from hydrators based solely on their prior experience with atmospheric hydrator emissions and the historic performance of scrubbers in controlling these emissions (II-E-17, 22). Because of the uniformity of feedstock size and the size of hydrated lime particles, vendors indicate that their previous experience is generally sufficient to establish a warranty at the level of the lime standard without further information on the particle size distribution. Only the size of the unit (production rate) is specified for scrubber design purposes. Wet scrubbers designed in this way have historically provided sufficient emission control on atmospheric hydrators and have become accepted control technology. In many cases, State agencies have not required compliance tests to be performed on new atmospheric hydrators if operators can demonstrate that the hydrator emissions are being controlled by a standard scrubber design, as previously described (II-D-33, II-E-17).

The EPA obtained compliance test data from a scrubber control device on a newly operational atmospheric hydrator. The results of this test, along with test data used in the original data base, are provided in Table 8. The controlled hydrator emissions at these three plants range from 0.04 to 0.06 kg/Mg (0.08 to 0.12 lb/ton) of lime feed. The promulgated standard for lime hydrators is 0.075 kg/Mg (0.15 lb/ton) of lime feed.

Representatives from a hydrator facility indicated that particle surface area affects the reactivity of the finished product but is not important from a scrubber performance standpoint (II-B-10). A vendor experienced in designing wet fan scrubbers for hydrators indicated that scrubber performance on an atmospheric hydrator is not dependent upon particle shape, chemistry, or surface area (II-E-17). The surface area of uncontrolled hydrator exhaust particles has apparently not been the subject of any research published by, or available to, the lime industry (II-D-22, 27).

The Court noted that the original data base included one test where the emissions exeeded the promulgated standard. This was one of three tests at Plant H-B. The average of the three runs, however, was below the promulgated standard. Compliance with a promulgated new source performance standard is based on the arithmetic mean of the results of three runs and not on the individual results of the runs (II-I-16). Thus, the fact that a single test run exceeded the standard does not mean that the facility exceeded the standard.

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TABLE 8. SUMMARY OF HYDRATOR EMISSION DATA[a]

Plant	H-A	H-B	H-C
Process information			
Lime feed rate (tph)	14	17.7	18.7
Hydrate production rate (tph)	17-18	21.7	23.3
Lime type	Calcitic	Calcitic	Calcitic
Particulate emissions			
Probe and filter catch (average)			
gr/dscf	0.0286	0.1856	0.0522
lb/h	1.17	2.08	1.99
lb/ton of feed	0.084	0.117	0.101
kg/Mg of feed	0.042	0.059	0.051

[a]References: I-K-1; II-D-21, 25.

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The controllability of emissions from the hydration of dolomitic limes and calcitic limes may differ. The EPA's test program was conducted entirely on atmospheric hydrators processing calcitic lime. No test data on pressure hydrators or on dolomitic lime hydrators were found by the Agency, and no data from other sources are available to assess the emission levels expected from pressure or dolomitic hydration. No facilities were located that hydrate dolomitic lime atmospherically. Calcitic lime hydrates readily at atmospheric pressure (and no information was located that described other means of hydration for calcitic lime), while dolomitic lime requires extra time and/or pressure for complete hydration. Therefore, the EPA does not believe that the industry will turn to large-scale atmospheric hydration of dolomitic lime.

No emission test data were found for either atmospheric or pressure hydrators of dolomitic lime. There is no indication of industry growth in the pressure hydration of dolomitic lime. There are limited data available for the atmospheric hydration of calcitic lime. There is low growth in the atmospheric hydration of calcitic lime. For these reasons, the Agency has determined that the promulgated standard for lime hydrators should be deleted.

Issue: The Opacity Standard for Rotary Lime Kilns

The Court conclude that the EPA apparently failed to consider some variables in developing the opacity standard for rotary lime kilns. The Court felt these variables:

> * * * were (1) given more careful consideration in the promulgation of earlier opacity standards and (2) given inadequate consideration in the companion mass emission standard. (627 F.2d at 446)

Therefore, the opacity standard for rotary lime kilns was remanded for revision or additional explanation.

The Court's decision to remand derived in part from materials presented to support two arguments raised by the NLA. The NLA argued first that there is an inherent inaccuracy when visible emissions are measured by trained observers using EPA Reference Method 9 and, second, that there is a discrepancy between the opacity standard promulgated for the lime maunfacturing industry and the opacity standards promulgated for the portland cement and asphalt concrete industries. The Court was less concerned with the disparities among the standards for these industries than it was with the apparent differences in which variables that may affect opacity were considered in setting the standards. The Court noted that stack gas exit velocity and particle size and shape were clearly considered in the portland cement and asphalt concrete standards as well as the stack diameter, which appeared to be the only variable considered for the lime standard. Therefore, based on the record, the Court felt that the reasonableness to the rotary lime kiln opacity standard had not been demonstrated.

The EPA reviewed test reports from Plants A through E to confirm that opacity measurements had been properly averaged and reported. The Agency examined the response to the remand of the opacity standards for portland cement plants to review data on the accuracy of qualified observers, the theory of opacity, the effect of variable viewing conditions on accuracy, and smoke school certification procedures. The technical literature was reviewed with respect to variables affecting opacity measurement. Control device vendors were contacted (through the IGCI) to obtain information on variables that affect opacity.

Based on its reexamination of the data base, the Agency has determined that no revision of the rotary lime kiln opacity standard is required. The Agency found that EPA Reference Method 9 is reliable and valid for determining compliance with opacity standards. The same testing methodology used in developing the data base would be used in compliance determinations. The velocity of the gas stream is not a relevant variable upon which the opacity depends. Stack diameter has been considered, and normalization of the data base to the largest diameter stack expected (3.0 m) supports the proposed revised standard. The effects of particle size and shape on opacity have been evaluated, and it has been shown that the data were based on representative conditions and therefore support the achievability of the standard. The opacity data used to support the standard were gathered at the same plants from which the mass emission data were collected. Thus, as these plants have been shown to be representative of the industry, the opacity data are also representative. The opacity of emissions from rotary lime kilns does not vary with the conventional quicklime produced (II-D-22).

The Agency does not believe that EPA Reference Method 9 or its use is at issue in this remand. However, because of ambiguity in footnote No. 103 of the Court opinion, the Agency has reexamined both the use of Method 9 and the opacity data, and a response has been prepared (627 F.2d at 446).

An assessment of the accuracy of opacity determinations by trained observers (EPA Reference Method 9) was made in the EPA's response to the Court remand for standards of performance for portland cement plants (II-A-14). The EPA's assessment was based on results from extensive field tests involving both specially generated plumes and industrial plumes. Based on the review of the data and the results of the field tests, the EPA found that qualified observers "* * * can, with a very high confidence level, read plumes to within the certified error tolerance of 7.5 percent" (II-A-14). Therefore, the EPA concluded that the accuracy of Reference Method 9 had been well established and was within limits considered reasonable and normal by the scientific and engineering community. The EPA continues to believe that the smoke school certification procedures are adequate to ensure the accuracy and precision of opacity measurements by certified observers. Reference Method 9 is valid and reliable for determining compliance with prescribed opacity standards.

In developing the response to the portland cement-remand, the EPA evaluated the impact of stack gas exit velocity and stack diameter on opacity. The EPA found that opacity is only affected by stack diameter (i.e., path length), particle concentration, and particle characteristics. Stack gas exit velocity is not an independent variable because it depends on the gas flow rate and stack diameter. Therefore, the EPA concluded that opacity is not dependent upon the velocity at which a gas stream passes through an observer's line of vision (II-A-14). Stack diameter does affect opacity because it governs the path length through which light passes before it reaches an observer. If particle concentration and characteristics remain constant while stack diameter (thus path length) is increased, the opacity of the plume will also increase. In its review of the portland cement opacity standard, the EPA normalized the opacity readings to be representative of the readings that would have been obtained at the largest diameter cement kiln stack found—4.6 meters (m) (i.e., extrapolated the opacity data to that which would have been obtained had a different stack diameter been present). The variation in stack diameters was such that the normalization process raised the maximum opacity reading to nearly 20 percent, and therefore the portland

cement opacity standard was raised to that level.

The same normalization process was followed in developing the rotary lime kiln opacity standard (I-K-1). Lime kiln opacity data were normalized to a 3.0 m stack diameter. Table 9 summarizes the normalized visible emissions data including data from Plant A. Each 6-minute average is calculated from 24 consecutive opacity readings taken at 15-second intervals, and each average represents one data point. Of 1,247 data points reported, 71 percent represent averages of 0 percent opacity. Only four readings of the 1,247 normalized averages exceeded 10 percent opacity (maximum of 10.6 percent). Table 10 summarizes the particulate emissions and actual (not normalized) opacity data for the plants tested. The highest raw 6-minute average opacity was recorded at Plant D1 (11.5 percent), and the test report shows that this highest opacity was due to a failure in one field of the ESP during testing. Data obtained during periods of equipment malfunction were not used in developing the data base. The highest raw average opacity observed at the six plants collectively, during normal operation, was 6.7 percent (Plant C).

The largest stack diameter encountered on existing baghouses or ESP's during the EPA testing of rotary lime kilns was 2.4 m (Plant C). However, based on the Agency's survey of industry plans for new manufacturing capacity, 3.0 m stack diameters can be expected for some new plants. When the data are normalized to a 3.0 m diameter stack, more than 99 percent of the 1,247 6-minute averages are less than 10 percent opacity. The Agency, therefore, has concluded that an opacity of 10 percent is reasonble for lime kilns with stack diameters <3.0 meter.

It is possible that lime manufacturing plants may construct stacks greater than 3.0 m in diameter. However, the Agency believes that such large stack diameters would be atypical. Any lime plants that had stacks greater than 3.0 m in diameter, that did not meet the opacity standard and that also met the mass emission standard, would be eligible for a waiver on the opacity standard under § 60.11(e) of 40 CFR Part 60.

In reviewing the opacity standard, the Agency also considered the effects of particle size and shape on opacity. The analysis shows that the size and shape of particles generated in a rotary lime kiln would not affect the ability of a rotary lime kiln to meet the opacity standard. The basis for this conclusion is explained below.

A typical analysis of calcitic lime emissions from a coal-fired kiln indicates that approximately 25 percent of the dust by weight is raw limestone (total carbonates, $CaCO_3$ and $MgCO_3$), 37 percent of the dust is product lime (total oxides, MgO and CaO), 12 percent is carbon (from the fly ash), and the remaining 26 percent is miscellaneous minerals (II-I-4). A coal-fired kiln was used in the analysis because it should provide worst-case emission conditions because of the presence of fly ash.

Generally, particle sizes at various stages in the lime manufacturing process are within certain size ranges and shape categories. Raw limestone is composed of mineral crystals that are roughly cubic in shape and that range in size from <1 μm up to 1,000 μm (II-D-22; II-I-4, 8). During calcination, limestone crystals become essentially spherical at 900°C, the beginning of dissociation, and are approximately 0.1 μm in diameter. As the temperature in a kiln increases to 1,000°, the 0.1 μm crystals begin to coalesce into larger particles (lime) of approximately 1 μm in diameter. At 1,100°C, these coalesced lime particles are irregular spheres greater than 1 μm and at 1,648°C (the sintering of dead-burned lime), the particles are approximately 100 μm in diameter (II-I-4).

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TABLE 9. SUMMARY OF VISIBLE EMISSIONS DATA AT PLANTS TESTED BY EPA[a]
(All opacity averages are normalized to a 3.0 meter stack diameter)

Plant	Control device	Number of 6-minute averages	Distribution of 6-minute averages (percent opacity)			
			=0	0<X≦5	5<X<10	>10
A	FF[b]	197	184	13	0	0
B	FF	60	58	2	0	0
C	ESP[c]	342	239	5	98	0
D1	ESP	236	138	60	37	1
D2	ESP	193	63	85	43	2
E	FF	219	207	10	1	1
TOTAL		1,247	889	175	179	4

[a]Reference: I-K-1.
[b]Fabric filter (baghouse).
[c]Electrostatic precipitator.

TABLE 10. PARTICULATE EMISSIONS AND OPACITY FROM ROTARY LIME KILNS TESTED BY EPA

Plant	A2	B	C	D1	D2	E
Control device	Baghouse	Baghouse	ESP	ESP	ESP	Baghouse
Stack diameter (m)	2.2	2.0	2.4	1.6	1.6	1.3
Particulate emissions (kg/Mg feed)	0.230	0.111	0.068	0.133	0.141	0.041
Opacity (percent)						
Range of 6-min averages[a]	0-1.3	0-1.0	0-6.7	0-5.8	0-5.8	0-4.6
Range normalized to 3.0 m stack	0-1.7	0-1.5	0-8.3	0-10.6	0-10.6	0-10.3

[a]Reference: I-K-1.

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Fly ash particles generated from pulverized coal combustion exhibit a wide variety of shapes but are generally spherical. The geometric mean particle diameter is 15 μm in uncontrolled emissions and 4 μm in effluents downstream of mechanical collectors (II-I-7).

Based on the above information, it can be concluded that the smallest particle size reasonably expected to occur in uncontrolled kiln emissions is 0.1 μm. The product lime particles fall in the range of 0.1 μm to greater than 1 μm in diameter. The diameter of dust particles derived from the raw limestone feed material ranges from <1 μm up to 1,000 μm. The fly ash component has a mean particle diameter of 15 μm. The primary particle shapes expected to occur are cubic and spherical.

The EPA reviewed the scientific literature with respect to the size and shape of particles that may be expected to contribute to the opacity of kiln emissions and found that maximum light scattering is caused by spherical particles in the 0.2 to 2 μm diameter range (II-A-1, 3). While complete particle size distribution data were not available for all of the plants represented in Table 5, there are sufficient data to allow the EPA to make a judgment about the relationship between particle size and opacity for the lime industry. The particle size distribution data in Table 5 show that between 68 and 97 percent of the lime dust particles are larger than 2.0 μm in diameter. Therefore, the majority of uncontrolled particles are outside the range of particle diameters that cause the greatest light scattering and the greatest opacity.

Moreover, all of the lime plants tested by the Agency met both the mass emission limit and the opacity limit (Table 10). The data in Table 10 include data from a kiln at Plant D. Thirty-two percent of the particles emitted from this kiln were in the size range that is expected to produce the greatest light scattering (i.e., less than 2.0 μm), and yet Plant D easily achieved the promulgated opacity limit and the mass emission limit.

From the above generalized and specific data, the EPA has concluded that the size and shape of particles emitted from well-controlled rotary lime kilns nationwide would not produce variations sufficient to cause any source meeting the mass standard to exceed the opacity standard.

As provided for in § 60.11, 40 CFR Part 60, plant operators may petition the Administrator for an adjustment of the applicable opacity standard if they can show compliance with mass standards for which performance tests were conducted in accordance with § 60.8 CFR (II-I-16). For example, if a lime plant is constructed with unusually large diameter stacks or if conditions are encountered that prevent a plant from meeting the applicable opacity standard (while it is in compliance with other emission limits), the Administrator may establish a revised opacity standard for such a plant. This provision is designed specifically to ensure that the opacity standard is not more stringent than the associated mass emission standard. In its written opinion, the Court acknowledged the usefulness of this built-in flexibility to the opacity regulation (627 F. 2d at 449).

Basis for Proposed Amendment

Under Section 111 of the Clean Air Act, standards of performance must be based on the degree of emission reduction achievable through application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated. In remanding this standard, the Court did not question the Administrator's selection of the technological basis for the standard nor the reasonableness of applying such controls to new plants in the lime industry. Nor did the Court question the Administrator's original analysis of economic, energy, or environmental impacts. The Agency's economic analysis of the NSPS, which was reported at the original rulemaking, is still valid. The Agency, therefore, in responding the Court's remand, did not reevaluate the economic, energy, and environmental impacts of this standard. The Administrator has determined that fabric filter and ESP control devices represent best demonstrated technology for the control of particulate emissions from rotary lime kilns.

Energy impacts and the associated costs were found to be reasonable. The increase in energy use for a control device on a lime kiln would be approximately 1 percent over the amount required to meet a typical State emission standard.

Nonair quality health and environmental impacts were also found to be reasonable. None of the alternative emission control systems have an adverse impact on water quality. Fabric filters and ESP's have no water effluent. Relative to baseline control, solid waste generation from lime kiln control systems would increase by 0.2 percent. There are no known noise or radiation impacts associated with the proposed standard.

The Agency is proposing that the emission limit for particulate matter from rotary lime kilns be raised from 0.15 kg/Mg (0.30. lb/ton) of limestone feed to 0.30. kg/Mg (0.60 lb/ton) of limestone feed. The proposed amendment to the emission limit is based on the results of seven emission tests from five lime manufacturing plants (Table 11). Controlled emissions from the five plants—three plants using fabric filters and two plants using ESP's—ranged from 0.041 to 0.230 kg/Mg (0.081 to 0.468 lb/ton) of limestone feed. Based on these data, a proposed emission limit of 0.30 kg/Mg (0.60 lb/ton) was selected.

Table 11 summarizes the particulate emission data used to develop the proposed standard for rotary lime kilns. The data in Table 11 show that both a fabric filter and an electrostatic precipitator can be used to achieve controlled outlet emissions less than or equal to 0.23 kg/Mg (0.47 lb/ton) of limestone feed. As explained in previous sections, the plants tested to obtain this data base are representative of the full range of operating characteristics likely to occur in the lime manufacturing industry. Therefore, the Administrator has concluded that the proposed standard of 0.30 kg/Mg (0.60 lb/ton) is achievable by well-controlled lime manufacturing plants. Test data from Plant A (test A2, previously discarded, and test A3, a company-sponsored test done subsequent to the EPA's testing) have been included in the data base.

Test data from Plant F have been excluded from the data base and do not appear in Table 11 because the EPA has determined that wet scubbers do not represent best demonstrated control technology under all plant operating conditions. Compared to the performance of baghouses and ESP's wet scrubber performance is more sensitive to variations in inlet dust concentration and particle size. In addition, the annual operating costs for a scrubber are greater than the annual operating costs for a baghouse or ESP. Under "Controllability of Dust Generated in Rotary Lime Kilns," the Agency has demonstrated that a baghouse or ESP can be used to meet the proposed standard under any conditions reasonably expected to recur in the industry. No circumstances have been identified in which a wet scrubber control device must be used to control particulate emissions from a rotary lime kiln. However, plant operators may elect

to use a wet scrubber to meet the proposed standard if they are willing to assume the higher operating costs that would be associated with the high pressure drop likely required for such a device to meet the standard.

The lime hydrator standard is being deleted. With respect to pressure hydrators and the hydration of dolomitic lime, no growth is expected, and no data were available to assess whether these operations could meet the hydrator standard. Data are available indicating the expected performance of wet fan scrubbers used on atomospheric hydrators (Table 8). However, these data do not permit the Agency to conclude that the standard for lime hydrators is achievable under the most adverse conditions which could be expected to recur. Furthermore, the estimated growth of new hydrators is low. Less than one facility per year is expected to be constructed. Also, the clear trend in the industry is to install wet fan scrubbers on hydrators. It is expected that this trend will continue without a Federal standard. Therefore, considering the limited data, the low growth, and the increasing use of wet fan scrubbers, the hydrator standard is being deleted.

In August 1981 NLA provided 61 emission test results from approximately 60 rotary lime kilns controlled by baghouses, ESP's, and wet and dry scrubbers (II–D–40). Of the 22 test results reported for baghouse control devices, only 3 tests indicate controlled emission levels greater than 0.30 kg/Mg (0.60 lb/ton). However, these data have not been included in the data base used for setting the emission limit because vital supporting information was not provided. The required supporting information has been requested from the NLA and any data subsequently received will be considered in promulgating final standards of performance.

There are two major deficiencies in the emission data submitted by the NLA. First, no design data, specific operating information, or opacity data are included. Since standards of performance must be based on the best demonstrated systems of emission reduction, this type of information is vital for determining if individual units are representative of best demonstrated technology with respect to design, operation, and maintenance. Data on visible emissions (opacity) are generally indicative of the level of maintenance applied to a collection device. Therefore, since neither opacity data nor specific operating data were provided, the EPA cannot determine the level of maintenance practiced at the plants tested. Also, no information was presented on the plant names or locations; the NLA considered this information to be confidential. Therefore, the Agency could not use the applicable State emission standards to determine what emission levels the tested control systems were designed to achieve.

Secondly, no emission test reports were submitted. To evaluate test results, information is required on such variables as sampling methodology, number of test runs, gas flow rates, and isokinetic conditions. These variables can have a dramatic effect on the results of an emission test. Without this information, the Agency cannot determine if the NLA's emission tests were conducted under the conditions specified in 40 CFR Part 60, Appendix A, for demonstrating compliance with an emission limit. The Agency invites public comment on these data.

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TABLE 11. SUMMARY OF ROTARY LIME KILN EMISSION DATA AT PLANTS TESTED BY EPA[a]

Plant	A2	A3	B	C	D1	D2	E
PROCESS INFORMATION							
Stone feed rate (tph)	38.2	42.6	60	40.4	32.6	26.3	19
Control equipment	FF[b]	FF	FF	ESP[c]	ESP	ESP	FF
PARTICULATE EMISSIONS							
Probe and filter catch							
gr/acf	0.0097	--	0.012	0.0035	0.015	0.0129	0.0038
gr/dscf	0.0148	0.029	0.022	0.0068	0.036	0.0303	0.0059
lb/h	17.61	17.71	13.3	5.47	8.7	7.42	1.56
lb/ton of feed	0.468	0.412	0.222	0.135	0.266	0.282	0.081
kg/Mg of feed	0.230	0.206	0.111	0.068	0.133	0.141	0.041

[a]References: I-K-1; I-I-20.
[b]FF = Fabric filter (baghouse).
[c]ESP = Electrostatic precipitator.

BILLING CODE 6560-50-C

In developing the revised standards, the Agency requested emission test data from the NLA and from individual lime companies for new plants built since proposal of the original standard in 1977. The Agency believes that these plants would be representative of the level of emission control that can be achieved by well-designed, well-operated, and well-maintained control devices. As previously discussed, the EPA contacted (in writing) 14 lime plants that were built, modified, or reconstructed since 1977 and was informed by the companies that none of the 14 plants had been tested. At the time of its data submission, the NLA stated that it knew of 16 new plants built in the last 5 years. The NLA's emission test summary included data for five plants having new emission control devices installed after 1976 but did not identify the names or locations of the five plants. Complete test reports and supplementary plant process and operating data have been requested from the NLA for these new facilities. Any additional information received will be considered at promulgation.

In January 1982 NLA representatives expressed concern that the proposed response to the remand did not adequately address process upsets and the associated need to bypass control devices in order to prevent costly damage. Specifically, it was indicated that temperature excursions, while generally infrequent, are nevertheless recognized as an expected occurrance in the operation of lime kilns. Such excursions have the potential to damage fabric filters requiring untimely and costly replacement.

The Agency has received no data on the extent or frequency of such occurrences and no such occurences were reported or observed during the development of this standard. Nevertheless, the Administrator wants to make clear that—to the extent that such upset conditions may occur—the standard is not intended to prohibit an operator from taking necessary steps, including bypassing of control equipment, to avoid damage to equipment. This intent is accomplished through the General Provisions of Part 60 of the Code of Federal Regulations. Paragraph 60.8(c) of these provisions states that "* * * emissions in excess of applicable emission limit during periods of startup, shutdown, and malfunction [shall not] be considered a violation of an applicable standard unless otherwise specified in the applicable standard." Similarly, paragraph 60.11(c) states that opacity standards apply "* * * except during periods of startup, shutdown, or malfunction * * *."

Legal Issues

The Court asked the EPA to reconsider two of the General Provisions applicable to the NSPS generally in light of the new statutory requirement that standards reflect the capabilities of systems of continuous emission reduction (627 F. 2d at 434, n. 54; *see*, Section 111(a)(1), as amended by Pub. L. 95–95). The two provisions are 40 CFR 60.8(f), which provides that a performance test generally consists of the average of three separate runs, and 40 CFR 60.8(c), which provides that performance tests shall not be conducted during periods of startup, shutdown, and malfunction.

In the EPA's view, no amendment to these provisions is legally required. The systems of emission reduction on which NSPS's are based, such as baghouses and ESP's, are "continuous." (By contrast, "intermittent" control systems, which reduce emissions only when atmospheric dispersion conditions are poor, are not "continuous." H.R. Rep. No. 294, 95th Cong., 1st Sess. 81–92 (1977).) However, even the performance of continuous systems is influenced by startups, shutdowns, and malfunctions. Also, the performance of continuous systems may be best characterized by test methods that average data collected over a period of time. (*See, Sierra Club* v. *Costle*,—F. 2d—, 15 ERC 2137, 2192–2193 (D.C. Cir. 1981).)

It is true that there are statements in the legislative history of the 1977 amendments to the Clean Air Act that "averaging" would be forbidden in determining compliance with an NSPS. These statements, however, did not refer to the Agency's long-standing policies of averaging test runs and allowing for startups, shutdowns, and malfunctions and do not reflect any Congressional dissatisfaction with those policies.

Public Hearing

If requested, a public hearing will be held to discuss the proposed standards in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact the EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at the EPA's Central Docket Section in Washington, D.C. (see **ADDRESSES** section of this preamble).

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered in the development of this proposed rulemaking. The principal purposes of the docket are (1) to allow interested parties to readily identify and locate documents so that they can effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review.

Miscellanous

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment of "revisions (of NSPS's) which the Administrator determines to be substantial * * *" Section 317(a). This amendment is not substantial since it is a technical adjustment that simply conforms the standard to the capabilities of the control technologies on which the promulgated standard was based. Therefore, no economic impact assessment of the proposed amendment has been prepared. The Administrator prepared a substantial economic analysis of the promulgated standard in the original rulemaking. The economic impacts are essentially as described in the original economic analysis (I-G-2, I-K-1).

Executive Order 12291 requires that the EPA determine whether a regulation is a "major rule" and, therefore, subject to the requirements of a regulatory impact analysis (RIA). This standard, as it would be amended by this proposal, would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be a "major rule." As reported in the notice of proposed rulemaking in 1977, the annualized costs in 1982 were estimated at $5 million, much less than the $100 million established as the first criterion for a major regulation in the Order. The estimated price increase of 80 cents per megagram of lime produced (an increase of approximately 2.6 percent) is not considered a "major increase in costs or prices" specified as the second criterion in the Order. The economic analysis did not indicate any significant adverse effects on competition, investment, productivity, employment, innovation, or the ability of U.S. firms to compete with

foreign firms (the third criterion in the Order).

Although no regulatory impact analysis is required, an economic impact assessment of alternative emission standards has been prepared, as required under Section 317 of the Clean Air Act, and is included in the "Standards Support and Environmental Impact Statement Volume 1: Proposed Standards of Performance for Lime Manufacturing Plants (EPA-450/2-77-007a)." The EPA considered all the information in the economic impact analysis in assessing the cost of the standard.

In addition to economics, the cost effectiveness of alternative standards were evaluated in order to determine the least costly way to reduce emissions and to ensure that the controls required by this rule are reasonable relative to other regulations for particulate matter. The cost per ton of pollutant removed was computed for each facility affected by the standard, both on an average and incremental basis. The incremental cost was estimated to be about $350 per ton of particulate removed, which compares favorably with particulate control at other industrial sources. At these sources, costs typically range up to $1,000 per ton and in some cases may exceed $2,000 per ton. Additional detail on this analysis can be found in the dockets (II-B-28).

The provisions of 5 U.S.C. 605(b) require the Administrator to prepare a regulatory flexibility analysis (RFA) or to certify that a proposed rule will not (if promulgated) have a significant economic impact on a substantial number of small entities. This amendment will not have significant impacts because it is a technical amendment that simply conforms the standard to the capabilities of the control technologies on which the promulgated standard was based.

The Paperwork Reduction Act of 1980 (Public Law 95-511) requires clearance from the Office of Management and Budget (OMB) of certain public reporting/recordkeeping requirements before this rulemaking can be promulgated as final. The report/recordkeeping requirements associated with this standard have been submitted to OMB for approval.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc.

Dated: August 27, 1982.

John W. Hernandez,

Administrator.

Proposed Regulation

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Proposal to amend Subpart HH, Part 60 of Chapter I, Title 40 of the Code of Federal Regulations by adding §§ 60.340 through 60.344 to read as follows:

§ 60.340 Applicability and designation of affected facility.

(a) The provisions of this subpart are applicable to rotary lime kilns used in the manufacture of lime.

(b) The provisions of this subpart are not applicable to facilities used in the manufacture of lime at kraft pulp mills.

(c) Any facility under paragraph (a) of this section that commences construction or modification after May 3, 1977, is subject to the requirements of this part.

§ 60.341 Definitions.

As used in this subpart, all terms not defined herein shall have the same meaning given them in the Act and in the General Provisions.

(a) "Lime manufacturing plant" means any plant which uses a lime rotary kiln to produce lime product from limestone by calcination.

(b) "Lime product" means the product of the calcination process including, but not limited to, calcitic lime, dolomitic lime, and dead-burned dolomite.

(c) "Rotary lime kiln" means a unit with an inclined rotating drum that is used to produce a lime product from limestone by calcination.

§ 60.342 Standard for particulate matter.

(a) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere:

(1) From any rotary lime kiln any gases which:

(i) Contain particulate matter in excess of 0.30 kilogram per megagram of limestone feed (0.060 lb/ton).

(ii) Exhibit 10 percent opacity or greater when exiting from a dry emission control device.

(Sec. 114, Clean Air Act, as amended (42 U.S.C. 7414))

§ 60.343 Monitoring of emissions and operations.

(a) The owner or operator subject to the provisions of this subpart shall install, calibrate, maintain, and operate a continuous monitoring system, except as provided in paragraph (b) of this section, to monitor and record the opacity of a representative portion of the gases discharged into the atmosphere from any rotary lime kiln. The span of this sytem shall be set at 40 percent opacity.

(b) The owner or operator of any rotary lime kiln using a wet scrubbing emission control device subject to the provisions of this subpart shall not be required to monitor the opacity of the gases discharged as required in paragraph (a) of this section, but shall install, calibrate, maintain, and operate the following continuous monitoring devices:

(1) A monitoring device for the continuous measurement of the pressure loss of the gas stream through the scrubber. The monitoring device must be accurate within ±250 pascals (one inch of water).

(2) A monitoring device for continuous measurement of the scrubbing liquid supply pressure to the control device. The monitoring device must be accurate within ±5 percent of the design scrubbing liquid supply pressure.

(c) For the purpose of conducting a performance test under § 60.8, the owner or operator of any lime manufacturing plant subject to the provisions of this subpart shall install, calibrate, maintain, and operate a device for measuring the mass rate of limestone feed to any affected rotary lime kiln. The measuring device used must be accurate to within ±5 percent of the mass rate over its operating range.

(d) For the purpose of reports required under § 60.7(c), periods of excess emissions that shall be reported are defined as all 6-minute periods during which the average opacity of the plume from any lime kiln subject to paragraph (a) of this section is 10 percent or greater.

§ 60.344 Test methods and procedures.

(a) Reference methods in Appendix A of this part, except as provided under § 60.8(b), shall be used to determine compliance with § 60.322(a) as follows:

(1) Method 5 for the measurement of particulate matter;

(2) Method 1 for sample and velocity traverses;

(3) Method 2 for velocity and volumetric flow rate;

(4) Method 3 for gas analysis;

(5) Method 4 for stack gas moisture; and

(6) Method 9 for visible emissions.

(b) For Method 5, the sampling time for each run shall be at least 60 minutes, and the sampling rate shall be at least 0.85 std m^3/h, dry basis (0.53 dscf/min), except that shorter sampling times, when necessitated by process variables or other factors, may be approved by the Administrator.

[FR Doc. 82-24143 Filed 9-1-82; 8:45 am]
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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). Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday. This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.)

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