3-21-83
Vol. 48 No. 55
Pages 11681-11922

federal register

Monday
March 21, 1983

Selected Subjects

Air Pollution Control
Environmental Protection Agency

Authority Delegations (Government Agencies)
Small Business Administration

Aviation Safety
Federal Aviation Administration

Government Procurement
National Aeronautics and Space Administration

Grant Programs—Education
Education Department

Grapes
Agricultural Marketing Service

Lobbying
Legal Services Corporation

Marketing Agreements
Agricultrural Marketing Service

Motor Vehicle Pollution
Environmental Protection Agency

Quarantine
Animal and Plant Health Inspection Service

Radio
Federal Communications Commission

Radio Broadcasting
Federal Communications Commission

Railroad Safety
Federal Railroad Administration

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register.**

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.

Selected Subjects

Security Measures
Coast Guard

Television Broadcasting
Federal Communications Commission

Trade Practices
Federal Trade Commission

Wages
Commerce Department

Water Pollution Control
Environmental Protection Agency

Contents

Federal Register
Vol. 48, No. 55
Monday, March 21, 1983

Agricultural Marketing Service
RULES
11691 Lemons grown in Ariz. and Calif.
PROPOSED RULES
11718 Grapes, table; grade standards

Agriculture Department
See also Agricultural Marketing Service; Animal and Plant Health Inspection Service; Forest Service.
NOTICES
Meetings:
11729 Agricultural Research and Extension Users National Advisory Board

Air Force Department
NOTICES
Active military service and discharge determinations; civilian or contractual personnel:
11738 Oceangoing merchant marines participating in World War II military invasions
11738 Contract surgeons in World War II
Meetings:
11738 Scientific Advisory Board

Animal and Plant Health Inspection Service
RULES
Plant quarantine, domestic:
11681 Gypsy moth
NOTICES
Environmental statements; availability, etc.:
11728 Gypsy moth suppression and regulatory program, Calif.

Civil Aeronautics Board
NOTICES
11729 Certificates of public convenience and necessity and foreign air carriers permits; weekly applications

Civil Rights Commission
NOTICES
11730 Civil rights information withheld by Federal agencies; subpena hearing
Meetings; State advisory committees:
11730 Alaska and Washington

Coast Guard
RULES
Security zones:
11696 Kennedy Space Center, Fla.

Commerce Department
See also Foreign-Trade Zones Board; International Trade Administration; National Oceanic and Atmospheric Administration.
PROPOSED RULES
11720 Involuntary child and spousal support allotments of NOAA Corps officers
NOTICES
11735 Agency forms submitted to OMB for review

Commodity Futures Trading Commission
NOTICES
11737 Registration applicants, associated persons; no-action position; expiration date extension

Community Planning and Development, Office of Assistant Secretary
NOTICES
Community development block grants:
11773 Small cities program; application submission dates

Defense Department
See Air Force Department; Engineers Corps.

Economic Regulatory Administration
NOTICES
Remedial orders:
11745 Jaguar Petroleum Inc. et al.

Education Department
PROPOSED RULES
Postsecondary education:
11910 Self-help and Pell grant programs; expected family contribution schedule
NOTICES
Grant applications and proposals; closing dates:
11740 Discretionary grant programs
11739 Teaching and learning research grants program

Energy Department
See also Economic Regulatory Administration; Energy Information Administration; Energy Research Office; Federal Energy Regulatory Commission.
NOTICES
11760 International energy program; International Energy Agency's fourth allocation systems test; proposed approval; request for comments

Energy Information Administration
NOTICES
11743 Natural gas, high cost; alternative fuel price ceilings and incremental price threshold

Energy Research Office
NOTICES
Meetings:
11752 Energy Research Advisory Board
11745 Nuclear engineering enrollment and degree survey (Form ER–616) and health physics (radiation protection) enrollment and degree survey (Form ER–617); proposed; inquiry

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
11738 Snohomish River and Tributaries Navigation Project, Everett Harbor, Wash.

Environmental Protection Agency
PROPOSED RULES
Air pollution control; new motor vehicles and engines:
11870 Emission control system performance; warranty short tests, additional short tests, etc.
Air quality implementation plans:
11725 Clean Air Act; compliance with statutory provisions of Part D; extension of time
Water pollution; effluent guidelines for point source categories:
11828 Organic chemicals and plastics and synthetic fibers category

Equal Employment Opportunity Commission
NOTICES
11808 Meetings; Sunshine Act

Export-Import Bank
NOTICES
11766 Agency forms submitted to OMB for review

Fair Housing and Equal Opportunity, Office of Assistant Secretary
NOTICES
Grants; availability, etc.:
11773 Community Housing Resource Board Program

Federal Aviation Administration
RULES
Aircraft products and parts, certification:
11692 New Zealand Aerospace Industries, Ltd.; Model Cresco airplane
11693 Standard instrument approach procedures
11693 Transition areas
PROPOSED RULES
Airworthiness directives:
11719 Pilatus Britten-Norman Ltd.
NOTICES
Advisory circulars; availability, etc.:
11801 Composite aircraft structure

Federal Communications Commission
RULES
Radio services, special:
11716 Land mobile services, private; facsimile transmission use permitted when requesting special temporary authority
Radio stations; table of assignments:
11714 Arizona
11715 Oregon
Television stations; table of assignments:
11711 New York
PROPOSED RULES
Radio stations; table of assignments:
11727 Texas; correction
Television stations; table of assignments:
11725 Oklahoma
NOTICES
11769 Agency forms submitted to OMB for review
Hearings, etc.:
11766 Allen Broadcasting Corp. et al.
11767 Educational Television of Houston, Inc., et al.
11768 Wamsley, Margarette Kathelene, et al.

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
11752 Columbia Gulf Transmission Co.
11752 Tumwater Associates et al.

Federal Home Loan Bank Board
NOTICES
11808 Meetings; Sunshine Act (2 documents)

Federal Housing Commissioner—Office of Assistant Secretary for Housing
NOTICES
11775 Turnkey public housing projects; tax-exempt construction financing

Federal Mine Safety and Health Review Commission
NOTICES
11808 Meetings; Sunshine Act

Federal Railroad Administration
PROPOSED RULES
11882 Signal and train control; amendments

Federal Reserve System
NOTICES
Applications, etc.:
11770 Bank of Southside Virginia Corp.
11770 First National of Nebraska, Inc.
Bank holding companies; proposed de novo nonbank activities:
11770 Manufacturers Hanover Corp.
11808 Meetings; Sunshine Act

Federal Trade Commission
PROPOSED RULES
Prohibited trade practices:
11722 Stihl, Inc. et al.

Foreign-Trade Zones Board
NOTICES
Applications, etc.:
11730 Mississippi

Forest Service
NOTICES
Meetings:
11728 Boise National Forest Grazing Advisory Board

Government Printing Office
NOTICES
Meetings:
11771 Depository Library Council

Health and Human Services Department
See Health Resources and Services Administration; Public Health Service; Social Security Administration.

Health Resources and Services Administration
NOTICES
Grants; availability, etc.:
11772 Indian Health Professions Preparatory and Indian Health Scholarship Programs
11771 Maternal and child health

Historic Preservation, Advisory Council
NOTICES
Programmatic memorandums of agreement:
11728 Montana; transfer of Federal lands

Housing and Urban Development Department
See also Community Planning and Development, Office of Assistant Secretary; Fair Housing and Equal Opportunity, Office of Assistant Secretary; Federal Housing Commissioner—Office of Assistant Secretary for Housing.
NOTICES
Authority delegations:
11776 Community Planning and Development Assistant Secretary; discretionary grants from Secretary's Fund

Interior Department
See Land Management Bureau; Minerals Management Service; National Park Service; Surface Mining Reclamation and Enforcement Office.

International Trade Administration
NOTICES
Countervailing duties:
11731 Softwood products from Canada; correction
11731 Tool steel from Brazil
Scientific articles; duty free entry:
11731 SRI International et al.

Interstate Commerce Commission
NOTICES
Motor carriers:
11795 Atlas Van Lines, Inc., et al.; pooling
11795, 11796 Finance applications (2 documents)
11781, 11783 Permanent authority applications (2 documents)
11798 Permanent authority applications; correction
11789 Temporary authority applications
Rail carriers:
11798 Cost recovery percentage; railroad cost index, approval
11798 State intrastate rail rate authority; Commission certification

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
11779 Exxon Corporation's Road Hollow Project; Lincoln County, Rock Springs District, Wyo.
11779 Green River-Hams Fork Regional Coal Team, Indian Springs Tract, Utah
Withdrawal and reservation of lands, proposed, etc.:
11776 Alaska

Legal Services Corporation
RULES
11709 Limitations and restrictions on use of funds; implementation

Minerals Management Service
NOTICES
Outer Continental Shelf standards:
11779 Blowout and fire report, Eugene Island Block 361, Gulf of Mexico off Louisiana shore

National Aeronautics and Space Administration
RULES
Procurement:
11699 Directive 82-3
11696 Directive 82-4

National Highway Traffic Safety Administration
NOTICES
Meetings:
11801 National Highway Safety Advisory Committee

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
11717 Pacific Coast groundfish; correction
NOTICES
Marine mammal permit applications, etc.:
11734 Scholz, Dr. Allan T.
11735 Whale Museum
Marine mammals:
11735 Ringed seals; taking incidental to on-ice seismic activities; letter of authorization

National Park Service
NOTICES
Meetings:
11780 Appalachian National Scenic Trail Advisory Council
11781 Cape Cod National Seashore Advisory Commission
11781 Statue of Liberty-Ellis Island Centennial Commission
11781 Native American relationships policy; inquiry; extension of time

Public Health Service
NOTICES
Organization, functions, and authority delegations:
11772 Health Resources and Services Administration

Saint Lawrence Seaway Development Corporation
PROPOSED RULES
11725 Seaway regulations; clarification, etc.; correction

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
11799, 11800 Options Clearing Corp. (2 documents)

Small Business Administration
RULES
Organization, functions, and authority delegations:
11691 Authority delegations to conduct program activities in field offices

Social Securities Administration
RULES
Social security benefits:
11695 Computing primary insurance amounts, etc.; correction

Surface Mining Reclamation and Enforcement Office
NOTICES
Environmental statements; availability, etc.:
11780 Montana; Western Energy Co., comprehensive plan for expansion and operation of Rosebud Mine

Surface coal mining operations; unsuitable lands; petitions, designations, etc.:
11780 Wyoming

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, or man-made textiles:
11736 Brazil
11736 Dominican Republic

Transportation Department
See Coast Guard; Federal Aviation Administration; Federal Railroad Administration; National Highway Traffic Safety Administration.

Treasury Department
NOTICES
Bonds, Treasury:
11805 2003 series
Notes, Treasury:
11803 D–1990 series
11802 H–1987 series

Veterans Administration
NOTICES
11806 Agency forms submitted to OMB for review
Committees; establishment, renewals, terminations, etc.:
11807 Wage Committee
Meetings:
11807 Career Development Committee
11806 Health-Related Effects of Herbicides Advisory Committee

---

List of Separate Parts in This Issue

Part II
11828 Environmental Protection Agency

Part III
11870 Environmental Protection Agency

Part IV
11882 Department of Transportation, Federal Railroad Administration

Part V
11910 Department of Education

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
301 11681
910 11691
Proposed Rules:
51 11718

13 CFR
101 11691

14 CFR
21 11692
23 11692
71 11693
97 11693
Proposed Rules:
39 11719

15 CFR
Proposed Rules:
15b 11720

16 CFR
Proposed Rules:
13 11722

20 CFR
404 11695

33 CFR
165 11696
Proposed Rules:
401 11725

34 CFR
Proposed Rules:
690 11910
691 11910

40 CFR
Proposed Rules:
52 11725
85 11870
414 11828
416 11828

41 CFR
18 (2 documents) 11696, 11699

45 CFR
1612 11709

47 CFR
73 (3 documents) 11711–11715
90 11716
Proposed Rules:
73 (2 documents) 11725, 11727

49 CFR
Proposed Rules:
233 11882
235 11882
236 11882

50 CFR
663 11717

Rules and Regulations

Federal Register
Vol. 48, No. 55
Monday, March 21, 1983

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 83-305]

Gypsy Moth Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the list of gypsy moth regulated areas (regulated areas are divided into high-risk areas and low-risk areas) under the Federal Gypsy Moth and Browntail Moth Quarantine and Regulations by: (1) Redesignating areas in Delaware, Maryland, New York, and Pennsylvania from gypsy moth low-risk areas to gypsy moth high-risk areas; (2) by redesignating an area in Arkansas from a gypsy moth high-risk area to a gypsy moth low-risk area; (3) by designating previously nonregulated areas in California, Illinois, Maine, Michigan, North Carolina, Ohio, Oregon, Virginia, Washington, and Wisconsin as gypsy moth low-risk areas; (4) by expanding previously designated gypsy moth low-risk areas in Maine, Michigan, Virginia, and Washington; and (5) by deleting areas in Illinois, Michigan, and Ohio from the list of gypsy moth regulated areas. The quarantine and regulations impose restrictions on the interstate movement of certain articles from gypsy moth high-risk areas and gypsy moth low-risk areas. The amendments are necessary as emergency measures in order to prevent the artificial spread interstate of gypsy moth and to delete unnecessary restrictions on the interstate movement of certain articles.

DATES: Effective date of this interim rule March 21, 1983. Written comments concerning this interim rule must be received on or before May 20, 1983.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 728 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Gary E. Moorehead, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782; 301-436-8295.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Emergency Action

This interim rule is issued in conformance with Executive Order 12291 and Secretary's Memorandum No. 1512-1, and has been determined to be not a "major rule". Based on information compiled by the Department, it has been determined that this interim rule will have an annual effect on the economy of approximately $90,000; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause 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.

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication without opportunity for a public comment period on this interim action. Due to the possibility that gypsy moths could be spread artificially interstate to noninfested areas of the United States, a situation exists requiring immediate action to better control the spread of this pest. Also, where gypsy moth no longer occurs, immediate action is needed to delete unnecessary restrictions on the interstate movement of regulated articles.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective less than 30 days after publication of this document in the **Federal Register.** Comments have been solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

For this rulemaking action, the Office of Management and Budget has waived the review process required by Executive Order 12291. Also, the Assistant Secretary for Marketing and Inspection Services has waived the requirements of Secretary's Memorandum 1512-1.

Certification under the Regulatory Flexibility Act

Mr. James O. Lee, Jr., Acting 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. This action affects the interstate movement of regulated articles from specified areas in the States of California, Delaware, Illinois, Maine, Maryland, Michigan, New York, North Carolina, Ohio, Oregon, Pennsylvania, Virginia, Washington, and Wisconsin. Based on information compiled by the U.S. Department of Agriculture it has been determined that there are many hundreds of small entities that move regulated articles interstate from such States and many thousands of small entities that move regulated articles interstate from other States. However, based on such information, it has been determined that only approximately 135 small entities move regulated articles interstate from the specified areas affected by this action. Further, the annual overall economic impact from this action is estimated to be less than $90,000.

Background

The gypsy moth, *Lymantria dispar* (Linnaeus), is a highly destructive pest of forest trees. The Gypsy Moth and Browntail Moth Quarantine and Regulations (7 CFR 301.45 *et seq.*) quarantine certain States because of the gypsy moth, and restrict the interstate movement from regulated areas of articles designated as regulated articles because of the gypsy moth. Such restrictions are necessary for the purpose of preventing the artificial spread of the gypsy moth.

Areas designated as gypsy moth regulated areas are areas in which a gypsy moth infestation has been found by an inspector, or areas which are necessary to regulate because of proximity to gypsy moth infestation or inseparability for quarantine enforcement purposes from infested localities. Regulated areas are divided into high-risk areas and low-risk areas. Under the regulations there is a basis for designating an area as a high-risk area when an inspector determines that regulated articles exist within or adjacent to an area where defoliation has occurred or where an inspector has reason to believe that 50 or more egg masses per acre of the gypsy moth are present. Low-risk areas are those portions of regulated areas that are not designated as high-risk areas.

Section 301.45–3 (a), (b), and (c) of the regulations imposes the following conditions on the movement of regulated articles:

(a) A regulated article shall not be moved interstate from any high-risk area into or through any nonregulated area unless a certificate or permit has been issued and attached to such regulated article in accordance with §§ 301.45–4 and 301.45–7.

(b) A regulated article shall not be moved interstate from any low-risk area into or through any nonregulated area when it is determined by an inspector that any life stage of the gypsy moth or browntail moth is on the regulated article, and the person on possession thereof has been so notified by an inspector unless a certificate or permit has been issued and attached to such regulated articles in accordance with §§ 301.45–4 and 301.45–7.

(c) A regulated article orginating outside of any high-risk area, except any regulated article in any low-risk area determined by an inspector to present a hazard of spreading the gypsy moth or browntail moth pursuant to paragraph (b) of this section, may be moved interstate directly through any high-risk area without a certificate or permit, if the point of origin of the article is clearly indicated by shipping documents, their identity has been maintained, and they have been safeguarded against infestation while in any high-risk area.

These regulations are designed to restrict the interstate movement of regulated articles in those circumstances where there would be a significant risk of spread of the gypsy moth. A certificate or limited permit is authorized to be issued based on treatment of a regulated article or based on a determination that movement of a regulated article without treatment would not result in the spread of the gypsy moth.

Designation of Areas as High-Risk Areas

As an emergency measure the following areas in Delaware, Maryland, New York, and Pennsylvania which were previously designated as gypsy moth low-risk areas are redesignated as gypsy moth high-risk areas:

Delaware

Kent County. The entire county.

Maryland

Kent County. That portion of the county bounded by a line beginning at a point where State Highway 290 intersects the Kent County-Queen Annes County line; then north along said highway to its intersection with the Maryland-Delaware state line; then south along said line to its intersection with the Kent County-Queen Annes County line; then west along said line to the point of beginning.

New York

Cayuga County. The towns of Fleming, Ledyard, Moravia, Niles, Owasco, Sempronius, Springport, Summer Hill, and Venice.

Livingston County. The town of Ossian.

Monroe County. The towns of Chili, Clarkson, Gates, Greece, Hamlin, Mendon, Ogden, Parma, Riga, Rochester City, Rush Sweden, and Wheatland.

Oneida County. The towns of Annsville, Camden, New Hartford, Verona, Westmoreland, and Whitestown.

Onondaga County. The towns of Clay, Lafayette, and Otisco.

Oswego County. The towns of Hastings, Palermo, and West Monroe.

Seneca County. The towns of Covert and Ovid.

Steuben County. The towns of Addison, Bath, Bradford, Cameron, Dansville, Prattsburg, Rathbone, Thurston, Tuscarora, Urbana, Wayland, Wayne, Wheeler, and Woodhull.

Yates County. The towns of Barrington, Milo, Starkey, and Torrey.

Pennsylvania

Indiana County. The entire county.

Jefferson County. The entire county.

Potter County. The entire county.

Based on recent surveys, inspectors have determined with respect to all of the areas added to the list of gypsy moth high-risk areas, that defoliation has occurred in these areas because of the gypsy moth or that there is reason to believe that 50 or more egg masses per acre of the gypsy moth are present in these areas. Also, regulated articles exist within or adjacent to these areas. Accordingly, there is a substantial risk of artificially spreading the gypsy moth by unrestricted interstate movement of such regulated articles. Therefore, as an emergency measure, it is necessary to designate such areas as gypsy moth high-risk areas and impose restrictions on the interstate movement of regulated articles from these areas in accordance with the regulations in order to prevent the artificial spread of the gypsy moth.

Designation of Areas as Low-Risk Areas

As an emergency measure, Secs. 25, 28, 35, and 36, T. 20 N., R. 5 W. of Fulton County in Arkansas, which was previously designated as gypsy moth high-risk area is redesignated as gypsy moth low-risk area.

As an emergency measure, the following areas in California, Illinois, Maine, Michigan, North Carolina, Ohio, Oregon, Virginia, Washington, and Wisconsin which were previously nonregulated areas are designated as gypsy moth low-risk areas:

California

Alameda County. That portion of the county bounded by a line beginning at a point where Interstate Highway 680 and Bernal Avenue intersect; then northwesterly on Interstate Highway 680 to its intersection with Stoneridge Drive; then easterly along Stoneridge Drive to its intersection with Hopyard Road; then easterly along an imaginary line from said intersection to the intersection of West Las Positas Boulevard and Santa Rita Road; then southerly along said road to its intersection with Mohr Avenue; then easterly along said avenue to its intersection with Kolln Street; then southerly along said street to its intersection with Valley Avenue; then southerly from said intersection along an imaginary line to the end of Kolln Street; then southerly along Kolln Street to its intersection with Jensen Street; then westerly along Jensen Street to its intersection with Main Street; then southerly along Main Street to its intersection with Bernal Avenue; then westerly along said avenue to the point of beginning.

Contra Costa County. That portion of the county bounded by a line beginning at a point where Pine Hollow Road and Mitchell Canyon Road intersect; then southerly on Mitchell Canyon Road to its intersection with Mitchell Creek; then southerly from said intersection along an imaginary line to the peak of Mitchell Rock; then easterly from said rock along an imaginary line to the intersection of Trail Ride Road and East Trail; then due north from said intersection along an imaginary line to an unimproved and unnamed road through Irish Canyon; then northwesterly along said road to its intersection with Black Diamond Way; then westerly along Black Diamond Way to its junction with Main Street in the town of Clayton; then westerly on Main Street to its

end; then westerly from the end of said street along an imaginary line to the east end of Pine Hollow Road; then westerly on Pine Hollow Road to the point of beginning.

Marin County. That portion of the county bounded by a line beginning at a point where San Marin Drive intersects Business U.S. Highway 101; then easterly on San Marin Drive to its junction with Atherton Avenue; then easterly on Atherton Avenue to its intersection with Binford Road; then northerly on Binford Road to Rush Creek; then northeasterly along the southern boundary of Rush Creek to the northern-most corner of Marin Memorial Gardens (cemetery); then southeasterly along the eastern boundary of Marin Memorial Gardens to Bahia Drive; then easterly along an imaginary line to the west end of Laguna Vista Drive; then southeasterly from the west end of said drive along an imaginary line to the intersection of School Road and Atherton Avenue; then southeasterly on Atherton Avenue to State Highway 37; then southwesterly on State Highway 37 to its intersection with Novato Creek; then northwesterly along Navato Creek to its intersection with an unnamed tributary; then southwesterly and northwesterly along said tributary to its intersection with U.S. Highway 101; then northerly on U.S. Highway 101 to Rowland Boulevard; then westerly on Rowland Boulevard to Business U.S. Highway 101; then northerly on Business U.S. Highway 101 to the point of beginning.

San Mateo County. That portion of the county bounded by a line beginning at a point where 27th Avenue and Alameda De Las Pulgas intersect; then northeasterly along 27th Avenue to its intersection with South El Camino Real; then northeasterly along an imaginary line from said intersection to the intersection of East Hillsdale Boulevard and South Norfolk Street; then southeasterly along South Norfolk Street to its intersection with Los Prados; then southeasterly along Los Prados to its intersection with Bahia; then southeasterly along an imaginary line from said intersection to the intersection of Winchester Court and Galveston Street; then southeasterly along Galveston Street to its intersection with Bodega Street; then southerly along said street to its intersection with Chesapeake Avenue; then easterly along said avenue to its intersection with Biscayne Avenue; then southerly along an imaginary line from said intersection to the intersection of U.S. Highway 101 and Ralston Avenue; then southwesterly along Ralston Avenue to its intersection with Alameda De Las Pulgas; then northerly along Alameda De Las Pulgas to its intersection with Sharon Avenue; then westerly along said avenue to its intersection with Coronet Boulevard; then southerly along said boulevard to its intersection with Casa Bona Avenue; then westerly along said avenue to its intersection with Semeria Avenue; then northwesterly along said avenue to its intersection with Cipriani Boulevard; then westerly along said boulevard to its intersection with Wooster Avenue; then westerly along said avenue to its intersection with Thurm Avenue; then northerly along said avenue to its intersection with Bettina Avenue; then northerly along said avenue to its intersection with 42nd Avenue; then easterly along said avenue to its intersection with Kingridge Drive; then northwesterly along said drive to its merger with 36th Avenue; then northeasterly along said avenue to its intersection with Alameda De Las Pulgas; then northerly along Alameda De Las Pulgas to the point of beginning.

That portion of the county beginning at a point where El Camino Real (State Highway 82) intersects Encinal Avenue; then northwesterly along El Camino Real to its intersection with Charter; then northeasterly along Charter to its end; then northeasterly along an imaginary line from the end of Charter to the intersection of Middlefield and Charter Street; then northeasterly along Charter Street to its intersection with Broadway; then northwesterly along an imaginary line from said intersection to the intersection of Woodside Road (State Highway 84) and U.S. Highway 101; then easterly along an imaginary line from said intersection to the end of Marsh Road; then southerly along Marsh Road to its intersection with U.S. Highway 101; then southerly along an imaginary line from said intersection to the intersection of Acorn Way and Greenoaks Drive; then westerly along Acorn Way to its intersection with Catalpa Drive; then southerly along said drive to its intersection with Linden Avenue; then southerly along said avenue to its intersection with Middlefield; then westerly along Middlefield to its intersection with Encinal Avenue; then southerly along said avenue to the point of beginning.

Santa Barbara County. That portion of the county beginning at a point where U.S. Highway 101 and Lambert Road intersect; then north on Lambert Road to its end; then northerly along an imaginary line from the end of Lambert Road to the intersection of State Highway 192 and Ladera Lane; then north on said lane to its intersection with Bella Vista Drive; then due north along an imaginary line from said intersection to an imaginary point ½ mile north of and within the boundary line of the Los Padres National Forest; then westerly along an imaginary line which is ½ mile within the Los Padres National Forest boundary line to an imaginary point on Parma Creek ½ mile north of the intersection of Parma Creek and the Los Padres National Forest boundary line; then southerly along Parma Creek to its intersection with State Highway 192; then southeasterly along said highway to its intersection with State Highway 144; then southerly along said highway to its intersection with Salinas Street; then southeast on said street to U.S. Highway 101; then easterly on said highway to the point of beginning.

Santa Clara County. That portion of the county bounded by a line beginning at a point where East Charleston Road intersects Independence Avenue; then southerly along said avenue to its intersection with West Middlefield Road; then easterly along said road to its intersection with Thompson Avenue; then southwesterly along said avenue to its intersection with Central Expressway; then southwest from said intersection along an imaginary line to its intersection with the intersection of Gabriel Avenue and Showers Drive; then southerly along Showers Drive to its intersection with El Camino Real; then northwesterly along El Camino Real to its intersection with San Antonio Road; then southerly along said road to its intersection with Loucks Avenue; then westerly along said avenue to its intersection with Los Altos Avenue; then northwesterly along an imaginary line from said intersection to the end of Laguna Avenue; then northwesterly along said avenue to its intersection with Matadero Avenue; then northeasterly along said avenue to its intersection with El Camino Real; then northwesterly along El Camino Real to its intersection with Lambert Avenue; then northeasterly along said avenue to its intersection with Park Boulevard; then northwesterly along an imaginary line from said intersection to the intersection of Alma Street and El Dorado Avenue; then northeasterly along said avenue to its intersection with Cowper Street; then northwesterly along said street to its intersection with Colorado Avenue; then northeasterly along said avenue to its intersection with Middlefield Road; then southeasterly along said road to its intersection with Loma Verde Avenue; then northeasterly along said avenue to its intersection with Louis Road; then southeasterly along said road to its intersection with East Meadow Drive; then northeasterly along said drive to its intersection with Fabian Way; then southerly along said way to its intersection with East Charleston Road; then easterly along said road to the point of beginning.

Illinois

Kane County. SW¼ sec. 21, T. 40 N., R. 8 E.

Maine

Aroostook County. Township of Molunkus.

Penobscot County. The townships of Burlington, Chester, E. Millinocket, Hopkins Academy Grant, Indian Purchase, Lee, Long A, Mattawamkeag, Medway, Millinocket, Winn, Woodville, Veazie Gore, AR 7, AR 8, and 9, and 3 R 1.

Washington County. The townships of Alexander, Baileyville, Baring, Calais, Cooper, Charlotte, Cutler, Dennysville, Eastport, Edmonds, Lubec, Marion, Meddybemps, Penbroke, Perry, Princeton, Robbinston, Trescott, Whiting, Plantation 14, and Plantation 21.

Michigan

Arenac County. The entire county.

Genesee County. The entire county.

Gladwin County. The entire county.

Livingston County. Sec. 10, 11, 14, and 15, T. 1 N., R. 5 E., and sec. 13 and 14, T. 3 N., R. 6 E.

Osceola County. The entire county.

Van Buren County. Sec. 15, 16, 21, and 22, T. 3 N., R. 13 W.

North Carolina

Carteret County. That area bounded by a line beginning at a point on the northern shoreline of Taylors Creek and running north on an imaginary course to the intersection of State Secondary Road 1310 and State Secondary Road 1311; then northerly along State Secondary Road 1311 to its ending; then

northerly along an imaginary line to its intersection with North River; then southwesterly along North River shoreline to its junction with Taylors Creek; then westerly along Taylors Creek to the point of beginning.

Ohio

Franklin County. That portion of the village of Blacklick bounded by a line beginning at a point where Blacklick Creek and Columbus-Newark Road intersect; then west along said road to its intersection with Taylor Station Road; then northerly along said road to its intersection with Taylor Road; then easterly along said road to its intersection with Reynoldsburg-New Albany Road; then due east from said intersection along an imaginary line to its intersection with Blacklick Creek; then southerly along said creek to the point of beginning.

That portion of the city of Gahanna bounded by a line beginning at a point where Morse Road and Shull Road intersect; then southerly along said road to its intersection with Headley Road; then east along Headley Road to its intersection with Clark State Road; then southwesterly along said road to its intersection with Clofts Road; then northerly along said road to its intersection with Columbus-Millersburg Road; then northeasterly along said road to its intersection with Morse Road; then east along said road to the point of beginning.

Hamilton County. That portion of the city of Cincinnati bounded by a line beginning at a point where Wasson Road intersects with Paxton Avenue; then south along said avenue to its intersection with Erie Avenue; then west along said avenue to its intersection with Edwards Road; then north along said road to its intersection with Wasson Road; then east along said road to the point of beginning.

That portion of Anderson Township bounded by a line beginning at a point where Lawyer Road intersects with Hunley Road; then northeast along said road to its intersection with Wolfangle Road; then southerly along said road to its intersection with Clough Pike; then southwest, southwesterly, and northwesterly along said pike to its intersection with Newton Road; then northeast along said road to its intersection with Lawyer Road; then southeast along said road to the point of beginning.

Knox County. That portion of Clinton and Morris Townships bounded by a line beginning at a point where McKensie Road and the eastern boundary line of Morris Township intersect; then south along said township line to its intersection with the northern boundary line of the city limit line of the city of Mt. Vernon; then westerly, northerly, and westerly along said city limit line to its intersection with Mansfield Road; then northerly along said road to its intersection with McKensie Road; then easterly along said road to the point of beginning.

Lucas County. That portion of the city of Sylvania bounded by a line beginning at a point where Monroe Street and Whiteford Road intersect; then south along said road to its intersection with Cory Road; then northwest along said road to its intersection with Monroe Street; then southeast along said street to the point of beginning.

Oregon

Marion County. Sec. 23, T. 7 S., R. 3 W.

Secs. 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, and 35, T. 8 S., R. 3 W.

Secs. 6, 7, 17, 18, 19, 20, 28, 29, 30, and S½ of 21, T. 8 S. R. 2 W.

Virginia

Arlington County. The entire city.

City of Alexandria. The entire city.

City of Fairfax. The entire city.

City of Falls Church. The entire city.

City of Manassas. The entire city.

City of Winchester. The entire city.

Clarke County. The entire city.

Culpeper County. That portion of the county beginning at a point where Fauquier, Rappahannock, and Culpeper Counties intersect with the Rappahannock River; then southwest along the Culpeper-Rappahannock County line to its intersection with State Road 729; then southerly along State Road 729 to its intersection with State Road 685; then easterly along State Road 685 to its intersection with State Road 625; then northeasterly along State Road 625 to its intersection with Muddy Run; then east along Muddy Run to its intersection with the Hazel River; then easterly along the Hazel River to its intersection with the Rappahannock River; then northerly and westerly along the Rappahannock River to the point of beginning.

Frederick County. The entire county.

Prince William County. The entire county.

Shenandoah County. That portion of the county which lies north and east of State Road 675.

Stafford County. The entire county.

Warren County. The entire county.

Washington

Clark County. That portion of the county bounded by a line beginning at a point where the Columbia River shoreline intersects N.W. 179th Street; then easterly along said street to its intersection with Interstate 5; then southerly along Interstate 5 to its intersection with N.E. 78th Street; then due west from said intersection along an imaginary line to its intersection with the Columbia River shoreline; then north along the Columbia River shoreline to the point of beginning.

Kitsap County. The entire county.

Pierce County. The entire county.

Wisconsin

Waukesha County. That portion of the city of Elm Grove bounded by a line beginning at a point where Juneau Boulevard and Highland Drive intersect; then north on Highland Drive to its intersection with North Avenue; then east on North Avenue to its intersection with CM ST P&P railroad tracks; then southeasterly along said tracks to its intersection with Juneau Boulevard; then west on Juneau Boulevard to the point of beginning.

Also, as an emergency measure, certain areas in Maine, Michigan, Virginia, and Washington previously designated as gypsy moth low-risk areas are retained as gypsy moth low-risk areas but are expanded as set forth below.

The area in Piscataquis County in Maine previously described as "The townships of Abbott, Dover-Foxcroft, Guilford, Kingsbury Plantation, Parkman, Sangeville, Sebec, and Wellington." is retained as a gypsy moth low-risk area but is expanded and redescribed as "The townships of Abbott, Dover-Foxcroft, Guilford, Kingsbury Plantation, Parkman, Sangeville, Sebec, Wellington, and 1 R 9."

The area in Somerset County in Maine previously described as "The townships of Bingham, Brighton Plantation, Concord Plantation, Highland Plantation, Lexington Plantation, Mayfield, Moscow, and Pleasant Ridge Plantation." is retained as a gypsy moth low-risk area but is expanded and redescribed as "The townships of Bingham, Brighton Plantation, Caratunk, Concord Plantation, Highland Plantation, Lexington Plantation, Mayfield, Moscow, and Pleasant Ridge Plantation."

The area in Bay County in Michigan previously described as "Township of Williams." is retained as a gypsy moth low-risk area but is expanded and redescribed as "The entire county."

The area in Clare County in Michigan previously described as "Townships of Garfield, Grant, Sheridan, and Surrey." is retained as a gypsy moth low-risk area but is expanded and redescribed as "The entire county."

The area in Gratiot County in Michigan previously described as "Townships of Arcada, Bethany, Emerson, Hamilton, LaFayette, Newark, New Haven, North Star, Pine River, Seville, Sumner, and Wheeler." is retained as a gypsy moth low-risk area but is expanded and redescribed as "The entire county"

The area in Kalamazoo County in Michigan previously described as "Sec. 1 and 2, T. 1 S., R. 11 W." is retained as a gypsy moth low-risk area but is expanded and redescribed as "Sec. 1 and 2, T. 1 S., R. 11 W., and sec. 16, and 17, T. 3 S., R. 11 W."

The area in Midland County in Michigan previously described as "Townships of Greendale, Homer, Ingersoll, Jasper, Lee, Midland, Mount Haley, and Porter," is retained as a gypsy moth low-risk area but is expanded and redescribed as "the entire county."

The area in Montcalm County in Michigan previously described as "Townships of Belvidere, Cato, Chrystal, Day, Douglas, Evergreen Ferris, Home, Richland, and Sidney." is retained as a gypsy moth low-risk area but is expanded and redescribed as "The entire county."

The area in Oakland County in Michigan previously described as "Sec. 16 and 21, T. 2 N., R. 10 E." is retained as a gypsy moth low-risk area but is expanded and redescribed as "The entire county."

The following five areas in Fairfax County in Virginia previously described as: (1) "That portion of the county beginning at a point where State Highway 603 intersects Deepwood Drive; then north on Deepwood Drive to its end; then due north on an imaginary line from the end of Deepwood Drive to the Potomac River shoreline; then westerly along said shoreline to the Colonial Pipeline Company's easement for a petroleum

pipeline; then south along said easement to State Highway 603; then easterly on said highway to the point of beginning."; (2) "That portion of the county bounded by a line beginning at a point where the Dulles Airport Access Road and Interstate Highway 495 intersect; then east along said road to its intersection with State Highway 123; then southwesterly along said highway to its intersection with Interstate Highway 495; then north along Interstate Highway 495, to the point of beginning."; (3) "That portion of the county bounded by a line beginning at a point where State Highway 236 and Guinea Road intersect; then east along said highway to its intersection with Wakefield Drive; then south along said drive to its intersection with St. Ark Road; then west along said road to its intersection with Guinea Road; thence north along Guinea Road to the point of beginning."; (4) "That portion of the county bounded by a line beginning at a point where State Highway 236 and State Highway 649 intersect; then east along State Highway 236 to its intersection with State Highway 617; then southeast along State Highway 617 to its intersection with State Highway 620; then west along State Highway 620 to its intersection with State Highway 649; then northeast along State Highway 649 to the point of beginning."; and (5) "That portion of the county bounded by a line beginning at a point where State Highway 640 (Sydenstricker Road) and Colgate Drive intersect; then northest along said drive to its intersection with Hadlow Drive; then southeast along Hadlow Drive to its intersection with Dryburgh Court; then due northeast along an imaginary line from said intersection to Pohick Creek; then southeast along Pohick Creek to its intersection with Samos Court; then due west from said intersection along an imaginary line to Middle Valley Drive; then west along Middle Valley Drive to Goins Road; then west along Goins Road to its intersection with Gambrill Road; then south along Gambrill Road to its intersection with Middle Run Drive; then west along Middle Run Drive to its intersection with Newington Woods Drive; then north along Newington Woods Drive to the end; then due north along an imaginary line from the end of Newington Woods Drive to its intersection with Flemingwood Lane; then north along Flemingwood Lane to its intersection with State Highway 636; then east along said highway to its intersection with State Highway 640; then northwest along State Highway 640 to the point of beginning." are retained as gypsy moth low-risk areas but are expanded and redescribed as "The entire county."

The area in Fauquier County in Virginia previously described as "Those properties owned by the Audrey B. Currier estate, and Andrea B. and Lavinia M. Currier, known as Kinlock Farms, located on the southeast and northwest side of State Highway 601 and west of State Highway 628; 1 mile, more or less, northeast of the intersection of State Highway 626 and 601." is retained as a gypsy moth low-risk area but is expanded and redescribed as "The entire county."

The area in Loudoun County in Virginia previously described as "That portion of the county bounded by a line beginning at a point where U.S. Highway 15 intersects with State highway 658; then soughest along State Highway 658 to its intersection with State Highway 662; then southeast along State Highway 662 to its intersection with State Highway 657; then due south from said intersection along an imaginary line to the Potomac River; then southerly along the Potomac River to its intersection with State Highway 655; then west along State Highway 655 to its intersection with U.S. Highway 15; then south along U.S. Highway 15 to its intersection with State Highway 748; then west along State Highway 748 to its end; then north along an imaginary line from the end of said highway to the intersection of State Highway 661 and State Highway 662; then northeast along State Highway 662 to its intersection with U.S. Highway 15; then north along U.S. Highway 15, to the point of beginning." is retained as a gypsy moth low-risk area but is expanded and redescribed as "The entire county."

The following three areas in King County in Washington previously described as: (1) "That area within the University District of the city of Seattle beginning at a point where Interstate 5 intersects N.E. 75th Street, then easterly on N.E. 75th Street to its intersection with N.E. 35th Avenue, then south on N.E. 35th Avenue to its end, then due south from the end of N.E. 35th Avenue on an imaginary line to Union Bay shoreline, then westerly along Union Bay shoreline to Portage Bay shoreline, then westerly along Portage Bay shoreline to its intersection with Interstate 5, then north on Interstate 5 to the point of beginning."; (2) "That area within the city of Mercer Island beginning at a point where Sunset Highway intersects Lake Washington shoreline at the Lacey V. Murrow Memorial Bridge, then northerly, easterly, and southerly along the Lake Washington shoreline to its intersection with S.E. 44th Street, then due west from said intersection along an imaginary line to Lake Washington shoreline on the west side of Mercer Island, then northerly along said shoreline to the point of beginning."; and (3) "That area within the city of Seattle bounded by a line beginning at a point where State Highway 509 and State Highway 99 intersect, then south along State Highway 509 to its intersection with S.W. 105th Street, then due west along an imaginary line from said intersection to Puget Sound shoreline, then northerly along said shoreline to its intersection with SW Juneau Street, then east along SW Juneau Street to its intersection with 16th Avenue SW, then due east from said intersection along an imaginary line to State Highway 99, then south along State Highway 99 to the point of beginning." are retained as gypsy moth low-risk areas but are expanded and redescribed as "The entire county."

Based on recent surveys, inspectors have determined that infestations of gypsy moth occur in these areas designated as gypsy moth low-risk areas, but that these areas do not meet the criteria referred to above for gypsy moth high-risk areas.

As noted above, restrictions concerning the gypsy moth are imposed on movements of regulated articles from gypsy moth low-risk areas, only if it is determined by an inspector that any life stage of the gypsy moth is on the regulated article, and the person in possession thereof has been so notified by an inspector, unless a certificate or permit has been issued and attached to such regulated article in accordance with §§ 301.45–4 and 301.45–7 of the regulations. In this connection, it is necessary as an emergency measure to designate such areas as gypsy moth low-risk areas in order to advise persons of the likelihood that inspectors would conduct inspections in such areas and that based on their findings of life stages of gypsy moth, restrictions could apply to the movement of regulated articles from such areas.

Deletion of Areas From List of Regulated Areas

Prior to the effective date of this document, the following areas in Illinois, Michigan, and Ohio which were designated as gypsy moth regulated areas are deleted from the list of gypsy moth regulated areas.

Illinois

An area in Lake County, Illinois, described as "SE¼ sec. 36, T. 44 N., R. 10 E."

An area in McHenry County, Illinois, described as "That area within the city limits of McHenry which begins at the point where Willow Lane intersects Meadow Lane; thence east along Willow Lane to its end; thence 924 feet along an imaginary projected line to a point due north of Industrial Road; thence south from said point 396 feet to where Industrial Road begins; thence along Industrial Road to State Road 120; thence southeasterly along said road to Front Royal Avenue; thence southwesterly along Front Royal Avenue to Summerset Mall Street; thence south 528 feet along Summerset Mall Street to its end; thence southeasterly 132 feet along an imaginary projected line to the intersection of said line with Woods Lane; thence along Woods Lane to Crystal Lake Road; thence southwesterly to where Crystal Lake Road intersects Hanley Street; thence northwesterly along Hanley Street to Front Royal Avenue; thence southwesterly along Front Royal Avenue to Ashley Drive; thence along Ashley Drive to Chesterfield Drive; thence northwesterly along Chesterfield Drive to Oakwood Drive; thence north on Oakwood Drive to Bonner Drive; thence southeasterly along Bonner Drive to Meadow Lane; thence north on Meadow Lane to Willow Lane, to the point of beginning."

Michigan

An area in Wayne County, Michigan, described as "Sec. 1, T. 1 S., R. 9 E."

Ohio

An area in Belmont County, Ohio, described as "That portion of the county within the boundaries of Barkcamp State Park."

An area in Cuyahoga County, Ohio, described as "That portion of the city of Bay Village bounded by a line beginning at a point where Osborn Road and Cahoon Road intersect, then south along Cahoon Road to its intersection with the N &W Railroad tracks, then west along said tracks to its intersection with Crocker Road, then north along said road to its intersection with Osborn Road, then east along Osborn Road to the point of beginning.

That portion of the city of Pepper Pike in Cuyahoga County, Ohio, bounded by a line beginning at a point where Shaker Boulevard and SOM Center Road intersect, then south along said road to its intersection with Old Kingsman Road, then west along Old Kingsman Road to its intersection with Pinetree Road, then northwesterly along Pinetree Road to its intersection with South Woodland Road, then northwest along South Woodland Road to its intersection with Lander Road, then north along Lander Road to its intersection with Shaker Boulevard, then east along said boulevard to the point of beginning.

That portion of the city of Solon in Cuyahoga County, Ohio, bounded by a line beginning at a point where Cannon Road and SOM Center Road intersect, then south along SOM Center Road to its intersection with U.S. Highway 422, then northwest along said highway to its intersection with Cannon Road, then east along Cannon Road to the point of beginning."

An area in Hamilton County, Ohio, described as "That portion of the county bounded by a line beginning at a point where Fields-Ertel Road and U.S. Highway 71 intersect, then southwest along said highway to its intersection with Snider Road, then north along said road to its intersection with Fields-Ertel Road, then east along Fields-Ertel Road to the point of beginning.

That portion of the city of Montgomery in Hamilton County, Ohio, bounded by a line beginning at a point where Broomwell Avenue and the Montgomery City limits line intersect, then southeast and westerly along said line to its intersection with Weil Road, then northerly along said road to its intersection with Weller Road, then northerly along Weller Road to its intersection with Tanager Woods Drive, then southeasterly along said drive to its intersection with Winthrop Drive, then easterly along said drive to its intersection with Bromwell Avenue, then northeasterly along said avenue to the point of beginning.

That portion of Hamilton County, Ohio, bounded by a line beginning at a point where U.S. Highway 275 and Eight Mile Road intersect, then southerly along said road to its intersection with U.S. Highway 52, then westerly along said highway to its intersection with Asbury Road, then northerly along said road to its intersection with U.S. Highway 275, then east on said highway to the point of beginning."

An area in Jefferson County, Ohio, described as "That portion of the county within the boundaries of Jefferson State Park."

An area in Lucas County, Ohio, described as "That portion of the city of Ottawa Hills bounded by a line beginning at a point where Indian Road and Sulphur Springs Road intersect, then, southerly along Sulphur Spring Road to its intersection with Evergreen Road, then southwest along Evergreen Road to its intersection with the Ottawa River, then westerly along said river to an imaginary point due south of Inland Court, then due north along an imaginary line to the end of Inland Court, then northerly along Inland Court to its intersection with Westchester Road, then northerly along said road to its intersection with Forrest View Drive, then northeasterly along said drive to its intersection with Indian Road, then southeast along said road to the point of beginning."

An area in Ottawa County, Ohio, described as "That portion of Catawba Island bounded by a line beginning at a point where Sloan Street and East Catawba Road intersect, then south along said road to its intersection with South Fairway Drive, then west along an imaginary line to the end of Weyhe Road, then west on Weyhe Road to its intersection with West Catawba Road, then north along West Catawba Road to its intersection with Sloan Street, then east along said street to the point of beginning."

An area in Portage County, Ohio, described as "That portion of the county located on the north side of the Ohio Turnpike known as Portage Plaza."

An area in Stark County, Ohio, described as "That portion of Lake Township bounded on the south by State Route 619, on the east by Mogadore Road, on the north by Pontius Raod, and on the west by Cleveland Avenue."

An area in Tuscarawas County, Ohio, described as "That portion of the city of Newcomerstown bounded by a line beginning at a point where County Road 221 and the Newcomerstown city limits line intersect, then easterly, southerly, and westerly along said line to its intersection with U.S. Highway 36, then westerly along said highway to its intersection with County Road 221, then northerly along said road to the point of beginning.

Based on treatments with insecticides and subsequent negative surveys in accordance with the quarantine and regulations, it has been determined that the gypsy moth no longer occurs in these areas. Accordingly, there is no basis to continue listing such areas as regulated areas for the purpose of preventing the artificial spread of gypsy moth. Therefore, as an emergency measure, it is necessary to delete these areas from the list of regulated areas in order to delete unnecessary restrictions on the movement of gypsy moth regulated articles.

List of Subjects in 7 CFR 301

Agricultural commodities, Gypsy moth, Plant pests, Quarantine, Transportation.

PART 301—[AMENDED]

Under the circumstances referred to above, § 301.45–2a(a) of the gypsy moth and browntail moth quarantine and regulations (7 CFR 301.45–2a(a)) is revised to read as follows:

§ 301.45–2a Regulated areas; high-risk and low-risk areas.

(a) The areas described below are designated as gypsy moth regulated areas, and such regulated areas are divided into high-risk areas or low-risk areas as follows:

Arkansas

(1) *High-risk area:* None.

(2) *Low-risk area:*

(3) *Fulton County.* Secs. 25, 26, 35, and 36, T. 20 N., R. 5 W.

California

(1) *High-risk area:* None.

(2) *Low-risk area:*

Alameda County. That portion of the county bounded by a line beginning at a point where Interstate Highway 680 and Bernal Avenue intersect; then northwesterly on Interstate Highway 680 to its intersection with Stoneridge Drive; then easterly along Stoneridge Drive to its intersection with Hopyard Road; then easterly along an imaginary line from said intersection to the intersection of West Las Positas Boulevard and Santa Rita Road; then southerly along said road to its intersection with Mohr Avenue; then easterly along said avenue to its intersection with Kolln Street; then southerly along said street to its intersection with Valley Avenue; then southerly from said intersection along an imaginary line to the end of Kolln Street; then southerly along Kolln Street to its intersection with Jensen Street; then westerly along Jensen Street to its intersection with Main Street; then southerly along Main Street to its intersection with Bernal Avenue; then westerly along said avenue to the point of beginning.

Contra Costa County. That portion of the county bounded by a line beginning at a point where Pine Hollow Road and Mitchell Canyon Road intersect; then southerly on Mitchell Canyon Road to its intersection with Mitchell Creek; then southerly from said intersection along an imaginary line to the peak of Mitchell Rock; then easterly from said rock along an imaginary line to the intersection of Trail Ride Road and East Trail; then due north from said intersection along an imaginary line to an unimproved and unnamed road through Irish Canyon; then northwesterly along said road to its intersection with Black Diamond Way; then westerly along Black Diamond Way to its junction with Main Street in the town of Clayton; then westerly on Main Street to its end; then westerly from the end of said street along an imaginary line to the east end of Pine Hollow Road; then westerly on Pine Hollow Road to the point of beginning.

Marin County. That portion of the county bounded by a line beginning at a point where San Marin Drive intersects Business U.S. Highway 101; then easterly on San Marin Drive to its junction with Atherton Avenue; then easterly on Atherton Avenue to its intersection with Binford Road; then northerly on Binford Road to Rush Creek;

then northeasterly along the southern boundary of Rush Creek to the northernmost corner of Marin Memorial Gardens (cemetery); then southeasterly along the eastern boundary of Marin Memorial Gardens to Bahia Drive; then easterly along an imaginary line to the west end of Laguna Vista Drive; then southeasterly from the west end of said drive along an imaginary line to the intersection of School Road and Atherton Avenue; then southeasterly on Atherton Avenue to State Highway 37; then southwesterly on State Highway 37 to its intersection with Novato Creek; then northwesterly along Novato Creek to its intersection with an unnamed tributary; then southwesterly and northwesterly along said tributary to its intersection with U.S. Highway 101; then northerly on U.S. Highway 101 to Rowland Boulevard; then westerly on Rowland Boulevard to Business U.S. Highway 101; then northerly on Business U.S. Highway 101 to the point of beginning.

Orange County. That area within San Juan Capistrano bounded on the north by Ortega Highway, on the south by Calle Arroyo, on the east by Aveneda Siega, and on the west by Calle Del Campo.

San Mateo County. That portion of the county bounded by a line beginning at a point where 27th Avenue and Alameda De Las Pulgas intersect; then northeasterly along 27th avenue to its intersection with South El Camino Real; then northeasterly along an imaginary line from said intersection to the intersection of East Hillsdale Boulevard and South Norfolk Street; then southeasterly along South Norfolk Street to its intersection with Los Prados; then southeasterly along Los Prados to its intersection with Bahia; then southeasterly along an imaginary line from said intersection to the intersection of Winchester Court and Galveston Street; then southeasterly along Galveston Street to its intersection with Bodega Street; then southerly along said street to its intersection with Chesapeake Avenue; then easterly along said avenue to its intersection with Biscayne Avenue; then southerly along an imaginary line from said intersection to the intersection of U.S. Highway 101 and Ralston Avenue; then southwesterly along Ralston Avenue to its intersection with Alameda De Las Pulgas; then northerly along Alameda De Las Pulgas to its intersection with Sharon Avenue; then westerly along said avenue to its intersection with Coronet Boulevard; then southerly along said boulevard to its intersection with Casa Bona Avenue; then westerly along said avenue to its intersection with Semeria Avenue; then northwesterly along said avenue to its intersection with Cipriani Boulevard; then westerly along said boulevard to its intersection with Wooster Avenue; then westerly along said avenue to its intersection with Thurm Avenue; then northerly along said avenue to its intersection with Bettina Avenue; then northerly along said avenue to its intersection with 42nd Avenue; then easterly along said avenue to its intersection with Kingridge Drive; then northwesterly along said drive to its merger with 36th Avenue; then northeasterly along said avenue to its intersection with Alameda De Las Pulgas; then northerly along Alameda De Las Pulgas to the point of beginning.

That portion of the county beginning at a point where El Camino Real (State Highway 82) intersects Encinal Avenue; then northwesterly along El Camino Real to its intersection with Charter; then northeasterly along Charter to its end; then northeasterly along an imaginary line from the end of Charter to the intersection of Middlefield and Charter Street; then northeasterly along Charter Street to its intersection with Broadway; then northwesterly along an imaginary line from said intersection to the intersection of Woodside Road (State Highway 84) and U.S. Highway 101; then easterly along an imaginary line from said intersection to the end of Marsh Road; then southerly along Marsh Road to its intersection with U.S. Highway 101; then southerly along an imaginary line from said intersection to the intersection of Acorn Way and Greenoaks Drive; then westerly along Acorn Way to its intersection with Catalpa Drive; then southerly along said dive to its intersection with Linden Avenue; then southerly along said avenue to its intersection with Middlefield; then westerly along Middlefield to its intersection with Encinal Avenue; then southerly along said avenue to the point of beginning.

Santa Barbara County. That portion of the county beginning at a point where U.S. Highway 101 and Lambert Road intersect; then north on Lambert Road to its end; then northerly along an imaginary line from the end of Lambert Road to the intersection of State Highway 192 and Ladera Lane; then north on said lane to its intersection with Bella Vista Drive; then due north along an imaginary line from said intersection to an imaginary point ½ mile north of and within the boundary line of the Los Padres National Forest; then westerly along an imaginary line which is ½ mile within the Los Padres National Forest boundary line to an imaginary point on Parma Creek ½ mile north of the intersection of Parma Creek and the Los Padres National Forest boundary line; then southerly along Parma Creek to its intersection with State highway 192; then southeasterly along said highway to its intersection with State Highway 144; then southerly along said highway to its intersection with Salinas Street; then southeast on said street to U.S. Highway 101; then easterly on said highway to the point of beginning.

Santa Clara County. That portion of the county bounded by a line beginning at a point where East Charleston Road intersects Independence Avenue; then southerly along said avenue to its intersection with West Middlefield Road; then easterly along said road to its intersection with Thompson Avenue; then southwesterly along said avenue to its intersection with Central Expressway; then southwest from said intersection along an imaginary line to its intersection with the intersection of Gabriel Avenue and Showers Drive; then southerly along Showers Drive to its intersection with El Camino Real; then northwesterly along El Camino Real to its intersection with San Antonio Road; then southerly along said road to its intersection with Loucks Avenue; then westerly along said avenue to its intersection with Los Altos Avenue; then northwesterly along an imaginary line from said intersection to the end of Laguna Avenue; then northwesterly along said avenue to its intersection with Matadero Avenue; then northweasterly along said avenue to its intersection with El Camino Real; then northwesterly along El Camino Real to its intersection with Lambert Avenue; then northeasterly along said avenue to its intersection with Park Boulevard; then northwesterly along an imaginary line from said intersection to the intersection of Alma Street and El Dorado Avenue; then northeasterly along said avenue to its intersection with Cowper Street; then northwesterly along said street to its intersection with Colorado Avenue; then northeasterly along said avenue to its intersection with Middlefield Road; then southeasterly along said road to its intersection with Loma Verde Avenue; then northeasterly along said avenue to its intersection with Louis Road; then southeasterly along said road to its intersection with East Meadow Drive; then northeasterly along said drive to its intersection with Fabian Way; then southerly along said way to its intersection with East Charleston Road; then easterly along said road to the point of beginning.

Connecticut

(1) *High-risk area*: The entire State.
(2) *Low-risk area*: None.

Delaware

(1) *High-risk area*:
Kent County. The entire county.
New Castle County. The entire county.
(2) *Low-risk area*:
Sussex County. The entire county.

Illinois

(1) *High-risk area*: None.
(2) *Low-risk area*:
DuPage County. SE¼ sec. 2, sec 11, W½ sec. 12, NW¼ sec. 13, and N½ sec. 14, T. 38 N., R. 9 E.; secs. 8, 9, 10, 11, 16, 17, 18, 19, 20, 29, and 30, T. 39 N., R. 10 E.; SW¼ sec. 5, S½ sec. 6, sec. 7, W½ sec. 8, NW¼ sec. 17 and N½ sec. 18, T. 38 N., R. 11 E.; and secs. 10, 11, 13, 14, 15, 16, 21, 22, and 23, T. 40 N., R. 11 E.
Kane County. SW¼ sec. 21, T. 40 N., R. 8 E.
Lake County. SE¼ sec. 28, T. 43 N., R. 10 E.; NE¼ sec. 24, T. 45 N.,R. 11 E.; and SW¼ sec. 6, T. 45 N., R. 11 E.

Maine

(1) *High-risk area:*
Androscoggin County. The entire county.
Cumberland County. The entire county.
Franklin County. The townships of Avon, Carthage, Chesterville, Farmington, Industry, Jay, New Sharon, New Vineyard, Perkins, Strong, Temple, Washington, Weld, and Wilton.
Hancock County. The entire county.
Kennebec County. The entire county.
Knox County. The entire county.
Lincoln County. The entire county.
Oxford County. The townships of Albany, Batchelders Grant, Bethel, Brownfield, Buckfield, Canton, Denmark, Dixfield, Fryeburg, Greenwood, Hanover, Hartford, Hebron, Hiram, Lovell, Mason Plantation, Mexico, Milton Plantation, Norway, Oxfor

Paris, Peru, Porter, Rumford, Stoneham, Stow, Sumner, Sweden, Waterford, and Woodstock.

Penobscot County. The townships of Alton, Argyle, Bangor City, Bradford, Bradley, Brewer City, Carmel, Charleston, Clifton, Corinna, Cornith, Dexter, Dixmont, Edinburg, Enfield, Etna, Exeter, Garland, Glenburn, Grand Falls Plantation, Greenbush, Greenfield, Hampden, Hermon, Holden, Howland, Hudson, Kenduskeag, La Grange, Levant, Lincoln, Lowell, Mattamiscontis, Maxfield, Milford, Newburgh, Newport, Old Town City, Orono, Orrington, Pasadumkeag, Plymouth, Stetson, Summit, Veazie-Eddington, and 1 ND.

Piscataquis County. The townships of Atkinson, Medford, Milo, and Otneville.

Sagadahoc County. The entire county.

Somerset County. The townships of Anson, Athens, Cambridge, Canaan, Cornville, Detroit, Embden, Fairfield, Harmony, Hartland, Madison, Mercer, New Portland, Norridgewock, Palmyra, Pittsfield, Ripley, Skowhegan, Smithfield, Solon, St. Albans, and Starks.

Waldo County. The entire county.

Washington County. The townships of Addison, Beals, Beddington, Centerville, Cherryfield, Columbia, Columbia Falls, Crawford, Deblois, East-Machias, Harrington, Jonesborro, Jonesport, Machias, Machiasport, Marshfield, Milbridge, Northfield, Rogue Bluffs, Steuben, Wesley, Whitneyville, 5 ND, 18 ED, 18 MD, 19 ED, 19 MD, 24 MD, 25 MD, 26 ED, 27 ED, 29 MD, 30 MD, 31 MD, 36 MD, 37 MD, 42 MD, and 43 MD.

York County. The entire county.

(2) *Low-risk area:*

Aroostook County. Township of Molunkus.

Franklin County. The townships of Crockertown, Dallas Plantation, Freeman, Jerusalem, Kingfield, Madrid, Mount Abraham, Phillips, Rangeley Plantation, Redington, Salem, Sandy River Plantation, 6, E, and D.

Oxford County. The townships of Andover, Andover North, Andover West, Byron, Gilead, Grafton, Magalloway Plantation, Newry, Richardsontown, Riley, Roxbury, Upton, C, and C Surplus.

Penobscot County. The townships of Burlington, Chester, E. Millinocket, Hopkins Academy Grant, Indian Purchase, Lee, Long A, Mattawamkeag, Medway, Millinocket, Winn, Woodville, Veazie Gore, AR 7, AR 8 & 9, and 3 R 1.

Piscataquis County. The townships of Abbott, Dover-Foxcroft, Guilford, Kingsbury Plantation, Parkman, Sangeville, Sebec, Wellington, and 1 R 9.

Somerset County. The townships of Bingham, Brighton Plantation, Caratunk, Concord Plantation, Highland Plantation, Lexington Plantation, Mayfield, Moscow, and Pleasant Ridge Plantation.

Washington County. The townships of Alexander, Baileyville, Baring, Calais, Cooper, Charlotte, Cutler, Dennysville, Eastport, Edmonds, Lubec, Marion, Meddybemps, Pembroke, Perry, Princeton, Robbinston, Trescott, Whiting, Plantation 14, and Plantation 21.

Maryland

(1) *High-risk area:*

Baltimore City. The entire city.

Baltimore County. The entire county.

Carroll County. The entire county.

Cecil County. The entire county.

Frederick County. The entire county.

Harford County. The entire county.

Kent County. That portion of the county bounded by a line beginning at a point where State Highway 290 intersects the Kent County-Queen Annes County Line; then north along said highway to its intersection with the Maryland-Delaware state line; then south along said line to its intersection with the Kent County-Queen Annes County line; then west along said line to the point of beginning.

Washington County. The entire county.

(2) *Low-risk area:*

Allegany County. The entire county.

Anne Arundel County. The entire county.

Caroline County. The entire county.

Dorchester County. The entire county.

Howard County. The entire county.

Kent County. That portion of the county bounded by a line beginning at a point where State Highway 290 intersects the Kent County-Queen Annes County line; then north along said highway to its intersection with the Maryland-Delaware state line; then north along said line to its intersection with Kent County-Cecil County line; then westward, southward, and eastward along the Kent County line to the point of beginning.

Montgomery County. The entire county.

Prince Georges County. The entire county.

Queen Annes County. The entire county.

Talbot County. The entire county.

Wicomico County. The entire county.

Worcester County. The entire county.

Massachusetts

(1) *High-risk area:* The entire State.

(2) *Low-risk area:* None.

Michigan

(1) *High-risk area:*

Isabella County. Sec. 33, T. 13 N., R. 4 W.; and sec. 35, T. 14 N., R. 6 W.

(2) *Low-risk area:*

Arenac County. The entire county.

Bay County. The entire county.

Berrien County. Sec. 1 and 2, T. 3 S., R. 18 W.

Clare County. The entire county.

Genesee County. The entire county.

Gladwin County. The entire county.

Grand Traverse County. Sec. 36, T. 28 N., R. 11 W.

Gratiot County. The entire county.

Isabella County. Entire county *except* sec. 33, T. 13 N., R. 4 W.; and sec. 35, T. 14 N., R. 6 W.

Kalamazoo County. Sec. 1 and 2, T. 1 S., R. 11 W., and sec. 16 and 17, T. 3 S., R. 11 W.

Kent County. Sec. 27, T. 5 N., R. 10 W.

Livingston County. Sec. 10, 11, 14, and 15, T. 1 N., R. 5 E., and sec. 13 and 14, T. 3 N., R. 6 E.

Mecosta County. The entire county.

Midland County. The entire county.

Montcalm County. The entire county.

Muskegon County. Sec. 6 and 7, R. 16 W., T. 9 N., and sec. 1 and 2, R. 17 W., T. 9 N.

Oakland County. The entire county.

Osceola County. The entire county.

Ottawa County. Secs. 23, 24, 25, and 26, T. 7 N., R. 16 W.

Saginaw County. The entire county.

Van Buren County. Sec. 15, 16, 21, and 22, T. 3 S., R. 13 W.

Nebraska

(1) *High-risk area:* None.

(2) *Low-risk area:*

Lancaster County. SE¼ sec. 1, E½ sec. 12, NE¼ sec. 13, T. 10 N., R. 5 E., and S½ sec. 6, sec. 7, N½ sec. 18, T. 10 N., R. 6 E.

New Hampshire

(1) *High-risk area:*

Belknap County. The entire county.

Carroll County. The entire county.

Cheshire County. The entire county.

Grafton County. The entire county.

Hillsboro County. The entire county.

Merrimack County. The entire county.

Rockingham County. The entire county.

Strafford County. The entire county.

Sullivan County. The entire county.

(2) *Low-risk area:*

Coos County. The entire county.

New Jersey

(1) *High-risk area:* The entire State.

(2) *Low-risk area:* None.

New York

(1) *High-risk area:*

Albany County. The entire county.

Bronx County. The entire county.

Broome County. The entire county.

Cayuga County. The towns of Fleming, Genoa, Ledyard, Locke, Moravia, Niles, Owasco, Scipio, Sempronius, Springport, Sterling, Summer Hill, and Venice.

Chemung County. The entire county.

Chenango County. The towns of Afton, Bainbridge, Coventry, German, Greene, Guilford, McDonough, New Berlin, North Norwich, Oxford, Pharsalia, Pitcher, Plymouth, Preston, Smithville, and the city of Norwich.

Clinton County. The entire county.

Columbia County. The entire county.

Cortland County. The towns of Cincinnatus, Cortlandville, Freetown, Hartford, Lapeer, Marathon, Solon, Taylor, Virgil, Willet, and the city of Cortland.

Delaware County. The entire county.

Dutchess County. The entire county.

Essex County. The entire county.

Franklin County. The entire county.

Fulton County. The entire county.

Greene County. The entire county.

Jefferson County. The town of Cape Vincent.

Kings County. The entire county.

Livingston County. The town of Ossian.

Madison County. The town of Sullivan.

Monroe County. The entire county.

Montgomery County. The entire county.

Nassau County. The entire county.

New York County. The entire county.

Oneida County. The towns of Annsville, Camden, Deerfield, Lee, Marcy, New Hartford, Rome City, Utica City, Verona, Vienna, Western, Westmoreland, and Whitestown.

Onondaga County. The towns of Clay, Lafayette, and Otisco.

Orange County. The entire county.

Otsego County. The entire county.

Oswego County. The towns of Constantia, Hastings, Palermo, Schroeppel, Volney, and West Monroe.

Putnam County. The entire county.

Queens County. The entire county.

Rensselaer County. The entire county.

Richmond County. The entire county.

Rockland County. The entire county.

Saratoga County. The entire county.

Schenectady County. The entire county.

Schoharie County. The entire county.

Schuyler County. The entire county.

Seneca County. The towns of Covert, Lodi, Ovid, Romulus, and Varick.

St. Lawrence County. The towns of Brasher, Hopkinson, Lawrence, Louisville, Massena, Norfolk, and Stockholm.

Steuben County. The towns of Addison, Bath, Bradford, Cameron, Campbell, Caton, Corning, Corning City, Dansville, Erwin, Hornby, Lindley, Prattsburg, Pulteney, Rathbone, Thurston, Tuscarora, Urbana, Wayland, Wayne, Wheeler, and Woodhull. City, Erwin, Hornby, Lindley, and Pulteney.

Suffolk County. The entire county.

Sullivan County. The entire county.

Tioga County. The entire county.

Tompkins County. The entire county.

Ulster County. The entire county.

Warren County. The entire county.

Washington County. The entire county.

Westchester County. The entire county.

Yates County. The towns of Barrington, Jerusalem, Milo, Starkey, and Torrey.

(2) *Low-risk area:*

Allegany County. The entire county.

Cattaraugus County. The entire county.

Cayuga County. The towns of Aurelius, Brutus, Cato, Conquest, Ira, Mentz, Montezuma, Sennett, Throop, and Victory.

Chautauqua County. The entire county.

Chenango County. The towns of Columbus, Lincklaen, Otselie, Smyrna, and Sherburne.

Cortland County. The towns of Cuyler, Homer, Preble, Scott, and Truxton.

Erie County. The entire county.

Genesee County. The entire county.

Hamilton County. The entire county.

Herkimer County. The entire county.

Jefferson County. The entire county *except.* the town of Cape Vincent.

Lewis County. The entire county.

Livingston County. The entire county *except* the town of Ossian.

Madison County. The entire county *except* the town of Sullivan.

Niagara County. The entire county.

Oneida County. The towns of Augusta, Ava, Boonville, Bridgewater, Florence, Floyd, Forestport, Kirkland, Marshall, Paris, Remsen, Sangerfield, Steuben, Trenton, and Vernon.

Onondaga County. The entire county *except* the towns of Clay, Lafayette, and Otisco.

Ontario County. The entire county.

Orleans County. The entire county.

Oswego County. The entire county *except* the towns of Constantia, Hastings, Palermo, Schroeppel, Volney, and West Monroe.

Seneca County. The towns of Fayette, Junus, Seneca Falls, Tyre, and Waterloo.

Steuben County. The towns of Avoca, Canisteo, Conocton, Fremont, Greenwood, Hartsville, Hornellsville, Howard, Jasper, Troupsburg, and West Union.

St. Lawrence County. The entire county *except* the towns of Brasher, Hopkinson, Lawrence, Louisville, Massena, Norfolk, and Stockholm.

Wayne County. The entire county.

Wyoming County. The entire county.

Yates County. The towns of Benton, Italy, Middlesex, and Potter.

North Carolina

(1) *High-risk area:* None.

(2) *Low-risk area:*

Carteret County. That area bounded by a line beginning at a point on the northern shoreline of Taylors Creek and running north on an imaginary course to the intersection of State Secondary Road 1310 and State Secondary Road 1311; then northerly along State Secondary Road 1311 to its ending; then northerly along an imaginary line to its intersection with North River; then southwesterly along North River shoreline to its junction with Taylors Creek; then westerly along Taylors Creek to the point of beginning.

Johnston County. That property known as the Lakeview KOA Campground on the southeast side of Interstate Highway 95 and located 0.5 mile from the junction of Interstate Highway 95 and U.S. Highway 70A.

Wake County. That area bounded by a line beginning at a point where Millbrook Road intersects Windy Hill Drive; then north on said drive to its intersection with Quail Ridge Road; then northeasterly on said road to its intersection with the powerline right-of-way; then southeasterly along said right-of-way to its intersection with Departure Drive; then south on said drive to its intersection with Millbrook Road; then northwesterly on said road to its intersection with Lacy Avenue; then southwesterly on said avenue to its intersection with 2nd Street; then northwesterly on said street to its intersection with Millbrook Road and Old Wake Forest Road; then westerly on Millbrook Road to the point of beginning.

Ohio

(1) *High-risk area:* None.

(2) *Low-risk area:*

Columbiana County. That portion of the city of Salem and Perry Township bounded by a line beginning at a point where Painter Road and Brooklyn Avenue intersect, then south along Brooklyn Avenue to its itersection with 3rd Avenue, then west along 3rd Avenue to its intersection with Highland Avenue, then north along Highland Avenue to its intersection with Painter Road, then east along Painter Road to the point of beginning.

Franklin County. That portion of the village of Blacklick bounded by a line beginning at a point where Blacklick Creek and Columbus-Newark Road intersect; then west along said road to its intersection with Taylor Station Road; then northerly along said road to its intersection with Taylor Road; then easterly along said road to its intersection with Reynoldsburg-New Albany Road; then due east from said intersection along an imaginary line to its intersection with Blacklick Creek; then southerly along said creek to the point of beginning.

That portion of the city of Gahanna bounded by a line beginning at a point where Morse Road and Shull Road intersect; then southerly along said road to its intersection with Headley Road; then east along Headley Road to its intersection with Clark State Road; then southwesterly along said road, to its intersection with Clofts Road; then northerly along said road to its intersection with Columbus-Millersburg Road; then northeasterly along said road to its intersection with Morse Road; then east along said road to the point of beginning.

Hamilton County. That portion of the city of Cincinnati bounded by a line beginning at a point where Wasson Road intersects with Paxton Avenue; then south along said avenue to its intersection with Erie Avenue; then west along said avenue to its intersection with Edwards Road; then north along said road to its intersection with Wasson Road; then east along said road to the point of beginning.

That portion of Anderson Township bounded by a line beginning at a point where Lawyer Road intersects with Hunley Road; then northeast along said road to its intersection with Wolfangle Road; then southerly along said road to its intersection with Clough Pike; then southwest, southwesterly, and northwest along said pike to its intersection with Newtown Road; then northeast along said road to its intersection with Lawyer Road; then southeast along said road to the point of beginning.

Knox County. That portion of Clinton and Morris Townships bounded by a line beginning at a point where McKensie Road and the eastern boundary line of Morris Township intersect; then south along said township line to its intersection with the northern boundary line of the city limit line of the city of Mt. Vernon; then westerly, northerly, and westerly along said city limit line to its intersection with Mansfield Road; then northerly along said road to its intersection with McKensie Road; then easterly along said road to the point of beginning.

Lucas County. That portion of the city of Sylvania bounded by a line beginning at a point where Monroe Street and Whiteford Road intersect; then south along said road to its intersection with Cory Road, then northwest along said road to its intersection with Monroe Street, then southeast along said street to the point of beginning.

Oregon

(1) *High-risk area:* None.

(2) *Low-risk area:*

Marion County. That portion of the city of Salem beginning at a point where Liberty Road S.E. intersects Salem Heights Avenue; then east along said avenue to Ratcliff Drive; then easterly along said drive to its intersection with Bluff Avenue; then due east from said intersection along an imaginary line to the Southern Pacific Railroad; then southeast along said railroad to its intersection with Madrona Avenue; then southwest along said avenue to its intersection with Strong Road; then southeast along said road to its intersection with Reed Road; then southwest along said road to its intersection with Battle Creek Road; then southeast along said road to its intersection

with Boone Road; then east along said road to its intersection with Interstate Highway 5; then southerly along said highway to its intersection with Delaney Road; then westerly along said road to its intersection with Sunnyside Road; then north along said road to its intersection with Hylo Road; then west along said road to its intersection with Liberty Road; then north along said road to its intersection with Cole Road; then westerly along said road to its intersection with Moore Road; then northwesterly along said road to its intersection with Skyline Road; then northeast along said road to its intersection with Liberty Road; then northeast along said road to the point of the beginning.

Sec. 23, T. 7 S., R. 3 W.

Secs. 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, and 35, T. 8 S., R. 3 W.

Secs. 6, 7, 17, 18, 19, 20, 28, 29, 30, and S½ of 21, T. 8 S., R. 2 W.

Pennsylvania

(1) *High-risk area:*

Adams County. The entire county.
Bedford County. The entire county.
Berks County. The entire county.
Blair County. The entire county.
Bradford County. The entire county.
Bucks County. The entire county.
Cambria County. The entire county.
Cameron County. The entire county.
Carbon County. The entire county.
Centre County. The entire county.
Chester County. The entire county.
Clearfield County. The entire county.
Clinton County. The entire county.
Columbia County. The entire county.
Cumberland County. The entire county.
Dauphin County. The entire county.
Delaware County. The entire county.
Elk County. The entire county.
Franklin County. The entire county.
Fulton County. The entire county.
Huntingdon County. The entire county.
Indiana County. The entire county.
Jefferson County. The entire county.
Juniata County. The entire county.
Lachawanna County. The entire county.
Lancaster County. The entire county.
Lebanon County. The entire county.
Lehigh County. The entire county.
Luzerne County. The entire county.
Lycoming County. The entire county.
Mifflin County. The entire county.
Monroe County. The entire county.
Montgomery County. The entire county.
Montour County. The entire county.
Northampton County. The entire county.
Northumberland County. The entire county.
Perry County. The entire county.
Philadelphia County. The entire county.
Pike County. The entire county.
Potter County. The entire county.
Schuylkill County. The entire county.
Somerset County. The entire county.
Snyder County. The entire county.
Sullivan County. The entire county.
Susquehanna County. The entire county.
Tioga County. The entire county.
Union County. The entire county.
Wayne County. The entire county.
Wyoming County. The entire county.
York County. The entire county.

(2) *Low-risk area:* Counties not designated as high-risk area.

Rhode Island

(1) *High-risk area:* The entire State.
(2) *Low-risk area:* None.

Vermont

(1) *High-risk area:*

Addison County. The entire county.
Bennington County. The entire county.
Chittenden County. The entire county.
Franklin County. The entire county.
Grand Isle County. The entire county.
Rutland County. The entire county.
Windham County. The entire county.
Windsor County. The entire county.

(2) *Low-risk area:*

Caledonia County. The entire county.
Essex County. The entire county.
Lamoille County. The entire county.
Orange County. The entire county.
Orleans County. The entire county.
Washington County. The entire county.

Virginia

(1) *High-risk area*. None.

(2) *Low-Risk area:*

Arlington County. The entire county.
City of Alexandria. The entire city.
City of Fairfax. The entire city.
City of Falls Church. The entire city.
City of Manassas. The entire city.
City of Winchester. The entire city.
Clarke County. The entire county.
Culpeper County. That portion of the county beginning at a point where Fauquier, Rappahannock, and Culpeper Counties intersect with the Rappahannock River; then southwest along the Culpeper-Rappahannock County line to its intersection with State Road 729; then southerly along State Road 729 to its intersection with State Road 685; then easterly along State Road 685 to its intersection with State Road 625; then northeasterly along State Road 625 to its intersection with Muddy Run; then east along Muddy Run to its intersection with the Hazel River; then easterly along the Hazel River to its intersection with the Rappahannock River; then northerly and westerly along the Rappahannock River to the point of beginning.
Fairfax County. The entire county.
Fauquier County. The entire county.
Floyd County. That area bounded by a line beginning at the junction of State Highways 8 and 750; thence southwesterly along State Highway 750 to its westernmost junction with State Highway 738; thence northwesterly along State Highway 738 to its junction with State Highway 737; thence southwesterly along State Highway 737 to its junction with State Highway 739; thence southeasterly along State Highway 739 to its junction with State Highway 730; thence easterly along State Highway 730 to its junction with State Highway 705; thence northeasterly along State Highway 705 to its junction with State Highway 8; thence northwesterly along State Highway 8 to the point of origin.
Frederick County. The entire county.
Loudoun County. The entire county.
Lunenburg County. That portion of the county bounded by a line beginning at a point where State Highway 712 and Gills Creek intersect; then southeast along an imaginary line to its intersection with State Highway 687 and State 628; then southwest along State Highway 628–687 to its intersection with State Highway 688; then southwest on State Highway 687 to an imaginary point 0.6 mile southwest of the intersection of State Highway 628–687 and State Highway 688; then west along an imaginary line from said imaginary point to the end of State Highway 698; then northwest along said highway to its intersection with State Highway 628; then northwest from said intersection along an imaginary line to the intersection of State Highway 712 and the Charlotte County-Lunenburg County Line; then northeast along State Highway 712 to the point of beginning.
Prince William County. The entire county.
Shenandoah County. That portion of the county which lies north and east of State Road 675.
Stafford County. The entire county.
Warren County. The entire county.

Washington

(1) *High-risk area:* None.

(2) *Low-risk area:*

Clark County. That portion of the county bounded by a line beginning at a point where Interstate 5 intersects N.W. 179th Street, then southerly along Interstate 5 to its intersection with N.W. 78th Street, then west on said street to its end, then due west along an imaginary line from the end of N.W. 78th Street to the Columbia River, then northerly along said river to an imaginary point which is due west from the intersection of N.W. 179th Street and N.W. 41st Avenue, and then due east from said imaginary point along an imaginary line to the intersection of N.W. 179th Street and N.W. 41st Avenue, then west along N.W. 179th Street to the point of beginning.

That portion of the county bounded by a line beginning at a point where the Columbia River shoreline intersects N.W. 179th Street; then easterly along said street to its intersection with Interstate 5; then southerly along Interstate 5 to its intersection with N.E. 78th Street; then due west from said intersection along an imaginary line to its intersection with the Columbia River shoreline; then north along the Columbia River shoreline to the point of beginning.
King County. The entire county.
Kitsap County. The entire county.
Pierce County. The entire county.

West Virginia

(1) *High-risk area:* None.

(2) *Low-risk area:*

Berkeley County. The entire county.
Jefferson County. The entire county.
Morgan County. The entire county.

Wisconsin

(1) *High-risk area:* None.

(2) *Low-risk area:*

Dane County. That portion of the city of Monona beginning at a point where Lake Monona shoreline and Winnequah Road intersects; thence easterly on said road to its intersection with Schluter Road; thence northeasterly on said road to its intersection with Maywood Road; thence northeasterly along said road to its intersection with Greenway Road; thence east on said road to its intersection with Midmoor Road; thence northerly on said road to its intersection with

Outlook Street; thence northwesterly on said street to its intersection with Lake Monona shoreline; thence southeasterly along said shoreline to the point of beginning.

Waukesha County. N½ Sec. 2, and NE¼ Sec. 3, T. 7 N., R. 17 E; SE¼ Sec. 34, and S½ Sec. 35, T. 8 N, R. 17 E.

That portion of the city of Elm Grove bounded by a line beginning at a point where Juneau Boulevard and Highland Drive intersect; then north on Highland Drive to its intersection with North Avenue; then east on North Avenue to its intersection with CM ST P&P railroad tracks; then southeasterly along said tracks to its intersection with Juneau Boulevard; then west on Juneau Boulevard to the point of beginning.

* * * * *

(Secs. 8 and 9, 37 Stat. 318, as amended, secs. 105 and 106, 71 Stat. 32, 33; (7 U.S.C. 161, 162, 150dd, 150ee); 37 FR 28464, 28477, as amended; 38 FR 19141)

Done at Washington, D.C., this 16th day of March 1983.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 83-7239 Filed 3-18-83; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 403; Lemon Reg. 402, Amdt. 1]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period March 20–26, 1983, and increases the quantity of lemons that may be shipped during the period March 13–19, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective March 20, 1983, and the amendment is effective for the period March 13–19, 1983.

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

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the California-Arizona lemon crop for the benefit of producers, and will not substantially affect costs for the directly regulated handlers.

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910; 47 FR 50196), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on July 6, 1982. The committee met again publicly on March 15, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons has improved.

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

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

1. Section 910.703 is added as follows:

§ 910.703 Lemon Regulation 403.

The quantity of lemons grown in California and Arizona which may be handled during the period March 20, 1983, through March 26, 1983, is established at 250,000 cartons.

2. Section 910.702 Lemon Regulation 402 (48 FR 10292) is revised to read as follows:

§ 910.702 Lemon Regulation 402.

The quantity of lemons grown in California and Arizona which may be handled during the period March 13, 1983, through March 19, 1983, is established at 270,000 cartons.

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

Dated: March 17, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-7308 Filed 3-18-83; 8:45 am]

BILLING CODE 3410-02-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Revision 2—Amdt. 27]

Delegation of Authority to Conduct Program Activities in Field Offices

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: The Regional Administrator in Region IV proposed a change to the Delegations of Authority for Fieldl Offices which would implement the consolidation, over the next 180 days, of the Surety Bond Guarantee Program at the regional office level in his region. This proposal necessitated increasing the delegated authority of Region IV's Assistant Regional Administrator for Finance and Investment from $500,000 to $1,000,000, and the Surety Bond Coordinator from $250,000 to $500,000. This change was approved. The increased authority will enable the Surety Bond Guarantee Program personnel in the Atlanta Regional Office to process the Surety Bond Guarantee Program workload received from Region IV district offices.

EFFECTIVE DATE: March 21, 1983.

FOR FURTHER INFORMATION CONTACT: Ronald Allen, Paperwork Management Branch, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416. Telephone No. (202) 653–8538.

SUPPLEMENTARY INFORMATION: Part 101 consists of rules relating to the Agency's organization and procedures; therefore, notice of proposed rulemaking and

public participation thereon as prescribed in 5 U.S.C. 553 is not required and this amendment to Part 101 is adopted without resort to those procedures.

List of Subjects in 13 CFR Part 101

Authority delegations (Government agencies), Administrative practice and procedure, Organization and functions (Government agencies).

All actions guaranteeing sureties against portion of losses resulting from the breach of bid payment, or performance bonds on contracts, taken by the Assistant Regional Administrator for Finance and Investment and the Surety Bond Coordinator in the Atlanta Regional Office for the period including January 24, 1983 until publication of this amendment in the **Federal Register** are hereby ratified.

For the reasons set forth in the preamble and pursuant to authority in Section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, Part 101, 13 CFR 101.3–2 is amended as set forth below:

Part III, Section C, paragraph 1., subparagraphs a. through i. are revised as a. through j. as follows:

a. Regional Administrator	$1,000,000
b. Deputy Regional Administrator	1,000,000
c. Assistant Regional Administrator/F&I, except Atlanta, R.O	500,000
d. Assistant Regional Administrator/F&I, Atlanta R.O only	1,000,000
e. Supervisory Surety Bond Guarantee Specialist, Philadelphia R.O only	500,000
f. Surety Bond Coordinator, Atlanta R.O only	500,000
g. District Director and Deputy District Director, San Francisco and all Region IV district offices only	500,000
h. Assistant District Director/F&I, San Francisco and all Region IV district offices only	500,000
i. Senior Surety Bond Guarantee Specialist	250,000
j. Surety Bond Officer	250,000

(Sec. 5(b)(6), Small Business Act, 15 U.S.C. 634)

Dated: March 11, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-7257 Filed 3-18-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 23401; SC No. 23-ACE-2]

Special Conditions; New Zealand Aerospace Industries, Ltd., Model Cresco Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These Special Conditions are issued to New Zealand Aerospace Industries, Ltd., (NZAI) to become a part of the type certification basis for NZAI Model Cresco airplane. The airplane will have novel or unusual design features associated with a turbopropeller installation on a single-engine airplane for which the applicable airworthiness standards of Part 23 of the Federal Aviation Regulations (FAR) do not contain adequate or appropriate safety standards. These Special Conditions contain the additional safety standards which the Administrator finds necessary to establish a level of safety equivalent to that established in the regulations applicable to the Model Cresco airplane.

EFFECTIVE DATE: April 20, 1983.

FOR FURTHER INFORMATION CONTACT: J. Robert Ball, Aerospace Engineer, Regulations and Policy Office (ACE-110), Aircraft Certification Division, Central Region, Federal Aviation Administration, Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Type Certification Basis

The applicable airworthiness standards for import products are those regulations designated in accordance with § 21.29 of the FAR and are known as the "type certification basis" for the airplane design. The type certification basis for the New Zealand Aerospace Industries, Ltd., Model Cresco airplane is as follows: Part 23 of the FAR effective February 1, 1965, through Amendment 23-25, effective March 6, 1980; Part 36 of the FAR effective December 1, 1969 through Amendment 36-9; Special Federal Aviation Regulation (SFAR) No. 27 effective February 1, 1974, through Amendment 27-3; and the Special Conditions adopted by this rulemaking action.

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

Background

On May 29, 1978, New Zealand Aerospace Industries, Ltd., filed an application for a United States issued type certificate for its Model Cresco airplane under the procedures as set forth in § 21.29 of the FAR for a showing of compliance with the airworthiness standards of Part 23 of the FAR. The type certificate was not issued within the three-year limit established by § 21.17(b) of the FAR. The applicant (NZAI) requested two extensions to the original type certificate application pursuant to § 21.17(c)(2) of the FAR and recommended October 13, 1980, as the new date of effectivity for applicable airworthiness requirements. The FAA granted the requested time extension, and the New Zealand Civil Aviation Division was advised that the type certification basis would be revised to reflect additional airworthiness standards of Part 23 of the FAR.

The Model Cresco is a single-engine airplane of conventional metal construction with maximum certificated takeoff weights of 6,450 pounds for operation as a normal category airplane and 7,000 pounds in the restricted category when used for agricultural purposes. The airplane is powered by an Avco Lycoming LTPO 101 turbine engine rated at 600 shaft horsepower (SHP) and equipped with a Hartzell three-bladed propeller. The turbopropeller engine is mounted on a long mount forward of the fuselage. While dynamic loads imposed on the aircraft structure by such turbopropeller engine installations were considered when the regulations were promulgated by Amendment 23-7, effective September 14, 1969 (34 FR 13078), for multiengine airplanes, single-engine installations were not envisioned at that time.

Discussion of Comments

One public comment was received in response to Notice No. SC-82-4-CE which was published in the **Federal Register** on November 26, 1982 (47 FR 53397). The one commenter, General Aviation Manufacturers Association (GAMA), had no objection to the Special Conditions as published in the notice.

List of Subjects

14 CFR Part 21

Air transportation, Aircraft, Aviation safety, Safety.

14 CFR Part 23

Air transportation, Aircraft, Aviation safety, Safety, Tires.

Adoption of the Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, Special Conditions No. 23-ACE-2 are adopted for the New Zealand Aerospace Industries, Ltd., Model Cresco airplane, effective April 20, 1983, as follows:

Dynamic Evaluation, Engine Installation

In addition to the requirements in § 23.629 of the FAR, the dynamic evaluation of the airplane must include:

1. Whirlmode degree of freedom which takes into account the stability of the plane of rotation of the propeller and significant elastic, inertial, and aerodynamic forces; and
2. Engine-propeller-engine mount stiffness and damping variations appropriate to the particular configuration.

(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) of the Department of Transportation Act (49 U.S.C. 1655(c)); and Sec. §11.49(b) of the Federal Aviation Regulations (14 CFR 11.49(b)))

Issued in Kansas City, Missouri, on March 4, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-7012 Filed 3-18-83; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 82-ASW-84]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Alteration of Transition Area; De Ridder, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the transition area at De Ridder, LA. The intended effect of the amendment is to provide controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Beauregard Parish Airport. This amendment is necessary since the relocation of the nondirectional radio beacon (NDB) and the installation of an instrument landing system (ILS).

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 877-2640.

SUPPLEMENTARY INFORMATION:

History

On January 3, 1983, a notice of proposed rulemaking was published in the **Federal Register** (48 FR 29) stating that the Federal Aviation Administration proposed to alter the De Ridder, LA, transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Control zones and/or transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart G of Part 71, § 71.181 of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3A dated January 3, 1983, is amended, effective 0901 G.m.t., April 14, 1983, as follows:

De Ridder, LA Revised

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Beauregard Parish Airport (latitude 30°50'00"N., longitude 93°20'30"W.)

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.61(c))

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, 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 Fort Worth, TX, on March 8, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83-7013 Filed 3-18-83; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 97

[Docket No. 23566; Amdt. No. 1238]

Air Traffic and General Operating Rules; Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Pubic Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures and Airspace Branch (AFO-730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence

Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

** * * Effective April 28, 1983*

Flippin, AR—Marion County Regional, VOR-A, Amdt. 10
Sacramento, CA—Sacramento Executive, VOR Rwy 2, Amdt. 8
Chester, CT—Chester, VOR-A, Amdt. 2
Morris, IL—Morris Muni, VOR-A, Amdt. 8
Peoria, IL—Greater Peoria, VOR Rwy 12 (TAC), Amdt, 19
Peoria, IL—Greater Peoria, VOR/DME or TACAN Rwy 30, Amdt. 5
Westfield, MA—Barnes Muni, VOR Rwy 20, Amdt. 18
Westfield, MA—Barnes Muni, VOR or TACAN Rwy 2, Amdt. 2
Ann Arbor, MI—Ann Arbor Muni, VOR Rwy 6, Amdt. 11
Ann Arbor, MI—Ann Arbor Muni, VOR Rwy 24, Amdt. 10
Gaylord, MI—Otsego County, VOR Rwy 9, Amdt. 4
Gaylord, MI—Otsego County, VOR Rwy 27, Amdt. 4
Three Rivers, MI—Three Rivers Muni Dr. Haines, VOR-A, Amdt. 7
Ainsworth, NE—Ainsworth Muni, VOR Rwy 17, Amdt. 6
Ainsworth, NE—Ainsworth Muni, VOR Rwy 35, Amdt. 2
Jaffrey, NH—Jaffrey Muni—Silver Ranch, VOR-A, Amdt. 3
Binghamton, NY—Edwin A. Link Field-Broome County, VOR Rwy 10, Amdt. 5
Binghamton, NY—Edwin A. Link Field-Broome County, VOR/DME Rwy 28, Amdt. 8
Wallace, NC—Henderson Field, VOR/DME-A, Amdt. 3
Seven Springs Borough, PA—Seven Springs, VOR-A, Amdt. 1
State College, PA—State College Air Depot, VOR-A, Amdt. 8, cancelled
Austin, TX—Tims Airpark, VOR/DME Rwy 18, Original
Austin, TX—Tims Airpark, VOR/DME-A, Amdt. 4, cancelled
Cleveland, TX—Cleveland Muni, VOR-A, Amdt. 2
Gruver, TX—Cluck Ranch, VOR/DME-A, Amdt. 1
Gruver, TX—Gruver Muni, VOR/DME-A, Amdt. 1

** * * Effective April 14, 1983*

Grand Canyon, AZ—Grand Canyon National Park, VOR Rwy 3, Amdt. 4
Mansfield, OH—Mansfield Lahm Muni, VOR Rwy 14, Amdt. 10
Mansfield, OH—Mansfield Lahm Muni, VOR Rwy 32, Amdt. 3

** * * Effective March 9, 1983*

Austin, MN—Austin Muni, VOR Rwy 17, Amdt. 11
Austin, MN—Austin Muni, VOR Rwy 35, Amdt. 11

** * * Effective February 28, 1983*

Ardmore, OK—Downtown Ardmore, VOR-A, Amdt. 10

** * * Effective February 25, 1983*

Kremmling CO—Kremmling, VOR/DME-A, Original

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

** * * Effective April 28, 1983*

Auburn, AL—Auburn-Opelika Robert G. Pitts, LOC/DME Rwy 36, Original
Elmira, NY—Chemung County, LOC BC Rwy 6, Amdt. 1
Schenectady, NY—Schenectady County, LOC Rwy 4, Amdt. 2

** * * Effective April 14, 1983*

Mansfield, OH—Mansfield Lahm Muni, LOC BC Rwy 14, Amdt. 4

3. By amending Part 97.27 NDB/ADF SIAPs identified as follows:

** * * Effective April 28, 1983*

Sacramento, CA—Sacramento Executive, NDB Rwy 2, Amdt. 8
Peoria, IL—Greater Peoria, NDB Rwy 30, Amdt. 11
Pratt, KS—Pratt Muni, NDB Rwy 17, Amdt. 2
Westfield, MA—Barnes Muni, NDB Rwy 20, Amdt. 13
Gaylord, MI—Otsego County, NDB Rwy 9, Amdt. 5
Three Rivers, MI—Three Rivers Muni Dr. Haines, NDB Rwy 27, Amdt. 5
Binghamton, NY—Edwin A. Link Field—Broome County, NDB Rwy 34, Amdt. 15
Elmira, NY—Chemung County, NDB Rwy 24, Amdt. 11
Schenectady, NY—Schenectady County, NDB Rwy 22, Amdt. 11
Idabel, OK—Idabel, NDB Rwy 17, Amdt. 1
Athens, TX—Athens Muni, NDB Rwy 35, Amdt. 2
Gruver, TX—Gruver Muni, NDB Rwy 20, Amdt. 1
Hereford, TX—Hereford Muni, NDB Rwy 21, Amdt. 1

** * * Effective April 14, 1983*

Sturgis, KY—Sturgis Muni, NDB Rwy 36, Amdt. 3
Basking Ridge, NJ—Somerset Hills, NDB-A, Amdt. 5, cancelled
Mansfield, OH—Mansfield Lahm Muni, NDB Rwy 32, Amdt. 8

** * * Effective February 28, 1983*

Ardmore, OK—Downtown Ardmore, NDB Rwy 35, Amdt. 3

4. By amending Part 97.29 ILS-MIS SIAPs identified as follows:

** * * Effective April 28, 1983*

Sacramento, CA—Sacramento Executive, ILS Rwy 2, Amdt. 21
Atlanta, GA—The William B Hartsfield Atlanta INTL, ILS Rwy 9L, Amdt. 3
Atlanta, GA—The William B Hartsfield Atlanta INTL, ILS Rwy 27R, Amdt. 1
Peoria, IL—Greater Peoria, ILS Rwy 12, Amdt. 2
Peoria, IL—Greater Peoria, ILS Rwy 30, Amdt. 2
Portland, ME—Portland Intl Jetport, ILS Rwy 11, Amdt. 18
Westfield, MA—Barnes Muni, ILS Rwy 20, Amdt. 3
Binghamton, NY—Edwin A. Link Field-Broome County, ILS Rwy 16 Amdt. 1
Binghamton, NY—Edwin A. Link Field-Broome County, ILS Rwy 34, Amdt. 19
Elmira, NY—Chemung County, ILS Rwy 24, Amdt. 13
Bismarck, ND—Bismarck Muni, ILS Rwy 13, Amdt. 1
LaCrosse, WI—LaCrosse Muni, ILS Rwy 18, Amdt. 11

** * * Effective April 14, 1983*

Mansfield, OH—Mansfield Lahm Muni, ILS Rwy 32, Amdt. 11

** * * Effective March 3, 1983*

Washington, DC—Dulles Int., ILS Rwy 19R, Amdt. 17

5. By amending Part 97.31 RADAR SIAPs identified as follows:

** * * Effective April 28, 1983*

Sarasota (Bradenton), FL—Sarasota-Bradenton, RADAR-1, Amdt. 3
Peoria, IL—Greater Peoria, RADAR-1, Amdt. 9
Binghamton, NY—Edwin A. Link Field-Broome County, RADAR-1, Amdt. 6

** * * Effective March 3, 1983*

Washington, DC—Dulles Intl, RADAR-1, Amdt. 11

5. By amending § 97.33 RNAV SIAPs identified as follows:

** * * Effective April 28, 1983*

Mobile, AL—Bates Field, RNAV Rwy 9, original
Peoria, IL—Greater Peoria, RNAV Rwy 4, Amdt. 4
Peoria, IL—Greater Peoria, RNAV Rwy 22, Amdt. 5
Ann Arbor, MI—Ann Arbor Muni, RNAV Rwy 24, Amdt. 3
Binghamton, NY—Edwin A. Link Field-Broome County, RNAV Rwy 10, Amdt. 1, cancelled
Binghamton, NY—Edwin A. Link Field-Broome County, RNAV Rwy 16, Amdt. 1, cancelled
Binghamton, NY—Edwin A. Link Field-Broome County, RNAV Rwy 28, Amdt. 1, cancelled

** * * Effective April 14, 1983*

Mansfield, OH—Mansfield Lahm Muni, RNAV Rwy 23, Amdt. 4

** * * Effective March 3, 1983*

Washington, D.C.—Dulles Intl, RNAV Rwy 19R, Amdt. 6
White Plains, NY—Westchester County, RNAV Rwy 34, Amdt. 3

** * * Effective February 28, 1983*

Ardmore, OK—Downtown Ardmore, RNAV Rwy 17, Amdt. 2
Ardmore, OK—Downtown Ardmore, RNAV Rwy 35, Amdt. 2

** * * Effective February 24, 1983*

Oklahoma City, OK—Clarence E. Page Muni, RNAV Rwy 17, Amdt. 2
Oklahoma City, OK—Clarence E. Page Muni, RNAV Rwy 35, Amdt. 2

Note.—The FAA published an amendment in Docket No. 23549, Amdt. No. 1237 to Part 97 of the Federal Aviation Regulations (Vol 48 FR No. 45 Page 9519; Dated March 7, 1983) Under Section 97.33 Effective April 14, 1983, Which is Hereby Amended as Follows:

Joliet, IL—Joliet Park District, RNAV Rwy 12, Amdt. 10
Cadillac, MI—Wexford County, RNAV Rwy 7, Amdt. 3
Cadillac, MI—Wexford County, RNAV Rwy 25, Amdt. 2
St. Louis, MO—Lambert-St. Louis Intl, RNAV Rwy 6, original
Pittsburgh, PA—Greater Pittsburgh Intl, RNAV Rwy 14, Amdt. 4, cancelled

Procedures Shall Be Removed From This § 97.33 Radar and Added To § 97.33 RNAV With Same Effective Date of April 14, 1983.

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.49(b)(3))

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. The FAA certifies that this amendment 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 March 11, 1983.

John M. Howard,

Manager, Aircraft Programs Division.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

[FR Doc. 83-7240 Filed 3-18-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Federal Old-Age, Survivors, and Disability Insurance; Computing Primary Insurance Amounts; Correction

AGENCY: Social Security Administration, HHS.

ACTION: Final rules; correction.

SUMMARY: This document corrects the example which follows § 404.211(e)(4) in the final rules which were published on July 15, 1982 (47 FR 30731). In the example as published, we erroneously dropped out, under the "child care dropout" provision, years in which the worker had earnings. As provided in § 215(b)(2)(A) of the Social Security Act, "child care dropout" years can be only years of no earnings.

FOR FURTHER INFORMATION CONTACT: Jack Schanberger, Room 3-B-4, Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301)594-6785.

Dated: March 15, 1983.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

PART 404—[AMENDED]

Accordingly, the Social Security Administration is correcting the example which follows 20 CFR 404.211(e)(4) by revising the last sentence in the first paragraph, by revising the last sentence of the second paragraph, and by adding a sentence to the second paragraph, so that the example as corrected reads as follows:

§ 404.211 Computing your average indexed monthly earnings.

* * * * *

(e) * * *
(4) * * *

Example. Ms. M., born August 4, 1953, became entitled to disability insurance benefits (DIB) beginning in July 1980 based on a disability which began January 15, 1980. In computing the DIB, we determined that the elapsed years are 1975 through 1979, the number of dropout years is 1 (5 elapsed years divided by 5), and the number of computation years is 4. Since Ms. M. had no earnings in 1975 and 1976, we drop out 1975 and use her earnings for the years 1977 through 1979.

Ms. M. lived with her child, who was born in 1972, in all months of 1973 and 1974 and did not have any earnings in those years. We, therefore, recompute Ms. M.'s DIB beginning with July 1981 to give her the advantage of the child care dropout. To do this, we reduce

the 4 computation years by 1 child care year to get 3 computation years. Because the child care dropout cannot be applied to computation years in which the worker had earnings, we can drop only one of Ms. M.'s computation years, i.e., 1976, in addition to the year 1975 which we dropped in the initial computation.

* * * * *

[FR Doc. 83-7298 Filed 3-18-83; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD7-82-10]

Amendment to Security Zone—Kennedy Space Center, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule adopts the interim final rule amending the Coast Guard's Security Zone regulations for Kennedy Space Center, Florida by moving the boundary line from the NASA Causeway East (Orsino Causeway) to a line in the Banana River one-quarter mile south of the causeway. Interested persons were invited to comment on the interim rule. No comments were received and no changes to the interim rule have been made. This change in the security zone boundary is made to allow the Coast Guard adequate time to respond to possible intrusions of the security zone.

EFFECTIVE DATE: March 21, 1983.

FOR FURTHER INFORMATION CONTACT: Lieutenant Robert Buford, Commander (m), Seventh Coast Guard District, 51 S.W. First Avenue, Miami, FL, 33130; (305)-350-5651.

SUPPLEMENTARY INFORMATION: The Coast Guard published an interim rule with request for comments in the October 25, 1982 issue of the **Federal Register** (47 FR 47241). No public hearing was held on the interim rule which was effective on October 25, 1982.

Drafting Information: The principal persons involved in drafting this notice are Lieutenant Robert Buford, Project Officer, Marine Safety Division, Seventh Coast Guard District and Lieutenant Michael T. Harris, Project Attorney, Legal Officer, Seventh Coast Guard District.

Discussion of Final Rule: This change in the security zone boundary is made to allow the Coast Guard adequate time to respond to possible intrusions of the security zone.

These regulations are considered to be nonsignificant in accordance with guidelines set out in the Policies and Procedures for Simplification, Analysis and Review of Regulations (DOT Order 2100.05 of May 22, 1980). An economic evaluation of the proposal has not been conducted since their impact is expected to be minimal. In accordance with section 605(b) of the Regulatory Flexibility Act (94 Stat. 1164), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. These regulations have been reviewed in accordance with Executive Order 12291 on Federal Regulation and have been determined not to be major rules under terms of that order.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation, Security measures, Vessels, and Waterways.

In consideration of the foregoing, § 165.701 of Title 33, Code of Federal Regulations is amended by replacing the text:

§ 165.701 Amended

* * * "Intracoastal Waterway to NASA Causeway East (Orsino Causeway), thence Westerly along the Southern shoreline of NASA Causeway East to the shoreline on Merritt Island at position 28-31.2N, 80-37.4W," * * *

with the text:

* * * "Intracoastal Waterway to daymarker '35' thence North Westerly one quarter of a mile south of NASA Causeway East (Orsino Causeway) to the shoreline on Merritt Island at position 28-30.95N, 80-37.6W," * * *

(c. 30, Sec. 1, 40 Stat. 220, as amended (50 U.S.C. 191); E.O. 10173; 33 CFR 6.04-6; 49 CFR 1.46(b))

Dated: December 22, 1983.

D. C. Thompson,

District Commander, Seventh Coast Guard District.

[FR Doc. 83-7125 Filed 3-18-83; 8:45 am]

BILLING CODE 4910-14-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

41 CFR Ch. 18

[Procurement Regulation Directive 82-4 (dated August 16, 1982)]

Procurement Regulations; Miscellaneous Amendments

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This document amends the NASA Procurement Regulation (41 CFR Ch. 18). It reflects amendments contained in Procurement Regulation Directive 82-4 concerning the following:

1. Charter of Aircraft.
2. Safety and Health.
3. Lobbying Cost.

EFFECTIVE DATE: March 21, 1983.

FOR FURTHER INFORMATION CONTACT: James H. Wilson, Procurement Policy Division (Code HP-1), Office of Procurement, NASA Headquarters, Washington, D.C. 20546, Telephone: 202-755-2237.

SUPPLEMENTARY INFORMATION:

1. In Part 1, § 1.1350 is amended to cite the current NASA Management Instruction that is applicable to this subject.

2. In Part 1, Subpart 52 is revised to strengthen and emphasize the responsibility of affected NASA officials and to increase the effectiveness of NASA contractors in safety and health matters by revision to the Safety and Health clause. This revision also updates certain technical aspects of working environments and materials. Needed editorial changes are also made.

3. In Part 15, § 15.205-51, Lobbying Costs, is amended by the addition of language in paragraph (c) to clarify when communications considered lobbying are allowable.

List of Subjects in 41 CFR Ch. 18

Government procurement.

(42 U.S.C. 2473(c)(1).)

S. J. Evans,

Assistant Administrator for Procurement.

PART 1—GENERAL PROVISIONS

1. In Part 1, Table of Contents, the page numbers for paragraphs 1.5203 and 1.5204 are amended to read as follows:

* * * * *

Sec.
1.5203 Hazardous Materials and Operations 1-52:3
1.5204 Contract Provisions 1-52:3

2. In Part 1, § 1.1350 is revised to read as follows:

§ 1.1350 Chapter of Aircraft.

See NASA Management Instruction 7910.1, "NASA Aircraft Management."

3. In Part 1, §§ 1.5200 through 1.5204 are revised to read as follows:

Subpart 52—Safety and Health

§ 1.5200 Scope of Subpart.

This Subpart sets forth NASA's safety and health policy, responsibility, and requirements relating to its contractors.

§ 1.5201 Policy.

It is NASA policy that contractors and subcontractors will perform in a safety and health conscious environment which, within the limits of controllable hazards, will:

(i) protect the life, health, and physical well-being of NASA and contractor employees during their work on NASA programs;

(ii) assure proper protection of the public from hazards incident to operations of NASA contractors and subcontractors;

(iii) avoid accidental work interruptions which could delay NASA programs;

(iv) prevent contamination and damage to or loss of property, supplies and equipment;

(v) provide data whereby risks and loss factors in space technology related to NASA programs can be accumulated and evaluated; and

(vi) comply with applicable regulation, standards and guides.

§ 1.5202 Responsibility.

(a) *Originators of Procurement Requests.* Originators of procurement requests will ensure, in accordance with installation safety and health screening criteria, that procurement requests affected by considerations of safety or health are processed through the appropriate installation safety and health officials or other designated responsible officials for: (i) Determining if hazards are involved in the procurement; (ii) formulating or selecting specific safety and health provisions applicable to the procurement in accordance with 1.351 "Procurement of Potentially Hazardous Items" or Part 14, Subpart 6; and (iii) determining to what extent a contractor safety and health plan will be required.

(b) *Installation safety Officials, Occupational Health Officials, or Other Designated Responsible Officials.* The appropriate installation safety and health officials, within their respective areas of responsibility, will advise and assist the contracting officer in:

(i) evaluating prospective contractors' safety and health programs;

(ii) determining to what extent safety and health provisions, if any, should be included in a proposed procurement;

(iii) assigning the specific safety and environmental health provisions to be included in a contract Schedule;

(iv) determining, in coordination with the cognizant program or project manager, the need for and the adequacy of contractors' safety and health plans;

(v) Assigning the specific occupational medicine provisions to be included in a contact Schedule;

(vi) determining the extent and form of accident or incident reports, required of contractors in compliance with the Federal Reports Act of 1942, and NASA reporting requirement;

(vii) requesting inspections of NASA Contractors by representatives of the Occupational Safety and Health Administration (OSHA) when appropriate; and

(viii) reviewing contractor hazardous operations procedures and certification requirements.

(c) *Headquarters Operational Health Official.* At installations where medical and environmental health officers or other designated responsible officials are not available to assist with the formulation of occupational medicine and environmental health provisions of a contract, the Chief, NASA Occupational Health Office, will assume this responsibility.

(d) *Contracting Officer.*

(1) *Safety and Health.* The contracting officer will obtain advice, assistance, recommendations, and applicable requirements from the appropriate safety, and health officials prior to the issuance of an invitation for bid or request for proposal in the following procurements:

(i) construction, modification, and demolition of facilities on Government installations;

(ii) manufacture of aerospace systems, including such items as power units, energy systems, boosters, engines, liquid and solid fuels, oxidizers, and/or propellants;

(iii) transportation of fuels, oxidizers, hazardous chemicals, and other hazardous or regulated materials;

(iv) research, development or test of engines, related components and propellants which involve hazardous operations or the use of hazardous or regulated materials;

(v) services on Government installations which involve hazardous operations or the use of hazardous or regulated materials;

(vi) operations which involve the use of or exposure to, potential health hazards (asbestos, polychlorinated biphenyls (PCB's) etc.), confined space entries, use of hazardous materials, or potential contamination of property, and pollution of air, water, vegetation, and soil;

(vii) activities which may (by either direct or secondary effect) adversely effect the work environment due to the use of ionizing radiation, microwaves, noise, lasers, ultraviolet, and infrared sources;

(viii) operations which necessitate exposures in neutral buoyancy or hyperbaric chambers and operations related thereto.

(2) Before issuing a stop-work order under paragraph (d)(2) of the "Safety and Health" clause, prior coordination will be effected with the safety and health officials and with the cognizant program or project manager.

§ 1.5203 Hazardous Materials and Operations.

(a) Hazardous Materials.

Hazardous material is defined by law as "a substance or material in a quantity and form which may pose an unreasonable risk to health and safety or property when transported in commerce" (49 U.S.C. 1801). The Secretary of Transportation has developed a list of materials that are hazardous and may be found listed in 49 CFR 172.101. Typical hazardous materials are those that may be highly reactive, poisonous, explosive, flammable, combustible, corrosive radioactive; or those that may contaminate or pollute the environment or otherwise cause adverse health effects or unsafe conditions.

(b) Hazardous Operations.

Hazardous operations are those that involve the use of, or handling of, hazardous materials or involve the use of other materials, phenomena or elements at abnormal environmental or physical parameters that could result in personnel injury, illness or property damage if special precautions are not followed (e.g. high pressure gas operations in excess of 150 pounds per square inch gauge (psig), low pressure high volume gas operations, voltages above 550 volts, storage or handling of propellants or explosives, use of "heavy lift" material handling equipment, high or low temperature environments, environments with less than 19.5% or more than 25% oxygen by volume at normal atmospheric pressure, reduced gravity, radiation, excessive noise, etc.)

§ 1.5204 Contract Provisions.

(a) Specific system safety requirements which are to be included in the contract for the purpose of procuring system safety engineering services shall be defined in the contract Schedule in accordance with NASA PR Part 14, Subpart 6.

(b) Any unique facility safety or health requirements, which are in addition to the general provisions of the "Safety and Health" clause required herein, shall be prescribed as required by § 1.5202(b)(iii).

(c) The following clause shall be included in:

(i) all negotiated contracts of $1 million or more, unless the contracting officer makes a written determination in accordance with § 1.5202(b) that, under the circumstances of the procurement, the clause is not necessary;

(ii) all construction, repair, or alteration contracts in excess of $25,000;

(iii) all contracts having, within their total requirement, construction, repair or alteration tasks in excess of $25,000; and

(iv) any procurement regardless of dollar amount when: (A) the deliverable contract end items are of a hazardous nature; (B) during the life of the contract it can reasonably be expected that hazards will be generated within the operational environment, and the contracting officer determines that the hazards warrant the inclusion of the clause.

(d) This clause may, however, be excluded from any contract which is subject to either the Walsh-Healy Public Contracts Act (NASA PR Part 12 Subpart 6) or the Service Contract Act of 1965 (NASA PR Part 12 Subpart 10) and in which the application of either Act and any regulations thereunder constitute adequate safety and health protection. However, the clause should not be excluded without approval of the local safety and health officials.

Safety and Health (August 1982)

(a) The Contractor shall take all reasonable safety and health measures in performing under this contract and shall, to the extent set forth in the Schedule of the contract, submit a safety plan and a health plan for the Contracting Officer's approval. The Contractor shall comply with all applicable Federal, state and local laws, applicable to safety and health which are in effect on the date of this contract and with the safety and health standards, specifications, reporting requirements, and provisions as set forth in the Schedule of the contract.

(b) The Contractor shall take or cause to be taken such other safety and health measures as the Contracting Officer may direct. To the extent that the Contractor may be entitled to an equitable adjustment for such measures under the terms and conditions of this contract, such equitable adjustment shall be determined pursuant to the procedures of the clause of this contract entitled "Changes"; *provided* that no adjustment shall be made under this clause for any change for which an equitable adjustment is expressly provided under any other provision of this contract.

(c) The Contractor shall immediately notify and promptly report to the Contracting Officer or his representative any accident, incident or exposure resulting in fatality, lost-time occupational injury, occupational disease, or contamination of property beyond any stated acceptable threshold limits set forth in the Schedule of the contract, or property loss of $25,000 or more arising out of work performed under this contract, *provided*, however, the Contractor will not be required to include in any report an expression of opinion as to the fault or negligence of any employee. Service Contractors (excluding construction contracts) will provide quarterly reports which specify lost-time frequency rate, number of lost-time injuries, exposure, and accident/incident dollar losses as specified in the Schedule of the contract. The Contractor will investigate all such work related incidents or accidents to the extent necessary to determine their cause or causes and furnish the Contracting Officer with a report, in such form as the Contracting Officer may require, of the investigative findings and proposed or completed corrective actions.

(d) Noncompliance with Provisions of this Safety and Health Clause.

(1) The Contracting Officer may notify the Contractor in writing of any noncompliance with the provisions of this clause and may also specify corrective actions to be taken. The Contractor shall, promptly take, and report, any necessary corrective action.

(2) If the Contractor fails or refuses to institute prompt corrective action in accordance with (d)(1) above, the Contracting Officer may invoke the provisions of the "Stop Work" clause in this contract or any other remedy legally available to the Government in the event of such failure by the contractor.

(e) The Contractor (or subcontractor or supplier) shall cause the substance of this clause including this paragraph (e) and any applicable Schedule Provisions, with appropriate changes of designations of the parties, to be inserted in subcontracts of every tier which: (i) amount to $1,000,000 or more unless the Contracting Officer makes a written determination that this is not required; (ii) require construction, repair, or alteration in excess of $25,000; or (iii) regardless of dollar amount, involve the use of hazardous materials or operations.

(f) The Contractor agrees that authorized Government representatives of the Contracting Officer shall have access to and the right to examine, the sites or areas where work under this contract is being performed in order to determine the adequacy of the Contractor's safety and health measures under this clause.

(g) As a part of the contractor's safety plan (and health plan, where applicable) and to the extent required by the Schedule, the Contractor shall furnish a list of all hazardous operations to be performed, including operations indicated in Paragraphs (a) and (b) of this clause, and shall in addition furnish a list of other major or key operations required or planned in the performance of the contract although not deemed hazardous by the Contractor. NASA and the contractor will jointly decide which operations are to be considered hazardous, with NASA as the final authority. Before hazardous operations commence, the contractor will develop and submit for NASA concurrence, *either or both* of the following as required by the Schedule of the contract or as may be required at the direction of the Contracting Officer.

(1) Written Hazardous Operating Procedures (HOP) for all hazardous operations, and/or

(2) A certification program for personnel involved in hazardous operations.

PART 3—[AMENDED]

§ 3.106-4 [Amended]

4. In Part 3, § 3.106-4 is amended to change the reference "1.304.2" to read "1.304-2."

§ 3.809 [Amended]

In Part 3, § 3.809(c)(1)(ii) the reference "(see Part 51, Subpart 3)," is amended to read "(see Part 20, Subpart 6),".

§ 3.811 [Amended]

In Part 3, § 3.811(e), remove the word "and" that appears before "Contract Negotiation Memorandum."

PART 7—CONTRACT CLAUSES

5. In Part 7, Table of Contents, the page numbers for paragraph § 7.203-13 and §§ 7.203-16 through 7.203-22 are amended to read as follows:

* * * * *

Sec.
7.203-13 [Reserved] 7-2:8
* * * * *
7.203-16 Contract Work Hours Standards Act—Overtime Compensation 7-2:8A
7.203-17 Walsh-Healey Public Contracts Act 7-2:8A
7.203-18 Equal Opportunity 7-2:8A
7.203-19 Officials Not To Benefit 7-2:8A
7.203-20 Covenant Against Contingent Fees 7-2:8A
7.203-21 Government Property 7-2:8A
7.203-22 Insurance-Liability to Third Persons 7-2:8A

* * * * *

PART 15—CONTRACTS WITH COMMERCIAL ORGANIZATIONS

5. In Part 15, § 15.205–51(c) is revised to read as follows:

§ 15.205–51 Lobbying cost.

* * * * *

(c) Legislative liaison activities, such as attendance at committee hearings, gathering information regarding pending legislation, analysis of the effect of pending legislation, and the like are not lobbying and are allowable. In addition, communications to the Congress that would be considered lobbying in accordance with (a) above shall be allowable if they are performed in response to a written request from a congressional source.

PART 16—PROCUREMENT FORMS

§ 16.001 [Amended]

6. In Part 16, § 16.001(a) is amended by changing "ITS–999" to read "ITA–999."

PART 21—PROCUREMENT MANAGEMENT REPORTING SYSTEM

7. In Part 21, § 21.700 is revised to read as follows:

Subpart 7—Report on College and University Projects

§ 21.700 Committee on Academic Science and Engineering (C.A.S.E.) Report.

The Committee on Academic Science and Engineering (C.A.S.E.) Report on Support of Colleges and Universities (NASA Form 1356) is designed to collect data (not appropriate for inclusion on Form 507) required for preparation of Government-wide reports on sponsored projects in universities. Information submitted with Form 1356 is used in conjunction with existing procurement and financial data to produce reports required by the National Science Foundation Act, the Office of Management and Budget, the Legislative Branch and private sector requestors. The preparation and utilization of NASA Form 1356 has been made an integral part of the NASA-University Program Information System (QUA–MIS) for recording all activity with colleges and universities, regardless of the nature of the obligating instrument (grant, contract, cooperative agreement, purchase order) or type of proposal (solicited or unsolicited). Preparation of the form is specified by NMI 5101.12. Detailed instructions for completion are on the form itself.

[FR Doc. 83–7243 Filed 3–18–83; 8:45 am]
BILLING CODE 7510–01–M

41 CFR Ch. 18

[Procurement Regulation Directive 82–3 (dated June 25, 1982)]

Procurement Regulations; Miscellaneous Amendments

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: This document amends the NASA Procurement Regulation (41 CFR Ch. 18). It reflects amendments contained in Procurement Regulation Directive 82–3 concerning the following:

1. Subcontractor Kickbacks, and
2. Patent Rights.

EFFECTIVE DATE: March 21, 1983.

FOR FURTHER INFORMATION CONTACT: James H. Wilson, Procurement Policy Division (Code HP–1), Office of Procurement, NASA Headquarters, Washington, D.C. 20546, Telephone: 202–755–2237.

SUPPLEMENTARY INFORMATION:

1. In Part 1, § 1.111 is revised to bring it into closer alignment with the Defense Acquisition Regulation. By this revision the paragraph title is changed and new paragraph 1.111–3 is added which covers "Subcontractor Kickbacks."

2. Public Law 96–517, December 12, 1980, creates unique rights in inventions developed by small business firms or nonprofit organizations working under Government contracts where a purpose is to perform experimental, developmental and research work. Interim implementation of the Act was provided by Office of Management and Budget (OMB) Bulletin 81–22, Patents-Small Firms and Non-Profit Organizations. The Act and the Bulletin were applied to NASA contracts by Procurement Regulation Directive 81–5, July 1, 1981. For NASA grants, implementation was made by Instruction No. 1, July 1, 1981, of the NASA Grant and Cooperative Agreement Handbook.

On February 10, 1982, OMB issued Circular No. A–124 to provide definitive policies, procedures and guidelines with respect to inventions made by small business firms and nonprofit organizations, including universities, under funding agreements with Federal agencies where a purpose is to perform experimental, developmental or research work. The Circular superseded OMB Bulletin 81–22, effective March 1, 1982.

NASA provided partial implementation of the circular through issuance of procurement Notice No. 82–4, March 11, 1982, which contained a definitive Patent Rights clause for contracts. The notice also included a Patent Rights clause for use in grants and cooperative agreements, as well as a modification of the New Technology (July 1981) clause on April 20, 1982, a letter to all NASA Procurement Officers was used to distribute a single spaced version of the clauses.

With the exception of grants and cooperative agreements, this PRD completes the NASA Procurement Regulation coverage of Public Law 96–517 by setting forth policies and procedures consistent with OMB Circular A–124, as well as contract clauses. Policies and procedures for grants and cooperative agreements are not included in this PRD but will be issued in a future Grant Handbook Instruction. Pending issuance of that Instruction, grants personnel will continue to use the Patents Rights clause in Enclosure No. 2 of Procurement Notice No. 82–4. All other guidance in that notice is cancelled by issuance of this PRD.

List of Subjects in 41 CFR Ch. 18

Government procurement.

(42 U.S.C. 2473(c)(1))

S. J. Evans,

Assistant Administrator for Procurement.

PART 1—GENERAL PROVISIONS

1. In Part 1, Table of Contents, paragraphs 1.109–1 through 1.111–2 are amended and paragraph 1.111–3 is added to read as follows:

Sec.
1.109–2 Approval of Deviations.....1–1:4
1.109–3 Requests for Deviations.....1–1:4
1.109–50 Modification to Existing Contracts for New Procurement.....1–1:4
1.110 Reports of Purchases and Contracts.....1–1:4A
1.111 Reports of Noncompetitive Practices.....1–1:4A
1.111–1 (Reserved).....1–1:4A
1.111–2 Noncompetitive Practices.....1–1:4A
1.111–3 Subcontractor Kickbacks.....1–1:4B

2. In Part 1, the title for § 1.111 is revised and § 1.111–3 is added to read as follows:

§ 1.111 Reports of Suspected Criminal Conduct, Noncompetitive Practices, Kickbacks, and Other Procurement Irregularities.

* * * * *

§ 1.111–3 Subcontractor Kickbacks.

The Anti-Kickback Act (41 U.S.C. 51) prohibits the payment, directly or indirectly, by or on behalf of a subcontractor in any tier under any Government negotiated contract of any fee, commission, compensation, gift, or gratuity to the prime contractor or any

higher tier subcontractor or to any officer, partner, employee, or agent of the prime contractor, of any higher tier subcontractor, as an inducement or acknowledgment for the award of a subcontract or order. The Act further provides that the amount of any such fee, commission, or compensation, or the cost or expense of any such gratuity or gift, whether heretofore or hereafter paid by the subcontractor, shall not be charged, either directly or indirectly, as a part of the contract price charged by the subcontractor to the prime contractor or higher tier subcontractor. It also creates a conclusive presumption that the cost of any such prohibited payment has been included in the price of the subcontract or order and ultimately borne by the Government. The Act provides for the recovery on behalf of the United States action, or by set-off of moneys otherwise owing to the subcontractor either by the United States directly or by the prime contractor. The Act imposes criminal penalties on any person who knowingly, makes or receives, directly or indirectly, any such prohibited payment.

PART 3—PROCUREMENT BY NEGOTIATION

§ 3.501 [Amended]

3. In Part 3, § 3.501(b) Section C(8) is amended by changing the reference "3.102" at the end of the sentence to read "3.101."

PART 9—PATENTS, DATA, AND COPYRIGHTS

4. In Part 9, the Table of Contents is amended by changing the page numbers for paragraphs 9.107 through 9.114 to read as follows:

9.107 Property Rights in Inventions Made in the Performance of Work Under NASA Contracts with Other Than Small Business Firms or Nonprofit Organizations 9–1:7
9.107–1 General 9–1:7
9.107–2 [Reserved] 9–1:8
9.107–3 Policy 9–1:8
9.107–4 Procedures 9–1:8B
9.107–5 New Technology Clause 9–1:8C
9.107–6 [Reserved] 9–1:12
9.107–7 Foreign Contracts 9–1:12
9.107–8 Patent Rights Under Product Improvement Programs or Independent Research and Development Programs 9–1:12
9.107–9 Procurement Using Funds Transferred to, or Received from, Another Government Agency 9–1:13
9.108 Patent Rights Under Funding Agreements with Small Business Firms or Nonprofit Organizations for the Performance of Experimental, Developmental, or Research Work 9–1:14
9.108–1 Introduction 9–1:14
9.108–2 Definitions 9–1:15
9.108–3 Policy 9–1:16
9.108–4 Procedures 9–1:16
9.108–5 Clause for Funding Agreements (Small Business Firms and Nonprofit Organization) 9–1:19
9.108–6 [Reserved] 9–1:25
9.108–7 Clause for Foreign Contracts 9–1:25
9.108–8 [Reserved] 9–1:26
9.108–9 Procurement: using Funds Transferred to, or Received from, Another Government Agency 9–1:26
9.108–10 Retention of Rights by Inventor 9–1:26
9.108–11 Government Assignment to Contractor of Rights in Invention of Government Employee 9–1:26
9.108–12 (Reserved) 9–1:26
9.108–13 (Reserved) 9–1:26
9.108–14 Licensing of Background Patent Rights to Third Parties 9–1:26
9.109 Administration of the New Technology and Patent Rights Clauses; Waiver of Rights to Inventions Under 42 U.S.C. 2457 and Election of Title under 35 U.S.C. 202 ..... 9–1:27
9.109–1 New Technology and Patent Rights Clauses Follow-Up; Designation of New Technology and Patent Representatives 9–1:27
9.109–2 Follow-Up by Contractor 9–1:29
9.109–3 Follow-Up by Government 9–1:29
9.109–4 Remedies 9–1:31
9.109–5 Conveyance of Invention Rights Acquired by the Government 9–1:31
9.109–6 Waiver of Rights to Inventions in Contracts Containing the New Technology Clause 9–1:31
9.109–7 Publication or Release of Invention Disclosures 9–1:35
9.109–8 Reporting on Utilization of Inventions [Reserved] 9–1:36
9.109–9 Exercise of March-in-Rights [Reserved] 9–1:36
9.109–10 Appeals [Reserved] 9–1:36
9.110 Payment of Royalties 9–1:36
9.111 and 9.112 [Reserved] 9–1:37
9.113 Proposal of Equivalent Merit 9–1:37
9.114 Facilities License 9–1:37

§ 9.107–5 [Amended]

5. In Part 9, § 9.107–5, the date of the clause "New Technology" is amended to read "(March 1982)" in place of "(July 1981)."

6. In Part 9, § 9.107–5 is amended by revising introductory text to paragraph (i) (2) of the "New Technology" clause to read as follows:

§ 9.107–5 "New Technology" Clause.

* * * * *

(i) *Subcontracts.*

(2) Unless otherwise authorized or directed by the Contracting Officer, the Contractor shall include this "New Technology" clause modified to identify the parties in any subcontract hereunder with other than a small business firm or a nonprofit organization if a purpose of the subcontract is the conduct of experimental, developmental, research, design, or enginerring work. For subcontracts for experimental, developmental, or research work with a small business form or nonprofit organization the "Patent Rights (Small Business Firm and Nonprofit Organization)" clause suitably modified, shall be used. In the event of refusal by a subcontractor to accept either clause, as applicable, the Contractor:

* * * * *

7. In Part 9, § 9.107–7, the last sentence is revised to read as follows:

§ 9.107–7 Foreign Contracts. * * *

The clause in § 9.107–5 may not be appropriate, and a substitute or modified clause may be used after consultation with the installation patent counsel to meet the requirements peculiar to the foreign procurement.

8. In Part 9, § 9.107–9 the first sentence is revised to read as follows:

§ 9.107–9 Procurement Using Funds Transferred to, or Received from Another Government Agency.

(a) Whenever NASA requests another Government agency to perform work of the type specified in either § 9.107–4(a)(1) or § 9.108–4(a)(1), and unless special agreements relating to patent rights exist between NASA and such other agency, the contracting officer shall determine whether such agency contemplates contracting for such work or performing the work in-house. * * *

9. In Part 9, § 9.107–9(b) is revised to read as follows:

§ 9.107–9 Procurement Using Funds Transferred to, or Received from, Another Government Agency.

* * * * *

(b) Whenever another Government agency requests NASA to perform experimental, developmental, or research work and NASA contemplates contracting for all or part of such work the "New Technology" clause of 9.107–5 or the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause of 9.108–5, whichever is applicable, may be used unless the other agency requests alterations thereto or a substitute clause. If alterations or a substitute clause are requested, the contracting officer shall consult with installation patent counsel as to the appropriateness of the use thereof. In some instances agreements will exist between NASA and another agency requiring special clauses and other provisions relating to patents and inventions to be included in any contract executed by NASA for or on behalf of the other agency. The

contracting officer shall refer to such agreements prior to initiating procurement action for any such contracts and shall consult with installation patent counsel with respect to any question concerning the appropriate clauses to use or the interpretation, implementation, or departure from the provisions or clauses set forth in such agreements. When the contract is with a small business firm or nonprofit organization, any exceptions made under 35 U.S.C. 202(a) and any documentation and reporting requirements required by 35 U.S.C. 202(b)(1), shall be the responsibility of the requesting agency unless otherwise provided in such agreement (see also 9.108–4(a)).

10. In Part 9, § 9.108 through 9.109–10 are revised to read as follows:

§ 9.108 Patent Rights Under Funding Agreements with Small Business Firms or Nonprofit Organizations for the Performance of Experimental, Developmental, or Research Work.

§ 9.108–1 Introduction.

(a) On December 12, 1980, Public Law 96–517 (35 U.S.C. 200 et seq.) was enacted governing the distribution of rights in inventions made by small business firms and domestic nonprofit organizations under funding agreements with Federal agencies.

(b) This Act takes precedence over any other Acts which would require a disposition of rights in subject inventions of small business firms or domestic nonprofit organizations in a manner inconsistent with the new Act. Additionally, the new Act will take precedence over any future Act unless the future Act cites the new Act and provides that it will take precedence. The provisions of the Act took effect on July 1, 1981, and will be applicable to all funding agreements with small business firms and domestic nonprofit organizations executed on or after that date.

(c) As to any subject inventions which are "made" on or after July 1, 1981, in the performance of funding agreements which were awarded prior to July 1, 1981, to small business firms or domestic nonprofit organizations, paragraph 1245–118 of the NASA Patent Waiver Regulations of July 1, 1981, (14 CFR 1245.1) may be applied.

§ 9.108–2 Definitions.

As used in this paragraph:

(a) The term "funding agreement" means any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government. Such term includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as herein defined.

(b) The term "contractor" means any person, small business firm or domestic nonprofit organization that is a party to a funding agreement.

(c) The term "invention" means any invention or discovery which is or may be patentable or otherwise protectable under title 35 of the United States Code.

(d) The term "subject invention" means any invention of a contractor conceived or first actually reduced to practice in the performance of work under a funding agreement.

(e) The term "practical application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(f) The term "made" when used in relation to any invention means the conception or first actual reduction to practice of such invention.

(g) The term "small business firm" means a small business concern as defined at Section 2 of Public Law 85–536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this Subpart, the size standard for small business concerns involved in Government procurement and subcontracting at 13 CFR 121.3–8 and 121.3–12, respectively, will be used.

(h) The term "nonprofit organization" means universities and other institutions of higher education or an organization of the type described in Section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under Section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)), or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

§ 9.108–3 Policy.

This paragraph 9.108 is intended to establish uniform and coordinated implementation of 35 U.S.C. 200–204 so as to foster the policy and objectives set forth in 35 U.S.C. 200.

§ 9.108–4 Procedures.

(a) *Use of the "Patent Rights (Small Business Firm or Nonprofit Organization)" Clause.*

(1) Each funding agreement awarded to a small business firm or domestic nonprofit organization which has as a purpose the performance of experimental, developmental or research work shall contain the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause set forth in 9.108–5, except that the funding agreement may contain alternate provisions:

(i) when the funding agreement is for the operation of a Government-owned research or production facility; or

(ii) in exceptional circumstances when it is determined by NASA that restriction or elimination of the right to retain title to any subject invention will better promote the policy and objectives of Chapter 38 of Title 35 of the United States Code; or

(iii) when it is determined by a Government authority which is authorized by statute or Executive Order to conduct foreign intelligence or counterintelligence activities that the restriction or elimination of the right to retain title to any Subject Invention is necessary to protect the security of such activities.

(2) Any determination under subparagraph (a)(1)(ii) of this paragraph will be in writing and accompanied by a written statement of facts justifying the determination. The statement of facts will contain such information as NASA deems relevant and, at minimum, will (1) identify the small business firm or domestic nonprofit organization involved, (2) describe the extent to which NASA action restricted or eliminated the right to retain title to a subject invention, (3) state the facts and rationale supporting NASA action, (4) provide supporting documentation for those facts and rationale, and (5) indicate the nature of any objections to NASA action and provide any documentation in which those objections appear. A copy of each such determination and written statement of facts will be sent to the Comptroller General of the United States within thirty days after the award of the applicable funding agreement. In cases of determinations applicable to funding agreements with small business firms, copies will also be sent to the Chief Counsel for Advocacy of the Small Business Administration.

(3) To assist the Comptroller General to accomplish his or her responsibilities under 35 U.S.C. 202, the Assistant Administrator for Procurement shall accumulate and, at the request of the

Comptroller General, provide the Comptroller General or his or her duly authorized representative the total number of prime funding agreements entered into with small business firms or domestic nonprofit organizations that contain the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause set forth in 9.108–5 during each period of October 1 through September 30, beginning October 1, 1982.

(4) To qualify for the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause of 9.108–5, the small business firm or domestic nonprofit organization may be required by the contracting officer to certify that it is either a small business firm or domestic nonprofit organization. If the contracting officer has reason to question the status of the prospective contractor as a small business firm or a domestic nonprofit organization, he or she may file a protest in accordance with 13 C.F.R. 121.3–5 if the small business firm status is questioned or require the prospective contractor to furnish evidence to establish its status as a domestic nonprofit organization.

(5) *Right to Sublicense Foreign Governments and International Organizations.* When the Administrator or duly authorized designee determines at the time of contracting with a small business firm or domestic nonprofit organization that it would be in the national interest to acquire the right to sublicense foreign governments or international organizations pursuant to any existing or future treaty or agreement, a sentence may be added at the end of paragraph (b) of the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause in 9.108–5 as follows:

This license will include the right of the Government to sublicense foreign governments and international organizations pursuant to the following treaties or international agreements; or pursuant to any future treaties or agreements with foreign governments or international organizations.

This language may be modified to be limited to specific treaties or agreements or otherwise specify a time when the Government's right to sublicense ends.

(b) *Minimum rights to contractor.*

(1) Paragraph (e) of the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause of 9.108–5 specifies the minimum rights retained by the contractor in Subject Inventions. The contractor will retain a revocable, nonexclusive, royalty-free license throughout the world in each Subject Invention to which the Government obtains title except if the contractor fails to disclose the subject invention within the times specified in paragraph (c) of the aforementioned clause of 9.108–5. The contractor's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the contractor is a part and includes the right to grant sublicenses of the same scope to the extent the contractor was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of NASA except when transferred to the successor of that part of the contractor's business to which the invention pertains.

(2) the contractor's domestic license may be revoked or modified by NASA to the extent necessary to achieve expeditious practical application of the Subject Invention pursuant to an application for an exclusive license submitted in accordance with the NASA Patent Licensing Regulations (14 CFR 1245.2). This license will not be revoked in that field of use or the geographical areas in which the contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of NASA to the extent the contractor, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, NASA will furnish the contractor a written notice of its intention to revoke or modify the license, and the contractor will be allowed thirty days (or such other time as may be authorized by NASA for good cause shown by the contractor) after the notice to show cause why the license should not be revoked or modified. The contractor has the right to appeal, in accordance with the procedures set forth in the NASA Patent Licensing Regulations (14 CFR 1245.2), from any decision concerning the revocation or modification of its license.

(c) *Subcontracts.*

(1) Paragraph (g) of the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause of 9.108–5 requires that the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause suitably modified to identify the parties, be included in all subcontracts, regardless of tier, for experimental, developmental, or research work to be performed by a small business firm or domestic nonprofit organization. For subcontracts, regardless of tier, with other than a small business firm or domestic nonprofit organization for the performance of experimental, developmental, research, design or engineering work the "New Technology" clause or other patent rights clause required by 9.107–4(b) is to be used.

(2) The Subcontractor will retain all rights provided for the contractor in this clause, and the contractor will not as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's subject inventions.

(3) As to all NASA contracts (and subcontracts) entered into prior to July 1, 1981, which contain either the "New Technology (Long Form)" clause then appearing in 9.107–5 or the "New Technology (Short Form)" clause of former paragraph 9.107–6, the contractor (or subcontractor) is authorized to flow-down the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause of 9.108–5 as required by this subparagraph 9.108–4(c) in lieu of the requirements of the aforementioned "New Technology" clauses (subparagraphs (i) and (f), respectively) in all subcontracts executed after July 1, 1981, with a small business firm or domestic nonprofit organization. Also, as to any contract (or subcontract) entered into with a small business firm or domestic nonprofit organization on or after July 1, 1981, the contractor (or subcontractor) is authorized to substitute the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause of 9.108–5 as required by this subparagraph 9.108–4(c) for any previous version of such clause.

§ 9.108–5 Clause for Funding Agreements (Small Business Firms and Nonprofit Organizations).

The following clause will be used in funding agreements with small business firms and domestic nonprofit organizations unless the funding agreement falls within one of the exceptions described in 9.108–4(a)(1).

Patent Rights (Small Business Firm or Nonprofit Organization) (June 1982)

(a) *Definitions.*

(1) "Invention" means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the United States Code.

(2) "Subject Invention" means any invention of the Contractor conceived or first actually reduced to practice in the performance of work under this contract.

(3) "Practical Application" means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or

system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are, to the extent permitted by law or Government regulations, available to the public on reasonable terms.

(4) "Made" when used in relation to any invention means the conception or first actual reduction to practice to such invention.

(5) "Small Business Firm" means a small business concern as defined at Section 2 of Public Law 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this clause, the size standards for small business concerns involved in Government procurement, and subcontracting at 13 CFR 121.3-8 and 13 CFR 121.3-12, respectively, will be used.

(6) "Nonprofit Orgainzation" means a university or other institution of higher education or an organization of the type described in Section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)) and exempt from taxation under section 501(a) of the Internal Revenue Code (26 U.S.C. 501(a)) or any nonprofit scientific or educational organization qualified under a state nonprofit organization statute.

(b) *Allocation of Principal Rights.* The contractor may retain the entire right, title, and interest throughout the world to each Subject Invention subject to the provisions of this clause and 35 U.S.C. 203. With respect to any Subject Invention in which the Contractor retains title, the Federal Government shall have a non-exclusive, non-transferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States the subject invention throughout the world.

(c) *Invention Disclosure, Election of Title and Filing of Patent Applications by Contractor.*

(1) The Contractor will disclose each Subject invention to NASA within two months after the inventor disclose it in writing to Contractor personnel responsible for patent matters. The disclosure to NASA shall be in the form of a written report and shall identify the contract under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding, to the extent known at the time of the disclosure, of the nature, purpose, operation, and the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to NASA, the Contractor will promptly notify NASA of the acceptance of any manuscript describing the invention for the publication or of any on sale or public use planned by the Contractor.

(2) The Contractor will elect in writing whether or not to retain title to any such invention by notifying NASA within twelve months of disclosure to the Contractor; provided that in any case where publication, on sale or public use has initiated the one year statutory period wherein valid patent protection can still be obtained in the United States, the period for election of title may be shortened by NASA to a date that is no more than 60 days prior to the end of the statutory period.

(3) The Contractor will file its initial patent application on an elected invention within two years after election or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the United States after publication, on sale, or public use. The Contractor will file patent applications in additional countries within either ten months of the corresponding initial patent application of six months from the date permission is granted by the Commissioner of Patents and Trademarks to file foreign patent applications where such filing has been prohibited by a Secrecy Order.

(4) Requests for extension of the time for disclosure to NASA, election, and filing may, at the discretion of NASA be granted.

(d) *Conditions When the Government May Obtain Title.*

(1) The Contractor will convey to NASA, upon written request, title to any subject invention:

(i) If the Contractor fails to disclose or elect the Subject Invention within the times specified in (c) above, or elects not to retain title.

(ii) In those countries in which the Contractor fails to file patent applications within the time specified in (c) above; provided, however, that if the Contractor has filed a patent application in a country after the times specified in (c), above, but prior to its receipt of the written request of NASA, the Contractor shall continue to retain title in that country.

(iii) In any country in which the Contractor decides not to continue the prosecution of any application for, to pay the maintenance fees on, or defend in reexamination or opposition proceeding on, a patent on a subject invention.

(e) *Minimum Rights to Contractor.*

(1) The Contractor will retain a nonexclusive, royalty-free license throughout the world in each Subject Invention to which the Government obtains title except if the Contractor fails to disclose the Subject Invention within the times specified in (c), above. The Contractor's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the Contractor is a party and includes the right to grant sublicenses of the same scope to the extent the Contract was legally obligated to do so at the time the contract was awarded. The license is transferable only with the approval of NASA, except when transferred to the successor of that part of the Contractor's business to which the invention pertains.

(2) The Contractor's domestic license may be revoked or modified by NASA to the extent necessary to achieve expeditious practical application of the Subject Invention pursuant to an application for an exclusive license submitted in accordance with application provisions in NASA's Patent Licensing Regulation, 14 CFR 1245.2. This license will not be revoked in that field of use or the geographical areas in which the Contractor has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at the discretion of NASA to the extent the Contractor, its licensees, or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

(3) Before revocation or modification of the license, NASA will furnish the Contractor a written notice of its intention to revoke or modify the license, and the Contractor will be allowed thirty days (or such time as may be authorized by NASA for good cause shown by the Contractor) after the notice to show cause why the license should not be revoked or modified. The Contractor has the right to appeal, in accordance with NASA Patent Licensing Regulation, 14 CFR 1245.2, any decision concerning the revocation or modification of its license.

(f) *Contractor Action to Protect the Government's Interest.*

(1) The Contractor agrees to execute or to have executed and promptly deliver to NASA all instruments necessary to

(i) establish or confirm the rights the Government has throughout the world in those Subject Inventions to which the Contractor elects to retain title, and

(ii) convey title to NASA when requested under (d) above, and to

enable the Government to obtain patent protection throughout the world in that Subject Invention.

(2) The contractor agrees to require, by written agreement, its employees, other than clerical and non-technical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the Contractor each Subject Invention made under contract in order that the Contractor can comply with the disclosure provisions of (c) above, and to execute all papers necessary to file patent applications on Subject Inventions and to establish the Government's rights in the Subject Inventions. This disclosure format should require, as a minimum, the information required by (c)(1) above. The Contractor shall instruct such employees through employee agreements of other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

(3) The Contractor will notify NASA of any decision not to continue the prosecution of a patent application, pay maintenance fees, or defend in a reexamination or opposition proceeding on a patent, in any country, not less than thirty days before the expiration of the response period required by the relevant patent office.

(4) The Contractor agrees to include, within the specification of any United States patent application and any patent issuing thereon covering a Subject Invention, the following statement, "This invention was made with Government support under (identify the contract) awarded by NASA. The Government has certain rights in this invention."

(5) The Contractor shall furnish the Contracting Officer:

(i) interim reports every twelve (12) months from the date of this contract, listing all Subject Inventions required to be disclosed during that period, or stating that there were no such Subject Inventions;

(ii) a final report prior to close out of the contract listing (A) all Subject Inventions or stating that there were none and (B) all subcontracts containing a patent rights clause or stating that there were none;

(iii) notification of all subcontracts for experimental, developmental, research, design or engineering work and identification of the patent rights clause (either the "New Technology" clause as required by NASA Procurement Regulation 9.107–4 or the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause as required by NASA Procurement Regulation 9.108–4), and a copy of the subcontract upon request;

(iv) upon request, the filing date, serial number, and title; a copy of the patent application (including an English translation when available); and a patent number and issue date for any Subject Invention in any country in which the Contractor has applied for patents.

(g) *Subcontracts.*

(1) The Contractor will include this clause, suitably modified to identify the parties, in all subcontracts, regardless of tier, for experimental, developmental or research work to be performed by a small business firm or domestic nonprofit organization. The subcontractor will retain all rights provided for the Contractor in this clause, and the Contractor will not, as part of the consideration for awarding the subcontract, obtain rights in the subcontractor's Subject Inventions.

(2) The Contractor will include in all other subcontracts, regardless of tier, for experimental, developmental, research, design or engineering work the patent rights clause as required by NASA Procurement Regulation 9.107–4(b).

(3) In case of subcontracts, at any tier containing the clause required by (g)(1) above, when the prime award with NASA was a contract (but not a grant or cooperative agreement) containing this clause, NASA, the subcontractor and the Contractor agree that the mutual obligations of the parties created by this clause constitute a contract between the subcontractor and NASA with respect to those matters covered by this clause.

(h) *Reporting on Utilization of Subject Inventions.* The Contractor agrees to submit on request periodic reports no more frequently than annually on the utilization of a Subject Invention or on efforts at obtaining such utilization that are being made by the Contractor or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the Contractor, and such other data and information as NASA may reasonably specify. The Contractor also agrees to provide additional reports as may be requested by NASA in connection with any march-in proceeding undertaken by NASA in accordance with paragraph (j) of this clause. To the extent data or information supplied under this section is considered by the Contractor, its licensee or assignee to be privileged and confidential and is so marked, NASA agrees that, to the extent permitted by 35 U.S.C. 202(c)(5), it will not disclose such information to persons outside the Government.

(i) *Preference for United States Industry.* Notwithstanding any other provision of this clause, the Contractor agrees that neither it nor any assignee will grant to any person the exclusive right to use or sell any Subject Invention in the United States unless such person agrees that any products embodying the Subject Invention or produced through the use of the Subject Invention will be manufactured substantially in the United States. However, in individual cases, the requirement for such an agreement may be waived by NASA upon a showing by the Contractor or its assignee that reasonable but unsuccessful efforts have been made to grant licenses on similar terms to potential licensees that would be likely to manufacture substantially in the United States or that under the circumstances domestic manufacture is not commercially feasible.

(j) *March-in Rights.* The Contractor agrees that with respect to any Subject Invention in which it has acquired title, NASA has the right in accordance with the procedures established by the NASA Procurement Regulation which are consistent with OMB Circular A–124 to require the Contractor, an assignee or exclusive licensee of a Subject Invention to grant a non-exclusive, partially exclusive, or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances, and if the Contractor, assignee, or exclusive licensee refuses such a request, NASA has the right to grant such a license itself if NASA determines that:

(1) Such action is necessary because the Contractor or assignee has not taken, or is not expected to take within a reasonable time, effective steps to achieve practical application of the Subject Invention in such field of use;

(2) Such action is necessary to alleviate health or safety needs which are not reasonably satisfied by the Contractor, assignee, or their licensees;

(3) Such action is necessary to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the Contractor, assignee, or licensees; or

(4) Such action is necessary because the agreement required by paragraph (i) of this clause has not been obtained or waived or because a licensee of the exclusive right to use or sell any Subject Invention in the United States is in breach of such agreement.

(k) *Special Provisions for Contracts with Nonprofit Organizations.* If the Contractor is a nonprofit organization, it agrees that:

(1) Rights to a Subject Invention in the United States may not be assigned without the approval of NASA, except where such assignment is made to an organization which has as one of its primary functions the management of inventions and which is not, itself, engaged in or does not hold a substantial interest in other organizations engaged in the manufacture or sale of products or the use of processes that might utilize the invention or be in competition with embodiments of the invention provided that such assignee will be subject to the same provisions as the Contractor;

(2) The Contractor may not grant exclusive licenses under United States patents or patent applications in Subject Inventions to persons other than small business firms for a period in excess of the earlier of

(i) five years from first commercial sale or use of the invention; or

(ii) eight years from the date of the exclusive license excepting that time before regulatory agencies necessary to obtain premarket clearance, unless on a case-by-case basis, NASA approves a longer exclusive license. If exclusive field of use licenses are granted, commercial sale or use in one field of use will not be deemed commercial sale or use as to other fields of use, and a first commercial sale or use with respect to a product of the invention will not be deemed to end the exclusive period to different subsequent products covered by the invention.

(3) The Contractor will share any royalties collected on a Subject Invention with the inventor; and

(4) The balance of any royalties or income earned by the Contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of Subject Inventions, will be utilized for the support of scientific research or education.

(1) *Communications.* NASA shall designate a New Technology Representative and a Patent Representative to be the central point of contact for administering this clause in accordance with the procedures of NASA Procurement Regulation 9.109–1. The Contractor shall include such designation in all subcontracts containing either this clause or the clause required by NASA Procurement Regulation 9.107–4(b).

§ 9.108–6 [Reserved]

§ 9.108–7 Clause for Foreign Contracts.

A patent rights clause is to be included in every contract with a non-domestic firm or organization for the performance of experimental, developmental, or research work. The clause of 9.108–5 is limited to small business firms and domestic nonprofit organizations; and the regulations of the Small Business Administration exclude foreign businesses from being considered as small business firms. Therefore, Patent Counsel should be consulted for appropriate clauses to be used when the contractor is a non-domestic firm or organization or the work is to be performed outside the United States (see also 9.107–7)

§ 9.108–8 [Reserved]

§ 9.108–9 Procurement Using Funds Transferred to, or Received from, Another Government Agency.

The policy, procedures and instructions set forth in 9.107–9 apply, as appropriate, to funding agreements with small business firms and domestic nonprofit organizations.

§ 9.108–10 Retention of Rights by Inventor.

In contracts with small business firms or domestic nonprofit organizations, if the contractor does not elect to retain title to a Subject Invention, NASA may consider and, after consultation with the contractor, may grant requests for retention of rights by the inventor. Retention of rights by the inventor will be subject to those conditions that apply to a small business firm.

§ 9.108–11 Government Assignment to Contractor of Rights in Invention of Government Employee.

In any case when a NASA employee is a coinventor of any invention made under a funding agreement with a small business firm or domestic nonprofit organization, and when NASA transfers or reassigns the right it has acquired in the subject invention from its employee to the contractor as authorized by 350.S.C.202(e), the assignment will be made subject to the same conditions as would apply to the contractor under the clause of 9.108–5.

§§ 9.108–12 and 9.108–13 [Reserved]

§ 9.108–14 Licensing of Background Patent Rights to Third Parties.

(a) A funding agreement with a small business firm or domestic nonprofit organization will not contain a provision allowing NASA to require the licensing to third parties of inventions owned by the contractor that are not Subject Inventions unless such provision has been approved by the Administrator and a written justification has been signed by the Administrator. Any such provision will clearly state whether the licensing may be required in connection with the practice of a Subject Invention, a specifically identified work object, or both. The Administrator may not delegate the authority to approve such provisions or to sign justifications required for such provisions.

(b) NASA will not require the licensing of third parties under any such provision unless the Administrator determines that the use of the invention by others is necessary for the practice of a Subject Invention or for the use of a work object of the funding agreement and that such action is necessary to achieve the practical application of the Subject Invention or work object. Any such determination will be on the record after an opportunity for a NASA hearing. Any action commenced for judicial review of such determination will be brought within sixty days after notification to the contractor of such determination.

§ 9.109 Administration of the New Technology and Patent Rights Clauses; Waiver of Rights to Inventions Under 42 U.S.C. 2457 and Election of Title Under 35 U.S.C. 202.

§ 9.109–1 New Technology and Patent Rights Clauses Follow-Up; Designation of New Technology and Patent Representatives.

(a) It is important that the Government and the contractor know, protect, and exercise their rights in any inventions, discoveries, improvements or innovations made in the performance of work under contracts of NASA in order to ensure their expeditious availability to the public, to enable the Government, the contractor, and the public to avoid unnecessary payment of royalties, and to defend themselves against claims and suits for infringement. To attain these ends, contracts having the "New Technology" clause of 9.107–5, the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause of 9.108–5, or other patent rights clause (hereinafter referred to as "the clause" unless otherwise indicated) should be so administered that:

(1) Reportable Items and Subject Inventions, as defined in the clause, are identified, disclosed, reported and election made, as required by the clause;

(2) The rights to the Government in such Reportable Items and Subject Inventions are established;

(3) When appropriate, patent applications are timely filed and prosecuted by contractors or by the Government;

(4) The rights in patent applications and any resulting patents are documented by formal instruments such as confirmatory licenses or assignments; and

(5) Expeditious commercial utilization of such Reportable Items or Subject Inventions is achieved.

(b)(1) For each contract containing the clause the contracting officer shall designate representatives (hereinafter referred to as the "New Technology Representative" and the "Patent Representative") to administer the clause, protect the Government's rights, and take other actions in relation thereto. The respective responsibilities and authorities of these representatives in administering the clause, are set forth in 9.109–3. Designation of these representatives shall be accomplished by incorporation of a provision into the contract Schedule containing the following or similar statements;

Designation of New Technology Representative and Patent Representative

(a) For purposes of administration of the clause of this contact entitled "New Technology" or "Patent Rights (Small Business Firm or Nonprofit Organization)" clause, whichever is included, the following named representatives are hereby designated by the Contracting Officer to administer such clause:

Title	Office code	Address (including Zip Code)
New Technology Representative.....		
Patent Representative.....		

(b) Reports of Reportable Items, and disclosure of Subject Inventions, interim reports, final reports, utilization reports, and other reports required by the clause, as well as any correspondence with respect to such matters, should be directed to the New Technology Representative unless transmitted in response to correspondence or request from the Patent Representative. Inquiries or requests regarding disposition of rights, election of rights, or related matters should be directed to the Patent Representative. This provision shall be included in any subcontract hereunder requiring a "New Technology" clause or "Patent Rights (Small Business Firm on Nonprofit Organization)" clause, unless otherwise authorized or directed by the Contracting Officer. The respective responsibilities and authorities of the above-named representatives is set forth in 9.109–3 of the NASA Procurement Regulation.

(2) The New Technology Representative shall be the Technology Utilization Officer or the staff member (by titled position) having cognizance of technology utilization matters for the NASA installation concerned; and the Patent Representative shall be the Patent Counsel or the staff member (by titled position) having cognizance of patent matters for the NASA installation concerned.

(3) The contracting officer shall:

(i) Furnish the New Technology Representative a copy of each contract (and modifications thereto) containing the clause, copies of the final technical report, interim technical progress reports, and other pertinent material provided under the contract, unless the New Technology Representative indicates otherwise.

(ii) Notify the New Technology Representative of the organizational element of the NASA installation having technical cognizance of the contract; and

(iii) Furnish the Patent Representative a copy of each contract (and modifications thereto) containing the clause, copies of the final technical report, interim progress reports, and other pertinent material provided under the contract, unless the Patent Representative indicates otherwise.

(4) The New Technology Representative and the Patent Representative shall maintain complete files of correspondence and other actions involving their respective administration of the clause. Copies of documents which are appropriate for inclusion in the general contract files shall be furnished to the contracting officer.

§ 9.109–2 Follow-Up by Contractor.

(a) Each contractor other than a small business firm or domestic nonprofit organization is required to establish and maintain effective procedures to ensure that Reportable Items made in the performance of work under contracts of NASA are identified, reported, and when appropriate, patent applications filed, and that the Government's rights therein are established and protected. Each contractor that is a small business firm or a domestic nonprofit organization *should* establish and maintain effective procedures to ensure that inventions made under the contract are identified, disclosed, election of rights made and when appropriate, patent applications filed, and that the Government's rights therein are established and protected.

(b) When it is determined after the award of a contract that the contractor or a subcontractor may not have a clear understanding of the rights and obligations of the parties under the clause, a post-award orientation conference or letter may be used to explain these rights and obligations. When reviewing a contractor's procedures, particular attention is to be given to ascertaining their effectiveness for identifying, reporting, and disclosing Reportable Items and Subject Inventions as required by the clause.

(c) During the period of performance of each contract or subcontract the contractor or subcontractor is to submit to the New Technology Representative (or any other representative designated by the contracting officer) all reports of Reportable Items, disclosure of Subject Inventions, interim reports, subcontract identification, and other information in the manner required by the clause; and upon the completion of the work under the contract or subcontract the final report if required by the clause.

(d) Reporting of Reportable Items required by the "New Technology" clause promptly and before the completion of contract work, and the prompt submission of the final report upon completion of contract work, will aid New Technology clearance. Timely submission of annual interim reports, where contracts cover a period of more than one year, will also facilitate clause administration and expedite final clearance.

§ 9.109–3 Follow-Up by Government.

In order to ensure compliance by the contractor with the obligations of the clause:

(a) The New Technology Representative shall review, as necessary, the technical progress of work performed under the contract to ascertain whether the contractor and his subcontractors, where appropriate, are complying with the reporting requirements of the clause. This effort should be directed primarily toward contracts and subcontracts which, by the nature of the experimental, developmental, research, or other work to be performed, or the dollar amounts involved, are likely to produce Reportable Items or Subject Inventions of significant quantity or quality, or toward contracts and subcontracts where there is reason to believe the contractors may not be complying with their contractual obligations. Other contracts and subcontracts should be

spot-checked when feasible. These follow-up activities may include:

(1) Reviewing technical reports submitted by the contractor;

(2) Requesting the Patent Representative to check sources for patents issued to the contractor in fields related to his Government contracts;

(3) Interviewing contractor personnel regarding work under the contract, observing the work on-site, and inspecting laboratory notebooks and other records of the contractor related to work under the contract where so authorized by the clause;

(4) Interviewing agency technical personnel concerning novel developments in contracts under their cognizance; and

(5) Ensuring that the contractor is timely in submitting the reports of Reportable Items and disclosure of Subject Inventions, interim reports, subcontract identification, and final reports as required by the clause.

(b) The New Technology Representative shall forward to the Patent Representative copies of all contractors' and subcontractors' written reports of Reportable Items and disclosure of Subject Inventions, and a copy of the written statement, if any, submitted with the report of the Reportable Item. The New Technology Representative shall consult with the Patent Representative whenever a question arises as to whether a given Reportable Item is to be considered a Subject Invention or whether it was made in the performance of work under the contract. All correspondence relating to inventions and waivers under the "New Technology" clause, and election of title under the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause will also be promptly forwarded to the Patent Representative.

(c) The Patent Representative shall review each Reportable Item to ascertain whether it is to be considered a Subject Invention, obtain any determinations required by paragraph (b) of the "New Technology" clause, and so notify the contractor. As to any Subject Invention, the Patent Representative shall ensure that the contractor has provided sufficient information to protect the Government's rights and interests therein, including, as required, information and documents necessary for the preparation, filing, and prosecution of patent applications, determinations of inventorship, and the preparation of instruments establishing the Government's rights therein. The Patent Representative shall also, as necessary, conduct selected reviews of the nature set forth in paragraph (a), above, to ensure that Subject Inventions are identified, adequately documented, and timely reported or disclosed.

(d) Upon receipt of any final report required by the clause, and upon determination that the contract work is complete, the New Technology Representative shall determine whether the contractor has complied with the reporting requirements of the clause. If so, the New Technology Representative shall certify compliance, obtain the Patent Representative's concurrence with such certification, and forward the certification to the contracting officer. Such determinations generally will require consultation with cognizant technical personnel.

(e) Either the New Technology Representative or the Patent Representative, in consultation with the other, may prepare opinions, make determinations and otherwise advise the contracting officer with respect to any withholding of payment under paragraph (h) of the "New Technology" clause. Either the New Technology Representative or the Patent Representative may represent the contracting officer for the purpose of examining the contractors books, records and other documents in accordance with paragraph (g) of the "New Technology" clause. However, no action shall be taken by either the New Technology Representative or the Patent Representative which would constitute a final decision under the Disputes clause or involve a change or an increase in the work required to be performed under the contract which is inconsistent with 9.109–10 or which otherwise is outside the scope of obligations imposed upon the contractor by the contract.

(f) Release of final payment under the contract, and, if applicable, any reserve set aside under the withholding provisions of the clause for deficiencies and delinquent reporting not corrected as of the time of the submission of the final report by the contractor, shall not be approved by the contracting officer until receipt of the New Technology Representative's certification of compliance, and the Patent Representative's concurrence therewith, as specified in paragraph (d), above.

§ 9.109–4 Remedies.

If the contractor, for a contract containing the New Technology clause of 9.107–5, fails to establish, maintain, or follow effective procedures for identifying and disclosing Reportable Items or other reports and information or fails to correct any deficiency after notice thereof, the contracting officer may require the contractor to make available for examination, books, records, and documents relating to inventions, discoveries, improvements, or innovations in the same field of technology as the contract to enable a determination of whether there are such Reportable Items, and may invoke the withholding provisions of the clause. Further, the contracting officer may invoke the withholding provisions of the clause if the contractor fails to report any Reportable Item as required by the clause.

§ 9.109–5 Conveyance of Invention Rights Acquired by the Government.

(a) Where the Government acquires the entire right, title, and interest in an invention under the "New Technology" clause of 9.107–5, a determination of title is to be made in accordance with 42 U.S.C. 2457 and reflected in appropriate instruments executed by NASA and forwarded to the contractor. When the Government acquires the entire right, title and interest in an invention under the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause of 9.108–5, assignments are required from the inventor to the contractor and from the contractor to the Government, or from the inventor to the Government with the consent of the contractor, to establish clearly the chain of title from the inventor to the Government. The form of conveyance of title from the inventor to the contractor must be legally sufficient to convey the rights the contractor is required to convey to the Government.

(b) When the contractor is granted a waiver under the "New Technology" clause (see 9.109–6), or elects to retain title under the "Patent Rights (Small Business Firm or Nonprofit Organization)" clause and, in either case, timely files a patent application on the invention, an instrument confirmatory of the Government's license rights and other rights is to be obtained.

(c) Assignments, licenses, confirmatory instruments, and other papers evidencing any rights of the Government in patents or patent applications shall be recorded in the Statutory Register or documented in the Governmental Register maintained by the U.S. Patent and Trademark Office pursuant to Executive Order 9424, February 18, 1944.

§ 9.109–6 Waiver of Rights to Inventions in Contracts Containing the "New Technology" Clause.

(a) Pursuant to the NASA Patent Waiver Regulations, 14 CR Section 1245, Subpart 1, the Administrator may, in appropriate cases in contracts or

subcontracts with other than a small business firm or a domestic nonprofit organization, grant a request for the waiver of rights to any or all inventions made or which may be made under such contract or subcontract. The conditions, reservations, and obligations of a waiver are set forth in the Waiver Regulations and will be included in the Instrument of Waiver.

(b) Under § 1245.104 of the Waiver Regulations, advance waiver of rights to any or all inventions which may be made under a contract may be requested prior to the execution of the contract, or within 30 days after execution of the contract by the contractor. Waiver of rights to an identified invention made and reported under a contract may be requested under 14 CFR 1245.105. Waiver of rights may be requested under any of these provisions even though a request under a different provision was not made, or if made, was not granted. Waiver of foreign rights under 14 CFR 1245.106 may be requested concurrently with domestic rights or independently thereof.

(c) A request for the waiver of invention rights is made in the form of a petition, the requirements of which are specified in 14 CFR 1245.110. Petitions for advance waiver of rights presented prior to contract execution must be submitted through the contracting officer to the Inventions and Contributions Board, National Aeronautics and Space Administration, Washington, D.C. 20546. All other petitions shall be submitted directly to this Board. Forms which may be used in petitioning for waiver of invention rights and other general information pertaining thereto may be obtained from the Board.

(d) Subcontractors and prospective subcontractors may petition for waiver of invention rights in the same manner as described in this Subpart for prime contractors. Petitions by subcontractors or prospective subcontractors may be submitted directly to the Board, except that when a petition is made prior to the execution of a contract, it must be submitted to the Board through the NASA contracting officer.

(e) Petitions for advance waiver of rights prior to execution of the contract submitted by organizations selected for negotiation of a contract and petitions for advance waiver of rights submitted by contractors within 30 days after execution of a contract, will be considered by the Board. Contracting officers should forward petitions submitted prior to execution of the contract to the installation Patent Counsel for processing; the Patent Counsel will then forward the petitions to the Board. If the Board finds that a petition submitted prior to execution of the contract qualified under the criteria set forth in § 1245.104 of the regulations, it will recommend to the Administrator that waiver be granted and shall inform the contracting officer of the Administrator's determination with respect thereto. Should the Board, in considering a petition for advance waiver of rights prior to the execution of the contract, determine that there is insufficient time or information or other reasons to permit it to make its findings and recommendations to the Administrator without unduly delaying execution of the contract, the Board, through the installation Patent Counsel, will inform the contracting officer of its action and request him to notify the petitioner. The contractor may, within 30 days following execution of a contract, request the Board to reconsider the petition, either on the record or with any additional information which the contractor may care to furnish in support of the original petition. Contractors that have submitted petitions within 30 days after contract execution will be notified directly by the Board of its findings and proposed recommendation.

(f) Petitions for advance waiver should include sufficient information to permit the Board to make the specific findings under § 1245.104(c) and (d) of the regulations. These findings relate to the purpose of the contract, the field of science or technology of the contract, the relative commercial versus Government funding in the identified field of science, the commercial position of the contractor relative to the contract work or, if the contractor has not established such a commercial position, other facts which may, nevertheless, qualify the contractor under the "special situations" provisions of the regulations. In addition, Section 1245.104(b) of these regulations permit the Board to recommend to the Administrator the grant of waiver in "exceptional circumstances" when the Board is unable to make some of the specific findings required by the regulations. In the event the petitioner seeks to qualify his advance waiver under the exceptional circumstances provision of the regulations, suffcient information should be submitted to adequately support this finding.

(g) Advance waiver of invention rights granted under § 1245.04 of the regulations shall apply to those inventions reported during the term of the applicable contract and upon which the contractor indicates that he has filed or intends to file an application for U.S. patent. The waiver shall extend to any division or continuation patent application provided the scope of the invention remains substantially the same as that of the reported invention. An advance waiver of rights shall also extend to any contract changes, modifications or supplemental agreements so along as the purpose of the contract or the scope of work to be performed is not substantially altered.

(h) When the "New Technology" clause of 9.107–5 is to be applicable to the procurement, the following provision will be included in the request for proposals:

Waiver of Rights to Inventions (June 1982)

(a) In accordance with the NASA Patent Waiver Regulations, 14 CFR Part 245, Subpart 1, waiver of rights to any or all inventions made or which may be made under a NASA contract or subcontract with other than a small business firm or a domestic nonprofit organization may be requested at different time periods. Under § 1245.104 of the regulations, advance waiver of rights to any or all inventions which may be made under a contract or subcontract may be requested prior to the execution of the contract or subcontract, or within 30 days after execution by the selected Contractor. Waiver of rights to an identified invention made and reported under a contract or subcontract may be requested under 14 CFR 1245.105, even though a request for an advance waiver was not made or, if made, was not granted.

(b) If a proposer intends to petition NASA for the waiver of invention rights prior to contract execution, the petition for waiver should be presented with the proposal. Forms which may be used in petitioning for waiver may be obtained from the NASA Inventions and Contributions Board, National Aeronautics and Space Administration, Washington, DC 20546. The findings which must be made by the Board in order to recommend that a waiver be granted are set forth in 14 CFR Section 1245, Subpart 1.

(c) Petitions submitted with proposals selected for negotiation of a contract will be forwarded by the Contracting Officer to the installation Patent Counsel and then to the Inventions and Contributions Board. The Board will consider these petitions and where the Board makes the findings to support the waiver, the Board will recommend to the Administrator that waiver be granted, and will notify the petitioner and the Contracting Officer of the

Administrator's determination. The Contracting Officer will be informed by the Board whenever there is insufficient time or information or other reasons to permit a decision to be made without unduly delaying the execution of the contract. In the latter event, the petitioner will be so notified by the Contracting Officer. The petitioner may within 30 days following execution of the contract request the Board to reconsider the petition on the record or with any additional information he may care to furnish. The Board shall notify the petitioner of its action and if waiver is granted, the conditions, reservations, and obligations thereof will be included in the Instrument of Waiver.

(i) When NASA requests another Government agency to perform work, of a type defined in 9.107–4, on behalf of NASA and it is contemplated that a contract will be awarded, instructions for transmittal of petitions for waiver shall be provided to the other agency in accordance with 9.107–9(a)(6). The NASA Inventions and Contributions Board will consider any petitions and recommend to the Administrator whether or not waiver should be granted. The Administrator's determination will be transmitted to the contractor and the contracting officer of the other agency.

(j) The Board shall inform the installation Patent Counsel of the decision of the Administrator to either grant or deny advance waiver of patent rights. The installation Patent Counsel shall notify the contracting officer and the New Technology Representative of the Administrator's action.

§ 9.109–7 Publication or Release of Invention Disclosures.

(1) The publication of information disclosing an invention by any party before the filing of a patent application may create a bar to a valid patent. In recognition of this, 35 U.S.C. 205 provides

"Federal agencies are authorized to withhold from disclosure to the public information disclosing any invention in which the Federal Government owns or may own a right, title, or interest (including a nonexclusive license) for a reasonable time in order for a patent application to be filed. Furthermore, Federal agencies shall not be required to release copies of any document which is part of an application for patent filed with the United States Patent and Trademark Office or with any foreign patent office."

(2) NASA will, therefore, to the extent authorized by 35 U.S.C. 205, withhold from disclosure to the public reports or disclosures of Subject Inventions submitted pursuant to the clause of either 9.107–5 or 9.108–5 for a reasonable time in order for patent applications to be filed.

(3) NASA will also use reasonable efforts to withhold other information disclosing a Subject Invention that may be included in data delivered pursuant to contract requirements (see 9.200), *provided* that the contractor notifies NASA of the identity of the data and the Subject Inventions to which it relates at the time of delivery of the data. Such notification must be to both the contracting officer and the patent representative designated in the contract.

(4) With respect to small business firms or domestic nonprofit organizations, OMB Circular A–124 states that a reasonable time for withholding the report or disclosure of a Subject Invention under (2) above is that time during which an initial patent application may be filed pursuant to the clause of 9.108–5, and a reasonable time for withholding other information under (3) above is six months from delivery of the data with notification.

(5) It is NASA's general practice, if circumstances permit, to provide notice to the submitter prior to release of any unpublished information disclosing a Subject Invention pursuant to a request under the Freedom of Information Act.

§ 9.109–8 Reporting on Utilization of Inventions. [Reserved]

§ 9.109–9 Exercise of March-In Rights. [Reserved]

§ 9.109–10 Appeals. [Reserved]

§ 16.802 [Amended]

11. In Part 16, 16.802 is amended by removing "1.507 through".

[FR Doc. 83–7244 Filed 3–18–83; 8:45 am]
BILLING CODE 7510–01–M

LEGAL SERVICES CORPORATION

45 CFR Part 1612

Restrictions on Certain Activities

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends § 1612.4 of the Legal Services Corporation regulations governing legislative and administrative representation. The amendments impose additional restrictions on legislative and administrative activities mandated by provisions of the continuing resolution appropriating FY 1983 funds for the Corporation, Pub. L. 97–377. The amendments also include changes in the language of the regulation to more closely conform it to the language of the Legal Services Corporation Act, and to provide for additional recipient documentation and reporting requirements including a provision applicable to recipient publications which address legislative measures.

EFFECTIVE DATE: April 20, 1983.

FOR FURTHER INFORMATION CONTACT: Alan R. Swendiman (202) 272–4010.

SUPPLEMENTARY INFORMATION: The Legal Services Corporation published proposed amendments to § 1612.4 on November 8, 1982, (47 FR 50660) and interested parties were given 30 days until December 8, 1982, to submit comments on the proposed amendments. The amendments were drafted, in part, to implement certain provisions of the continuing resolution enacted on October 2, 1982, which appropriated FY 1983 funds for the Corporation (Pub. L. 97–276). The Corporation gave full consideration to all comments that it received on the proposed amendments.

At its December 16–17, 1982, meeting, the Corporation's Board of Directors authorized final publication of the proposed regulations including changes made in response to comments received. At the same time, the Board amended proposed § 1612.4(f) by adding a new paragraph (f)(2) which limited the authority of recipients of Corporation funds to communicate with elected officials to responding to requests concerning appropriations or other measures directed to the authority or conduct of a recipient as a provider of legal services to eligible clients. The amendment also provided that a response could be directed only to the requesting party, and prohibited soliciting a request from an elected official to testify or otherwise advocate the support or defeat of legislative measures. However, on December 21, 1982, subsequent to the Board's approval of the final regulations as amended, the President signed Pub. L. 97–377, a second continuing resolution appropriating FY 1983 funds for the Corporation. Public Law 97–377 amended the lobbying provisions of the previous continuing resolution by removing the language in Pub. L. 97–276 which limited communications to elected officials to matters "pertaining to the authorization or appropriations of funds or oversight measures directly affecting the operation of the program involved." As a result, Pub. L. 97–377 invalidated the provision in amended § 1612.4(f)(2) which limited the substantive matters on which communications could be directed to

elected officials. Therefore, the final regulations which the Corporation is adopting are those that were published for comment with the changes authorized by the Board and the changes in paragraph (f) mandated by Pub. L. 97-377. Those changes are as follows:

Documentation Requirements

Proposed § 1612.4(b)(4) would have required that communications made in response to a request from an elected official be obtained in writing and in advance. A number of commentators, particularly legislators, stated that this requirement was unrealistic because the order of legislative business frequently was unpredictable and there might not always be time to put a request for testimony, information, or other assistance in writing in advance of the time it is needed. One state legislator noted that he had no staff. Accordingly, the Corporation has rewritten § 1612.4(b)(4) to permit responses to oral requests so long as the fact, nature, and circumstances of the request are subsequently documented in writing.

Reporting Requirements

Proposed § 1612.4(b)(5) would have required recipients to submit monthly reports of their legislative and administrative advocacy activities. Many of the comments received noted that monthly reporting was unduly burdensome, particularly since other reports requied by the Corporation are submitted quarterly. Therefore, the Corporation has changed § 1612.4(b)(5) to provide for quarterly reports.

In addition, a number of comments pointed out that a literal reading of "administrative advocacy activities" as used in the regulation could be taken to require reporting of advocacy in administrative proceedings of an adjudicatory nature, such as welfare hearings, Social Security hearings, etc. On the contrary, the term "administrative advocacy" as used in these regulations refers only to representation in formal rule-making proceedings or other efforts to influence agency rules or procedures. Neither the reporting requirements nor any other provision of this part is addressed to representation in administration adjudications.

Restrictions on Lobbying Under the Continuing Resolution

Paragraph (f)(1) has been redrafted to track the language of the lobbying provisions of Pub. L. 97-377. In addition, the provisions of paragraph (f)(2) added by the Board of Directors which are inconsistent with Pub. L. 97-377 have been stricken. Under paragraph (f), a recipient or an employee of a recipient may direct communications to elected officials in response to a formal request. Comments from legislators expressed concern that this provision would preclude a recipient from responding to a formal request made on his or her behalf by a staff member. This regulation is not intended to prohibit recipients from responding to formal requests from a legislator made through a member of the legislator's staff. It does prohibit recipients or their employees from sending communications or information requested by one legislator to other legislators who have not requested such information or communications.

In addition to these changes, the Corporation made a conforming amendment to § 1612.4(h)(4). As originally proposed, the section permitted direct contact with elected officials if such activities were authorized by § 1612.4(a). Since Pub. L. 97-377 imposes additional restrictions on recipient activities which have been incorporated in § 1612.4(f), § 1612.4(h)(4) should also incorporate those restrictions. Therefore, the Corporation has deleted the specific reference to § 1612.4(a) contained in proposed § 1612.4(h)(4) and substituted the phrase "under these regulations."

List of Subjects in 45 CFR Part 1612

Legal services, restrictions on certain activities, Lobbying.

PART 1612—[AMENDED]

For the reasons set out in the preamble, 45 CFR Part 1612 is amended as follows:

1. The authority citation for Part 1612 is revised to read as follows:

Authority: Secs. 1006(b)(5), 1007(a)(5), 1011, 1008(e), Pub. L. 93-355, 88 Stat. 378 (42 U.S.C. 2996e(b)(5), 2996f(a)(5), 2996j, 2996g(e)), Pub. L. 95-431, 92 Stat. 1021, Pub. L. 95-68, 93 Stat. 416, Pub. L. 96-536, 94 Stat. 3166, Pub. L. 97-161, 96 Stat. 22, Pub. L. 97-377, 96 Stat. 1874.

2. Section 1612.4 is revised to read as follows:

§ 1612.4 Legislative and administrative representation.

(a) No funds made available to a recipient by the Corporation shall be used, at any time, directly or indirectly, to support activities intended to influence the issuance, amendment, or revocation of any executive or administrative order or regulation of a Federal, State or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative body or State proposals by initiative petition, except that;

(1) An employee may engage in such activities in response to a request from a governmental agency or a legislative body, committee, or member made to the employee or to a recipient to testify, draft or review measures or to make representations to such agency, body, committee or member; or,

(2) An employee may engage in such activities on behalf of an eligible client of a recipient, if such activities are necessary to the provision of legal advice and representation to a client who may be affected by a particular legislative or administrative measure but no employee shall solicit a client in violation of professional responsibilities for the purpose of making such representation possible; or,

(3) An employee may engage in such activities if a governmental agency, legislative body, committee, or member thereof is considering a measure directly affecting the activities under the Act of the recipient or the Corporation. This exception extends only to appropriations or other measures directed to the Corporation, or the recipient or its employees.

(b) Recipients shall adopt procedures and forms to document that the legislative and administrative activities in which they engage fall within the activities permitted in § 1612.4(a). Such documentation shall include:

(1) With respect to activities permitted under § 1612.4(a), a written request signed by an official of the governmental agency or a member of the legislative body or committee making the request which states the type of representation or assistance requested and identifies the executive or administrative order or regulation, or legislation, to be addressed;

(2) With respect to activities permitted under § 1612.4(a)(2), a retainer agreement, signed by the client or clients represented, or by an official of the client group in the case of a group client, which agreement shall specify the legislative or administrative measure on which representation is sought, the type of representation sought, (appearance at a hearing, legislative drafting, etc.), and which shall include a statement of the client's direct interest in the particular legislative or administrative measure to be addressed;

(3) With respect to activities permitted under § 1612.4(a)(3), a written statement signed by the recipient's executive director authorizing the initiation of such activities.

(4) Recipients shall obtain the documentation required by this section

prior to undertaking any of the activities permitted by §§ 1612.4(a) or 1612.4(f), except that recipients may respond to an oral request made pursuant to §§ 1612.4(a)(1) or 1612.4(g)(2) in the absence of a written request provided that the fact, nature, and circumstances of the request are subsequently documented in writing signed by the requesting authority.

(5) Recipients shall submit quarterly reports, in a form prescribed by the Corporation, describing their legislative and administrative advocacy activities conducted pursuant to these regulations.

(c) Recipients may not establish full time legislative offices unless the decision to establish such an office is formally made by the Board of Directors of the recipient consistent with the provisions of Section 1620, provided that the legislative activities of these offices are solely activities permitted under § 1612.4(a). Recipients shall provide the Corporation with a copy of the board resolution formally approving the establishment of a full time legislative office together with an annual budget for such office which describes, in a form prescribed by the Corporation, the annual costs of the office, including personnel costs.

(d) Notwithstanding the provisions of § 1612.4(a), recipients shall not use funds made available by the Corporation for publicity or propaganda purposes designed to support or defeat proposed legislation or legislation pending before Congress or any state legislature. For purposes of this regulation, "publicity or propaganda" means any oral communication or any advertisement, telegram, letter, article, newsletter, or other printed or written matter or device which contains a direct suggestion, or, when taken as a whole, an indirect suggestion to the public at large or to selected individuals to contact elected representatives in support of or in opposition to pending or proposed legislation.

(e) No funds made available to a recipient by the Corporation shall be used to support the preparation, production, and dissemination of any article, newsletter, or other publication or written matter for general distribution which contains any reference to proposed or pending legislation unless:

(1) The publication does not contain any publicity or propaganda prohibited by § 1612.4(d); and

(2) the recipient has adopted a policy requiring the recipient's executive director, or his or her designee, to review each publication produced by the recipient prior to its dissemination for conformity to these regulations; and

(3) The recipient provides a copy of any such material produced by the recipient to the Corporation within 30 days after publication; and

(4) Such funds are used only for costs incident to the preparation, production, and dissemination of such publications to recipients, recipient staff and board members, private attorneys representing eligible clients, eligible clients, and the Corporation, as opposed to the public at large.

(f)(1) Notwithstanding the provisions of § 1612.4(a), no funds made available to a recipient by the Corporation under the authority of Pub. L. 97-377 shall be used, directly or indirectly, to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device, intended or designed to influence any decision by a Federal, State, or local agency, except where legal assistance is provided by an employee of a recipient to an eligible client on a particular application, claim, or case, which directly involves the client's legal rights and responsibilities, or to influence any Member of Congress or any other Federal, State, or local elected official to favor or oppose any Acts, bills, resolutions, or similar legislation, or any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council, or any similar governing body, except that this subsection shall not preclude such funds from being used in connection with communications made in response to any Federal, State, or local official, upon a specific matter.

(2) The exception for communications to officials does not authorize communication with anyone other than the requesting party. No employee of the recipient shall, directly or indirectly, solicit a request from any official to testify or otherwise advocate the support or defeat of legislative measures.

(g) Recipients shall adopt procedures and forms to document that the legislative and administrative activities in which they engage fall within the activities permitted under § 1612.4(f). Such documentation shall include:

(1) With respect to activities on behalf of eligible clients, a retainer agreement, signed by the client or clients represented, or by an official of the client group in the case of a group client, which agreement shall specify the administrative measure on which representation is sought, the type of representation sought, (appearance at a hearing, etc.) and which shall include a statement of the client's direct interest in the particular administrative measure to be addressed;

(2) With respect to activities in response to a request from a Federal, State, or local elected official, a written request signed by the offical making the request which states the type of communication requested (testimony, legal analysis, legislative drafting, etc.) and identifies the legislative measure to be addressed. Such documentation shall also include the signature of the recipient's executive director (or his or her designee) authorizing the communications requested.

(h) Nothing in this section is intended to prohibit an employee from:

(1) Communicating with a governmental agency for the purpose of obtaining information, clarification, or interpretation of the agency's rules, regulations, practices, or policies; or

(2) Informing a client about a new or proposed statute, executive order, or administrative regulation consistent with the requirements of Section 1612.4(e); or

(3) Advising a client with respect to the client's own communications to elected officials concerning proposed or pending legislation; or

(4) Making direct contact with elected officials concerning proposed or pending legislation as long as such activities are authorized under these regulations; or

(5) Communicating with the Corporation for any purpose.

Dated: March 16, 1983.

Donald P. Bogard,

President.

[FR Doc. 83-7242 Filed 3-18-83; 8:45 am]

BILLING CODE 6820-35-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 80-719; RM-3682; FCC 82-558]

Radio Broadcast Services; Petition To Reallocate VHF Television Channel 9 From New York, New York, to a City Within the City Grade Contour of Station WOR-TV.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action reassigns VHF Television Channel 9 from New York, New York, to Secaucus, New Jersey, and grants the licensee of Station WOR-TV a 5-year license specifying Secaucus as the city of license in response to a request by RKO General, Inc. The

assignment will provide a first commercial VHF television station to the State of New Jersey.

EFFECTIVE DATE: April 20, 1983.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau (202) 634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order; Proceeding Terminated

In the matter of a petition to reallocate VHF television channel 9 from New York, New YorK, to a city within the city grade contour of station WOR-TV; BC Docket No. 80-719 RM-3682.

Adopted: December 8, 1982.
Released: March 11, 1983.

By the Commission; Commissioners Fogarty and Rivera concurring in part and dissenting in part and issuing a joint statement at a later date; Commissioner Jones concurring in part and dissenting in part and issuing a statement; Commissioner Dawson concurring and issuing a statement.

1. In 1980 the Commission adopted a *Notice of Proposed Rule Making,* 84 FCC 2d 180 (1980), proposing to reassign Channel 9 from New York City to a community in Northern New Jersey within the present city grade contour of Station WOR-TV (Channel 9). On August 19, 1982, while this rulemaking proceeding was pending, Congress passed the Tax Equity and Fiscal Responsibility Act of 1982, which added Section 331 to the Communications Act of 1934, as amended (hereinafter Section 331).[1] This new section requires the Commission to reallocate a VHF commercial television station to a community within a state that does not have such a station, upon notification from a licensee that it agrees to the relocation. Specifically, Section 331 directs that when a licensee notifies the Commission of its agreement to reallocation "to a community * * * the Commission shall, notwithstanding any other provision of law, order *such* reallocation * * *" (Emphasis added.) Thus, the Commission's discretion in this matter, including determining the community of license, is limited by the express wording of the statute.

2. In response to this legislation, RKO has notified the Commission by letter dated September 7, 1982, that it agrees to the requirements of Section 331. In this regard, RKO states that it will relocate its main studio to Secaucus, New Jersey, upon issuance by the Commission of a license for a term of five years. It indicates that its transmitter will remain atop the World Trade Center in New York City. On the basis of this notification, we find that RKO satisfies the terms of Section 331,[2] and that we are now in a position to grant a first commercial VHF station to New Jersey by reallocating Channel 9 to Secaucus, New Jersey.[3] Moreover, in light of the passage of Section 331 and our action today in conformity with the statute we will terminate our rulemaking proceeding.[4]

3. In reassigning Channel 9 to serve New Jersey, we have not followed traditional assignment criteria developed pursuant to section 307(b) of the Communications Act of 1934, as amended. In this regard, we have not undertaken an evaluation of communities eligible for licensing and their comparative needs for a local television station. Rather, we are guided strictly by what we perceive to be the intent of the legislation to license a station to "operate for the public benefit of the unserved state." S. Rep. No. 530, 97th Cong. 2d Sess. 690 (1982). As the sponsor of the amendment stated:

> [T]he reallocation of a license to New Jersey will mean that the licenseholder will move its studios and offices to New Jersey and operate in New Jersey *for the benefit of the people in our State* * * * I intend to carefully monitor the development of any New Jersey station to insure that *it is responsive to the needs of my State. This station will not be a New Jersey station in name only. It will serve the people of New Jersey.*

128 Cong. Rec. S10946 (daily edition) August 3, 1982 (remarks of Senator Bradley) (emphasis added).

4. Thus we believe it would be appropriate to take steps toward carrying out this intention through a higher service responsibility within RKO's Grade B coverage area. We come to this conclusion regarding RKO's service based not only on the Congressional intent but also from RKO's statements pertaining to its own programing intentions. In its October 13, 1982, letter to the Commission, RKO stated "* * * RKO believes that as New Jersey's only VHF television station it will be desirable to orient the station's news and other informational programing to the entire region of New Jersey, which it will serve." Indeed, RKO states that its specification of Secaucus as the city of license would allow it to devote more time to the needs of its entire New Jersey coverage area since the needs of Secaucus could be readily satisfied. In contrast, RKO suggests that the local needs of a much larger city, such as Newark, would require more time to satisfy, at the expense of the needs of the rest of its northern New Jersey service area.

5. Considering RKO's statements with regard to its programing expectations in conjunction with the clear Congressional intent, we anticipate that RKO's continued use of VHF Channel 9 will be directed toward satisfying the programing needs of its New Jersey Grade B coverage area. In the usual case, Secaucus, the city of assignment, would be the primary focus of the licensee's programing responsibilities. However, we have previously determined that the lack of local VHF television service to this highly populated area of northern New Jersey presented a unique set of circumstances. *See e.g.,* Docket 20350 *2nd R&O,* 59 FCC 2d 1386 (1976), wherein special service obligations have been imposed on all New York City and Philadelphia TV

[1] The new Section 331 provides: It shall be the policy of the Federal Communications Commission to allocate channels for very high frequency commercial television broadcasting in a manner which ensures that not less than one such channel shall be allocated to each State, if technically feasible. In any case in which a licensee of a very high frequency commercial television broadcast station notifies the Commission to the effect that such licensee will agree to the reallocation of its channel to a community within a State in which there is allocated no very high frequency commercial television broadcast channel at the time of such notification, the Commission shall, notwithstanding any other provision of law, order such reallocation and issue a license to such licensee for that purpose pursuant to such notification for a term of not to exceed 5 years as provided in Section 307(d) of the Communications Act of 1934.

[2] An examination of the television allocation table (§ 73.606(b) of the Commission's Rules) shows that Channel 13, a non-reserved VHF television channel, is allocated to New Jersey. However, this channel has been used for more than twenty years by educational broadcasting Station WNET-TV for a *non-commercial* purpose as part of the New York state educational facilities network. Thus, RKO's application would represent the first provision of commercial VHF television service to New Jersey and would conform to the explicit Congressional intent to facilitate such service to the State of New Jersey. *See* 128 Cong. Rec. S10946 (daily ed. Aug. 19, 1982) (remarks of Sen. Bradley); 128 Cong. Rec. H6347 (daily ed. August 17, 1982) 128 Cong. Rec. S8923 (daily ed. July 22, 1982), and S. Rep. No. 97-530, 97th Cong., 2nd Sess. 690 (1982).

[3] Although the Commission previously denied renewal of RKO's license, *RKO General, Inc. (WOR-TV),* 78 F.C.C. 2d 357 (1980), that decision has been remanded to the Commission by the U.S. Court of Appeals, *RKO General, Inc.* v. *FCC,* 670 F. 2d 215 (D.C. Cir. 1981), *cert. denied,*—U.S.—, 102 S. Ct. 2931 (1982), and no action on the remand has been taken. Thus RKO's present status as a licensee qualifies it under Sections 307(d) and 331 of the Communications Act and Section 558(c) of the Administrative Procedure Act.

[4] Further compliance with the rulemaking procedures of the Administrative Procedure Act (e.g. further notices of proposed rulemaking etc.) is unnecessary in light of the explicit direction from Congress in Section 331, to reallocate the channel upon notification by a licensee who qualifies under the statute.

stations. Accordingly, we expect RKO to perform a higher degree of service to its Grade B coverage area than is normally required of a broadcast licensee. At renewal time RKO will be judged by how it has met the obligation to serve the greater service needs of northern New Jersey, which we view as broader than the specific needs of Secaucus.

6. We recognize that our action here moots the competing application of Multi-State Communications Inc. for the Channel 9 frequency (Docket Nos. 19991–19992). Multi-State's mutually exclusive application was pending when section 331 was enacted. After a careful examination of both the terms and the legislative history of section 331, however, we are convinced that Congress did not intend that any reallocation be followed by comparative hearing proceedings, including completion of proceedings which commenced prior to the passage of section 331. The statute specifically says that, upon notification by a licensee of its agreement to reallocate its channel to an unserved State, "the Commission shall, *notwithstanding any other provision of law,* order such reallocation and issue a license to such licensee" for a term of up to five years. The emphasized language, in our view, includes those statutory and regulatory provisions pertaining to comparative proceedings.

7. Moreover, the legislative history of section 331 indicates an explicit Congressional intent to facilitate commercial VHF television service to the State of New Jersey. See n. 2, *supra.* The Conference Report explaining section 331 states:

> It is the intention of Congress that any current licensee which exercises the option of seeking the transfer of its license to an unserved state under the terms of this section will move its studio and offices, *to and operate for the public benefit of the unserved State.*

S. Rep. No. 530, *supra,* at 690 (emphasis added).

8. At the same time section 331 does not give the Commission the power to force an unwilling licensee to move to New Jersey. Instead Congress here contemplated that a reallocation would occur only as a result of a licensee's voluntary notification of its agreement to such reallocation. RKO is the only licensee to come forward since the enactment of section 331 and voluntarily agree to the reallocation of its channel to an unserved State. There is nothing in the record here to indicate, however, that RKO would be willing to undertake a reallocation to New Jersey if the pending comparative proceeding in which it was involved were to continue. Indeed, in its notification to the Commission pursuant to the statute, RKO stated that "it agrees to the reallocation of Channel 9 from New York, New York to Secaucus, New Jersey, *upon issuance by the Commission to RKO of a regular license for that purpose having a term of five years.*" (Emphasis added.) RKO recently stated its understanding that its notification pursuant to section 331 would terminate the comparative proceeding:

> Thus, section 331 and RKO's acceptance of the reallocation of WOR–TV requires that the previous proceedings on Multi-State's application for Channel 9 in New York and RKO's renewal application for WOR–TV, New York, come to an end. When WOR–TV has moved to New Jersey, Channel 9 will no longer be available in New York. Consequently, by operation of the statute, the proceedings before the Commission concerning RKO's and Multi-State's applications for that channel will become moot when the Commission complies with the statute and issues a license to RKO for the reallocated Channel 9.

Letter to Chairman Mark S. Fowler, September 15, 1982.

9. It is also apparent that Congress was aware that section 331 might apply, *inter alia,* to RKO,[5] and that the statute would affect competing applicants. In particular, Chairman Fowler wrote to Congressman John Dingell, Chairman of the House Energy and Commerce Committee on July 27, 1982, concerning an earlier version of the statute, S. 1629. In that letter Chairman Fowler stated that under the provisions of the proposed legislation:

> [T]he Commission would be required to grant the renewal application of the VHF licensee in question without considering other public interest factors long used in making such a decision * * *. [C]ompeting applications for the licensee's facilities would be dismissed without comparison of the qualifications of the new applicant(s) *vis-a-vis* those of the incumbent licensee.

Multi-State itself raised those concerns during Congressional consideration of the earlier version of Section 331. In letters sent to 22 Senators and Congressmen on May 19, 1982, Multi-State stated:

> [Multi-State's] "protected status" is well established by FCC regulations and recognized by the Commission in all its proceedings. The Bradley amendment [to S. 1629] disregards this recognized right of Multi-State and will totally destroy the longstanding equity of our protected position * * * [The] amendment * * * destroys the recognized standing of one party.

10. Under these circumstances, we view the statute as a Congressional determination of the rights of competing applicants.[6] Accordingly, as discussed above, we have concluded that RKO's notification is sufficient to bring Section 331 into play and we have issued RKO the license it requests pursuant to that notification. We believe that these actions are compelled by the statute and Congressional intent, notwithstanding the adverse effects on Multi-State.

11. One issue raised in the *Notice of Proposed Rule Making* should be addressed at this time; *i.e.,* the special service obligations now imposed upon New York and Philadelphia stations to provide better coverage to the needs of New Jersey residents.[7] When this obligation was imposed, it was announced that a review of each station's performance would take place in connection with each station's renewal application. The period for renewing New York television stations is June 1, 1984, while the licenses for Pennsylvania television stations expire on August 1, 1984. The *Notice* announced that we did not intend to abandon this requirement. Rather the obligations imposed under the previous Commission orders would continue to be scrutinized. We believe that a review of the performance of each station's service obligations to New Jersey should

[5] For example, in discussing the bill that was ultimately adopted, Senator Bradley stated: "It is my hope that an application will shortly be made. One station has already expressed a desire to move to New Jersey." 97 Cong. Rec. S10946 (daily ed. August 19, 1982). In addition, Congressman John F. Seiberling and seven other Members of the House noted: "What this means is that WOR–TV in New York will be able to move to New Jersey and have its license reallocated there." Letter to Congressman John Dingell, Chairman, House Energy and Commerce Committee, August 5, 1982.

[6] The Commission's allocation and licensing functions are derived directly from the authority of Congress to regulate radio communications pursuant to its power to regulate interstate commerce. In delegating its authority, Congress sets forth the standards by which that authority will be exercised. *FCC* v. *Pottsville Broadcasting Co.,* 309 U.S. 134 (1940); *Federal Radio Comm'n* v. *Nelson Brothers Bond & Mortgage Co.,* 289 U.S. 266 (1933).

[7] In connection with the rulemaking proceeding we have pending two "Motions to Strike." The first was submitted by Multi-State Communications, Inc. directed to a study attached to the comments of Andrew Maguire. The second motion relates to supplemental comments of RKO General, Inc. that pertain to the then pending-legislation (Section 331) and the appeal of the RKO case before the Court of Appeals. The subsequent enactment of Section 331 renders both of these matters moot.

Similarly, we have before us the request of Wm. J. Pascrell, Jr., Director of Policy Planning and Management, Paterson, New Jersey, to reopen the comment period in view of the enactment of Section 331, or in the alternative, to consider additional data regarding the needs of Paterson for the reassignment of Channel 9. As stated in the text, our discretion in this matter is limited by the express wording of the statute. Accordingly, the request will be denied.

take place as scheduled in connection with the renewals of these station licenses to determine the benefits occasioned by this program and the need to continue or eliminate the subject obligation. However, we note that the existence of a commercial VHF station located in northern New Jersey and licensed to serve the needs of this area may have a significant impact on the necessity to continue the special service obligations imposed upon the New York stations when they come up for review.

12. Accordingly, it is ordered, That effective April 20, 1983, § 73.606(b) of the Commission's Rules, the Television Table of Assignments IS AMENDED for the following communities:

City	Channel No.
Secaucus, New Jersey	9+
New York, New York	2, 4, 5+, 7, 11+, *25, 31-

13. Canadian concurrence in this action has been obtained.

14. Authority for the adoption of the amendments herein is contained in sections 4(i), 303(r) and 331 of the Communications Act of 1934, as amended.

15. IT IS FURTHER ORDERED, That pursuant to Section 331 of the Communications Act of 1934, as amended, RKO General, Inc., the licensee of Station WOR-TV, Secaucus, New Jersey is hereby granted a license for a term of 5 years from the effective date of this action.[8]

16. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Statements of Commissioners Fogarty, Rivera and Dawson to be issued at a later date.

Statement of Commissioner Anne P. Jones Concurring in Part and Dissenting in Part

In Re: Reallocation of VHF television Channel 9 from New York to New Jersey and modification of Station WOR-TV's license to specify the new location.

March 10, 1983.

I concur in the basic decision to reallocate Channel 9 to New Jersey because I agree that under existing circumstances such reallocation is, in effect, mandated by new Section 331 of the Communications Act. Although I find this action very problematical insofar as it moots Multi-State's competing application, I believe the Commission must bow in this matter to the apparent will of Congress.

I do not, however, agree with the majority that we need or should approve RKO's selection of Secaucus as its new community of license or issue this license for a 5-year term. On the first point, I believe it would make more sense, and better comport with the Act as a whole, to assign this channel to Newark, the largest city in New Jersey, rather than to the much smaller Secaucus. On the second point, I believe that limiting the term of this license to June 1, 1984, would serve two good purposes: It would conform the term of this license to those of all other New Jersey television licenses and also would provide an early opportunity for Multi-State to renew its bid for this license if it chooses to do so. On these points, therefore, I respectfully dissent.

[FR Doc. 83-7228 Filed 3-18-83; 8:45 am]

BILLING CODE 6712-01-M

[8] RKO will be expected to file a renewal application at the end of its term that would specify a period extending to June 1, 1989, in order to make its license term consistent with the expiration date of all New Jersey television licenses.

47 CFR Part 73

[BC Docket No. 82-704; RM-4183]

Radio Broadcast Services; FM Broadcast Stations in Kingman, Ariz.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns a third FM channel to Kingman, Arizona, in response to a petition filed by Mohave Communications Systems.

EFFECTIVE DATE: May 13, 1983.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Kingman, Arizona); BC Docket 82-704, RM-4183.

Adopted: March 4, 1983.
Released: March 14, 1983.
By the Chief, Policy and Rules Division.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 47 FR 46118, published October 15, 1982, proposing the assignment of Channel 261A to Kingman, Arizona, in response to a petition filed by Mohave Communications Systems ("MCS") ("petitioner"). Petitioner filed supporting comments restating its interest in the channel. Mohave Sun Broadcasting [1] submitted opposing comments to which petitioner responded.

2. In opposition to the proposal, Mohave Sun Broadcasting argues that at the time the petition was filed, the petitioner sought a second FM assignment to Kingman. After the *Notice* was issued, Kingman received a second allocation (in BC Docket 82-262, adopted November 19, 1982). Thus, Channel 234 is available for application by interested parties. According to Mohave Sun, there has been no interest expressed for a third assignment at Kingman and there is no justification for a third broadcast service to that community under the Commission's current relaxed FM assignment procedures. Thus, it urges the Commission to deny petitioner's request to assign Channel 261A to Kingman.

3. In response, the petitioner acknowledges that the proposal will provide a third service to Kingman. Petitioner states that the opposition's contention that there is no interest in a third FM service to Kingman is unacceptable since it filed comments indicating a continuing interest in the channel. In response, petitioner claims that Channel 234 was made available as a result of the counterproposal filed by Lilly Amador (a Hispanic American female), who specifically indicated her intent to apply for the channel. Thus, if it would apply for Channel 234, a hearing for the channel could result causing needless delay and expenses before additional service could be provided to Kingman. Petitioner asserts that the proposed assignment would create an intermixture of channels;[2] however, it would be the only party economically affected by the Class A operation, and is willing to operate under such conditions. Finally, petitioner states that the merits of this proceeding clearly warrant a third assignment to Kingman, and urges the Commission to adopt its proposal.

4. After carefully considering the proposal and comments filed in this proceeding, the Commission is persuaded that the public interest would be best served by adopting the proposal. Our decision reaffirms our policy of providing service where there is a demand for new service, see *Helena, Montana*, 50 R.R. 2d 70 (1981). Although the *Notice* proposed a second

[1] Mohave Sun Broadcasting is the licensee of Station KZZZ(FM), Channel 290, Kingman.

[2] Petitioner states that it is aware of the Class C channels available for assignment; and that the *Revision of FM Assignment Policies and Procedures* 90 F.C.C. 2d 88 (1982), allows voluntary competition of Class A stations with Class B and C stations.

assignment, the Commission did not rely on the provision of a second channel to Kingman (BC Docket 82-262). Rather an additional local service was the primary basis for proposing the channel. We believe the assignment should be granted. In view of the above, we shall make the requested assignment of Channel 261A to Kingman, Arizona.

5. Mexican concurrence in the assignment has been obtained.

6. Accordingly, pursuant to the authority contained in section 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective May 13, 1983, the FM Table of Assignments, § 73.202(b) of the Rules, IS AMENDED, with respect to the community listed below:

City	Channel No.
Kingman, Ariz.	234, 261A, and 290.

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

8. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83-7235 Filed 3-18-83; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 82-308; RM-4059; RM-4165]

Radio Broadcast Services; FM Broadcast Station in Medford and Klamath Falls, Oregon; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein substitutes Class C Channel 239 for Channel 237A in Medford, Oregon, in response to a request from M-3-X, Inc., licensee of Station KBOY-FM, Medford, and modifies its license to specify the new channel. Class C Channel 278 is also assigned to Medford in response to another expression of interest. Also, Channel 296A is substituted for Channel 240A at Klamath Falls, Oregon, to accommodate the Medford proposal.

EFFECTIVE DATE: May 16, 1983.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Report and Order; Proceeding Terminated

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Medford and Klamath Falls, Oregon); BC Docket No. 82-308, RM-4059, RM-4165.

Adopted: March 4, 1983.

Released: March 15, 1983.

By the Chief, Policy and Rules Division.

1. Before the Commission is the *Further Notice of Proposed Rule Making,* 47 FR 49421, published November 1, 1982, proposing two alternative assignment options looking toward the assignment of two Class C channels to Medford, Oregon, one of which requires a related channel substitution at Klamath Falls, Oregon, as follows:

Option I—Substitute Channel 296A for Channel 240A at Klamath Falls; substitute Channel 239 for Channel 237A and add Channel 278 to Medford, Oregon;

Option II—No change in existing allocations at Klamath Falls; delete Channel 237A and assign Channels 278 and 295 at Medford, Oregon.

These proposals were made in response to a petition filed by M-3-X, Inc. ("petitioner"), licensee of FM Station KBOY-FM (Channel 237A), Medford, seeking the substitution of Class C Channel 239 for Channel 237A and modification of its license to specify operation on the Class C channel.

2. In response to the *Further Notice,* opposing comments were filed by Wynne Broadcasting Company, Inc. ("Wynne"), applicant for Channel 240A in Klamath Falls. Comments and reply comments were filed by petitioner in support of Option I. Additionally, comments were filed by Matthias Enterprises ("Matthias"), licensee of AM Station KYJC, Medford, expressing an interest in either option.

3. Petitioner objects to adoption of Option II which, *inter alia,* proposes to substitute Channel 295 for its existing operation on Channel 237A. Specifically, petitioner states that it has occupied its present dial location for many years and that such substitution would cause widespread disruption of listening habits in its audience. However, it claims that if Channel 239 is substituted in lieu of 237A, such a change would be virtually indistinguishable from its existing dial position.

4. Moreover, petitioner claims that Wynne, the Klamath Falls applicant, has not advanced to licensee status and therefore its interest in operating a new station there can be easily effectuated through operation on Channel 296A. Accordingly, petitioner asserts that Wynne would experience no disruption of viewing habits and that its cut-off protection would not be lost by amending its application to reflect the channel substitution.

5. In its comments, Wynne, although not outright refusing to amend its application, has nevertheless expressed its reluctance to do so since it was recently issued a construction permit for the facility.

6. Matthias initially requested that Channel 278 also be assigned at Medford, but indicates in its comments that it supports either option since both would afford it an opportunity to apply for a Class C channel. However, it claims that *Ashbacker* [1] does not permit assignment of new Class C channels to a community, then placing one of them in reserve in order to modify a particular party's license. Therefore, Matthias claims that petitioner should be required to submit a new application and pursue it in the customary comparative fashion.

7. In its reply comments, petitioner reiterates its position with respect to the proposed substituion at Klamath Falls, and continues to support adoption of Option I to specify its operation on Channel 239 instead of Channel 295 (Option II), as the least disruptive to its listening audience.

8. Furthermore, petitioner indicates that Matthias' assertion regarding *Ashbacker* is erroneous since another Class C channel has been proposed which could accommodate the interest. As a result, petitioner notes there is no bar to a modification of its license, since there are enough Class C channels to accommodate each interest.

9. Moreover, petitioner indicates that Matthias' concern stems from a fear of economic hardship (even though it has indicated an interest in applying for Channel 278), since it is the licensee of the exising AM station in Medford and doubtless does not welcome the competition petitioner's Class C operation could generate.

10. In sum, petitioner urges that adoption of Option I would enable it to compete on a more equitable basis in the marketplace since, in the alternative,

[1] See, 326 U.S. 327 (1945).

it would be forced to operate at a disadvantage in an intermixed market.

11. In view of the above considerations, we find that the public interest would benefit from adoption of Option I. First, Medford could provide two new wide coverage area stations. The alternate plan (Option II) may not result in such services in view of petitioner's lack of interest in that proposal. Secondly, Wynne would still be afforded the opportunity to provide service to Klamath Falls. Although Wynne did not support this option, it was previously given notice that it may be required to amend its application to accommodate the instant proposal. Wynne's comments provided no reasons for denying the substitution since it had not informed us how the channel substitution at Klamath Falls should affect its proposed operation.

12. In deciding to adopt Option I, we are not relying on petitioner's argument regarding intermixture, nor disruption of viewing habits. Since adoption of the *Second Report and Order* in BC Docket No. 80–130, *Revision of FM Assignment Policies and Procedures,* 90 F.C.C. 2d 88 (1982), intermixture is no longer considered in this type of proceeding. Moreover, petitioner's concern that a certain channel (295) would create a marketplace disadvantage is not a basis for allocations decisions. Even though local viewing habits may be tuned to an existing channel on the dial, the Commission does not recognize differences between the same class of FM channels. As a general rule, we will not assign channels solely because an interested party desires a certain placement on the FM band. Our decision to adopt Option I is premised on the fact that we believe this plan has the best chance of providing two wide coverage area Class C services from Medford while not adversely affecting the proposed Klamath Falls service.

13. Contrary to Matthias' assertion that petitioner's license should not be automatically modified in light of *Ashbacker,* that position is incorrect since we are assigning a second Class C channel to accommodate its expression of interest. This practice has been consistently applied by us since the *Cheyenne, Wyoming* [2] decision.[3]

14. If Matthias' underlying fear is one of economic harm, as claimed by petitioner, it will have an opportunity to address such issue at the application stage. See *Bend, Oregon,* 46 Fed. Reg. 62858, published December 29, 1981, and cases cited therein.

[2] 62 F.C.C. 2d 63 (1976)

[3] See, *e.g., Helena, Montana,* 46 FR 43169, published August 27, 1981.

15. Accordingly, pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective May 16, 1983, the FM Table of Assignments, § 73.202(b) of the Commission's Rules, is amended as follows:

City	Channel No.
Klamath Falls, Oreg	223, 258, and 296A.
Medford, Oreg	229, 239, and 278.

16. It is further ordered, pursuant to the authority contained in section 316 of the Communications Act of 1934, as amended, that the license of FM Station KBOY–FM, Medford, Oregon, is modified to specify operation on Channel 239, subject to the following provisions:

(a) The licensee shall file with the Commission a minor change application for a construction permit (Form 301), specifying the new facilities.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

17. It is further ordered, That the Secretary shall send a copy of this *Order* by *Certified Mail,* return receipt requested to: M–3–X, Inc., 413 East Main Street, Medford, Oregon 97501.

18. It is further ordered, pursuant to the authority contained in section 316 of the Communications Act of 1934, as amended, that the permit of FM Channel 240A, Klamath Falls, Oregon, is modified to specify operation on Channel 296A, subject to the following provisions:

(a) The licensee shall file with the Commission a minor change application for a construction permit (Form 301) specifying the new facilities.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a major change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

19. It is further ordered, That, the Secretary shall send a copy of this *Order* by Certified Mail, return receipt requested, to Wynne Broadcasting Company, Inc. 1338 Oregon Avenue, Klamath Falls, Oregon 97601.

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

21. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

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

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 83–7236 Filed 3–18–83; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 90

Private Land Mobile Radio Services; Use of Facsimile Transmission When Requesting Special Temporary Authority

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The FCC is making a rule change that will add the use of facsimile transmission as a method for requesting special temporary authority, thus providing licensees with another option when making such requests.

DATE: Effective January 27, 1983.

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

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Private Radio Bureau, (202) 634–2443.

List of Subjects in 47 CFR Part 90

Administrative practice and procedure.

Order

Adopted: January 11, 1983.

Released: January 12, 1983.

In the matter of; Amendment of Part 90 of the Commission's Rules to Permit the Use of Facsimile Transmission when Requesting Special Temporary Authority.

By the Managing Director:

1. Part 90 of the Commission Rules and Regulations, 47 CFR 90.145(a), states that requests for special temporary authority for use of private land mobile radio facilities may be made by a properly signed letter submitted at least 10 days prior to the date of the proposed operation. In emergencies, the request may be made by telephone or telegraph, to be followed by a letter within 10 days.

2. The Private Radio Bureau's Licensing Division in Gettysburg, PA has recently installed a facsimile system, and is now able to accept facsimile transmission relating to its normal business. Therefore, in order to allow

licensees an additional means to request special temporary authority, we are amending 47 CFR 90.145(a), to permit the use of facsimile for this purpose.

3. Since this change is procedural in nature and represents no substantive change in the Commission's Rules, there is no need for public notice and comment thereon. See 5 U.S.C. 553(b). Authority for this action is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, (47 U.S.C. 154(i) and 303(r)) and Section 0.231(d) of the Commission's Rules and Regulations. (47 CFR 0.231(d).)

4. Accordingly, Part 90 of the Commission's Rules and Regulations IS AMENDED as set forth in the attached Appendix, effective January 27, 1983.

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

Federal Communications Commission.

Alan R. McKie,

Deputy Managing Director.

Appendix

PART 90—[AMENDED]

47 CFR Part 90 is amended as follows:

Section 90.145(a) is revised to read:

§ 90.145 Special temporary authority.

(a) In circumstances requiring the temporary use of radio facilities, the Commission may issue special temporary authority for new or modified operations. A request for special temporary authority may be made in letter form signed in accordance with § 90.125 of this part. It should be submitted, in duplicate, at least 10 days prior to the date of the proposed operation. However, in cases of emergency involving danger to life or property, or due to damage to equipment, the request may be made by telephone, telegraph or facsimile transmission under the condition that a letter request is submitted within the following 10 days. All requests for special temporary authority shall be clear and complete within themselves and shall not rely on any pending application.

* * * * *

[FR Doc. 83-7237 Filed 3-18-83; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 663

[Docket No. 30223-29]

Pacific Coast Groundfish Fishery; Corrections

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

ACTION: Notice of inseason adjustment and request for comments; corrections.

SUMMARY: This document corrects a notice of inseason adjustments that appeared in the **Federal Register** on February 28, 1983, (48 FR 8283). The following corrections are made in FR Doc. 83-5013:

1. On p. 8286, last paragraph of the first column, *"Sebastes"* is the correct spelling.

2. On p. 8287, the authority is corrected to read "(16 U.S.C. 1801 *et seq.*)"

FOR FURTHER INFORMATION CONTACT: Donna D. Turgeon (Regulations Coordinator), 202-634-7455.

Dated: March 15, 1983.

Carmen J. Blondin,

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

[FR Doc. 83-7293 Filed 3-18-83; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 55
Monday, March 21, 1983

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

United States Standards for Grades of Table Grapes (European or Vinifera Type)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service proposes to revise the voluntary United States Standards for Grades of Table Grapes (European or Vinifera Type). These standards need updating to bring them in line with current cultural and marketing practices. Since the standards were last revised in 1971 several varieties of seedless table grapes have become commercially prominent. In addition, changes made in State maturity regulations in California and Arizona for certain varieties since that time are not compatible with the requirements contained in the current standards. This proposal would add two seedless varieties to those now specified in the current standards and permit all seedless varieties to be covered by the same size requirements; provide for adjustment to recent changes in State maturity regulations; and, add a new subsection applicable to maturity of table grapes subject to U.S. import regulations.

DATE: Comments must be received on or before April 20, 1983.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Hearing Clerk, U.S. Department of Agriculture, Rm. 1077, South Building, Washington, D.C. 20250. Comments should reference the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Michael V. Morrelli, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. (202) 447-2011.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA Procedures and Executive Order 12291 and has been designated as a "nonmajor" rule. It will not result in an annual effect of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant adverse effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

These voluntary grade standards were last revised in 1971 to provide uniform maturity requirements compatible with the then current State laws and regulations concerning grape maturity. The maturity requirements of the Agricultural Code of California and the Arizona Fruit and Vegetable Standardization Laws in effect on April 7, 1971, were referenced in the grade standards. In addition, minimum size requirements for the higher grades were revised and minimum size requirements for four seedless varieties and other varieties were added to the U.S. No. 1 Table grade. However, provisions were not made for later changes in State regulations or the introduction of seedless varieties with similar characteristics.

This proposal would:

(1) Add the statement "Superior Seedless, Flame Seedless and other seedless varieties" to those currently listed. This would permit all seedless varieties to be covered by the same size requirements.

(2) Redefine "Mature" to mean that grapes grown in either Arizona or California shall meet the respective State's maturity requirements which are in effect on the effective date of this amendment and grapes grown in other States or countries shall meet the maturity requirements referenced in § 51.887(c) of this proposal.

Grapes grown in California are subject to maturity regulations set forth in Title 3 of the Administrative Code of California. Regulations for Arizona grown grapes, currently in the process of being amended to include all varieties under soluble solids testing by hand refractometer, are set forth in Title 3, Chapter 7 of the Arizona Official Compilation of Administrative Rules and Regulations. Maturity regulations in these two States differ from Table III to reflect different climatic conditions in these States.

(3) Add a subsection applicable to maturity of grapes subject to the U.S. import regulations. This addition is timely in that table grapes were recently added to the commodities subject to import regulations under Section 608e of the Agricultural Marketing Agreement Act of 1937.

List of Subjects in 7 CFR Part 51

Fresh fruits, Vegetables and other products (Inspection, Certification and standards).

PART 51— [AMENDED]

Accordingly, it is proposed that 7 CFR Part 51 be amended as follows:

1. In § 51.882, paragraph (i)1)(ii) is revised to read:

§ 51.882 U.S. Fancy Table.

* * * * *

(i) * * *

(1) * * *

(ii) For Thompson Seedless, Perlette, Delight, Beauty Seedless, Superior Seedless, Flame Seedless and other seedless varieties, 75 percent shall be at least ten-sixteenths of an inch; and,

* * * * *

2. In § 51.884, paragraph (i)(1)(i) is revised to read:

§ 51.884 U.S. No. 1 Table.

* * * * *

(i) * * *

(1) * * *

(i) Thompson Seedless, Perlette, Delight, Beauty Seedless, Superior Seedless, Flame Seedless and other seedless varieties nine-sixteenths of an inch.

* * * * *

3. Section 51.887 is revised to read:

§ 51.887 Maturity requirements.

(1) In the case of grapes grown in Arizona or California, "mature" means grapes in any lot shall meet the maturity requirements for the variety as set forth in the applicable State Agricultural Laws and Regulations in effect on the effective date of this regulation.

(b) Grapes subject to U.S. import regulations shall meet the maturity requirements specified in such regulations.

(c) Grapes produced in States other than Arizona or California, or grapes imported from countries outside the United States during periods in which U.S. import regulations do not apply, shall meet the minimum percentage of soluble solids set forth in Table III as determined by use of a standard hand refractometer.

TABLE III

Variety	Percent of soluble solids
Muscat	17.5
All varieties not listed in this table	16.5
Cardinal, Emperor, Perlette, Ribier, Olivette Blanche, Rish Baba, Red Malaga, and similar varieties	15.5

(1) The minimum percentage of soluble solids for any lot shall be determined from the juice of at least 10 percent, by weight, of whole bunches of the least mature grapes in that container which appears to have the least mature grapes. No lot shall be considered as failing to meet these requirements unless samples from two containers which appear to have the least mature grapes test below the required percentage of soluble solids.

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

Done at Washington, D.C. on: March 14, 1983.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 83-7148 Filed 3-18-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-CE-11-AD]

Airworthiness Directives; Pilatus Britten-Norman, Ltd., BN-2A MK III Trislander Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt a new Airworthiness Directive (AD), applicable to Pilatus Britten-Norman Ltd. BN-2A MK III Trislander Series airplanes which would require visual inspection and modification of the rudder drive lever support assembly. Shearing of the attachment rivers and cracking of the rudder drive lever support have been reported to the manufacturer which could result in detachment of the lever pivots and loss of rudder control. The visual inspection and modification of the rudder drive lever support will detect potential attachment rivet failures and cracks before structural failure of the rudder drive lever support could occur with subsequent loss of rudder control.

DATE: Comments must be received on or before May 9, 1983. *Compliance:* As prescribed in the body of the AD.

ADDRESSES: Britten-Norman Service Bulletin (SB) No. BN-2/SB.102, Issue 1, dated May 12, 1977, and Britten-Norman Mod. NB/M/908 Leaflet dated July 6, 1977, applicable to this AD may be obtained from Britten-Norman (Bembridge) Ltd., Bembridge, Isle of Wight, England, or the Rules Docket at the address below.

Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 83-CE-11-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. A. Astorga, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium, telephone 513.38.30; or Mr. P. Cormaci, FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106, telephone 816/374-6932.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FFA-public contact concerned with the substance of this proposal will be filed in the Rules 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, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83-CE-11-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

The manufacturer has received three reports of cracks and/or loose rivets developing in the rudder drive lever support assembly and/or attachment rivets becoming loose on Pilatus Britten-Norman Ltd. BN-2A MK III Trislander Series airplanes. As a result, Pilatus Britten-Norman Ltd. has issued SB No. BN-2/SB.102, Issue 1, dated May 12, 1977, which provides instructions for visual inspection and modification as required of the rudder drive lever support assembly to detect and prevent loose or sheared attachment rivets and cracks. The United Kingdom Civil Aviation Authority (UKCAA) who has responsibility and authority to maintain the continuing airworthiness of these airplanes in England has classified this Britten-Norman SB No. BN-2/SB.102, Issue 1, dated May 12, 1977, as mandatory and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under English registration, this action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of UKCAA combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design

certificated for operation in the United States.

The FAA has examined the available information related to the issuance of SB No. BN-2/SB. 102, Issue 1, dated May 12, 1977, and the mandatory classification of this SB by the UKCAA.

Based on the foregoing, the FAA believes that the condition addressed by SB No. BN-2/SB. 102, Issue 1, dated May 12, 1977, is an unsafe condition that may exist on other products of this type design certificated for operation in the United States even though no reports of structural defects in the rudder drive lever support assembly have been received by the FAA. Consequently, the proposed AD would require visual inspections for loose or sheared attachment rivets and cracks in the corners of the rudder drive lever support assembly, replacement of the attachment rivets with bolts, and modification as required of the rudder drive lever support.

There are approximately six BN-2A MK III and two BN-2A MK III 2 airplanes affected by the proposed AD. The cost of complying with the proposed AD is estimated to be $5,200 to the private sector.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Pilatus Britten-Norman LTD.: Applies to BN-2A MK III Trislander series airplanes (all serial numbers) not incorporating Britten Norman Mod. NB/M/908 certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent the structural failure of the rudder drive lever support assembly and loss of rudder control, within the next 100 hours time-in-service after the effective date of this AD accomplish the following:

(a) Visually inspect the rudder drive lever support assembly attachment rivets for evidence of looseness or shearing and the corners of the two rudder lever mounting channels for cracks in accordance with the "Inspection" section of Britten-Norman SB No. BN-2/SB.102, Issue 1, dated May 12, 1977, (hereinafter referred to as the SB), or an FAA approved equivalent.

(1) If no evidence of shearing in the attachment rivets or cracks in the lever mounting channels is found during accomplishment of paragraph (a) of this AD, with the next 25 hours time-in-service replace the attached rivets with bolts in accordance with the instructions in "Part 1" of the "Rectification" section of the SB and repeat the inspection for cracks specified in paragraph (a)(2) of this AD at intervals not exceeding 100 hours time-in-service.

(2) If cracks are less than 0.25 inches in length are found during accomplishement of paragraph (a) of this AD, within the next 25 hours time-in-service stop drill ends of cracks and install the modification described in "Part 2" of the "Rectification" section of the SB.

(3) If cracks are greater than 0.25 inches in length are found during accomplishment of paragraph (a)(2) of this AD, before a further flight, stop drill ends of cracks and install the modification described in "Part 2" of the "Rectification" section of the SB.

(b) The intervals between the repetitive inspections required by this AD may be adjusted up to 10 percent of the specified interval to allow accomplishing these inspections concurrent with other scheduled maintenance of the airplane.

(c) The repetitive inspections required by paragraph (a)(1) of this AD may be discontinued upon installation of the modification as described in "Part 2" of the "rectification" section of the SB.

(d) Aircraft may be flown in accordance with FAR 21.197 to a location where this AD can be accomplished.

(e) An equivalent method of compliance with this AD if used must be approved by the Manager, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium.

(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) of the Department of Transportation Act (49 U.S.C. 1655(c)); and § 11.85 of the Federal Aviation Regulations (14 CFR 11.85).

Note.—For reasons discussed earlier in the preamble: the FAA has determined that this document: (1) Involves a proposed regulation that is not major under the provisions of Executive Order 12291, (2) is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), and (3) certifies under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A draft regulatory evaluation has been prepared and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location identified under the caption "ADDRESSES."

Issued in Kansas City, Missouri on March 9, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-7014 Filed 3-18-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Office of the Secretary

15 CFR Part 15b

[Docket No. 30210-25]

Involuntary Child and Spousal Support Allotments of NOAA Corps Officers

AGENCY: Office of the Secretary, Commerce.

ACTION: Proposed Rule.

SUMMARY: This proposed rule will implement Section 172 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248). The proposed rule provides specific guidance on processing involuntary child or child and spousal support allotments to states, courts, and other interested parties. The issuance (a) establishes Department of Commerce policy; (b) provides instructions on the service of notice; (c) defines the limitations or the amount of a support allotment; (d) prescribes procedures for officer notification and consultation; (e) lists the designated official who will process involuntary support allotments.

DATES: Written comments must be received by May 20, 1983.

ADDRESS: Office of the Assistant General Counsel for Administration, Office of the General Counsel, U.S. Department of Commerce, Washington, D.C. 20230

FOR FURTHER INFORMATION CONTACT: Mr. Eric Moll, 202-377-5391.

SUPPLEMENTARY INFORMATION: In order to effect prompt implementation as soon as possible after October 1, 1982, the Department of Commerce will follow the proposed rule until a final rule is issued.

List of Subjects in 15 CFR Part 15b

Child support, Alimony, Wages, Government employee, NOAA Corps allotments.

Dated: March 16, 1983.

Irving P. Margulies,

Deputy General Counsel.

Accordingly, it is proposed to amend Subtitle A, 15 CFR, by adding a new Part 15b, reading as follows:

PART 15b—INVOLUNTARY CHILD AND SPOUSAL SUPPORT ALLOTMENTS OF NOAA CORPS OFFICERS

Sec.

15b.1 Purpose.
15b.2 Applicability and scope.
15b.3 Definitions.
15b.4 Policy.
15b.5 Procedures.

Authority: 37 U.S.C. 101, 706; 15 U.S.C. 1673; 42 U.S.C. 465.

§ 15b.1 Purpose.

This part provides implementing policies governing involuntary child or child and spousal support allotments for officers of the uniformed service of the National Oceanic and Atmospheric Administration (NOAA), and prescribes applicable procedures.

§ 15b.2 Applicability and Scope.

This part applies to Commissioned Officers of the NOAA Corps on active duty.

§ 15b.3 Definitions.

(a) *Child Support.* Periodic payments for the support and maintenance of a child or children, subject to and in accordance with state or local law. This includes, but is not limited to, payments to provide for health care, education, recreation, clothing, or to meet other specific needs of such a child or children.

(b) *Spousal Support.* Periodic payments for the support and maintenance of a spouse or former spouses in accordance with state or local law. It includes, but is not limited to, separate maintenance, alimony pendente lite, and maintenance. Spousal support does not include any payment for transfer of property or its value by an individual to his-her spouse or former spouse in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses.

(c) *Notice.* A court order, letter, or similar documentation issued by an authorized person, which provides notification that an officer has failed to make periodic support payments under a support order.

(d) *Support order.* Any order for the support of any person issued by a court of competent jurisdiction or by administrative procedures established under state law that affords substantial due process and is subject to judicial review. A court of competent jurisdiction includes: (1) Indian tribal courts within any state, territory, or possession of the United States and the District of Columbia; and (2) a court in any foreign country with which the United States has entered into an agreement that requires the United States to honor the notice.

(e) *Authorized person.* (1) any agent or attorney of any state having in effect a plan approved under part D of title IV of the Social Security Act (42 U.S.C. 651–664), who has the duty or authority to seek recovery of any amounts owed as child or child and spousal support (including, when authorized under a state plan, any official of a political subdivision); and (2) the court which has authority to issue an order against the officer for the support and maintenance of a child, or any agent of such court.

(f) *Designated official.* The official who is designated to receive notices of failure to make payments from an authorized person (as defined in paragraph (e) of this section). For the Department of Commerce this official is the Assistant General Counsel for Administration.

(g) *Active duty.* Full-time duty in the NOAA Corps.

§ 15b.4 Policy.

(a) It is the policy of the Department of Commerce to require Commissioned Officers of the NOAA Corps on active duty to make involuntary allotments from pay and allowances as payment of child, or child and spousal, support payments when the officer has failed to make periodic payments under a support order in a total amount equal to the support payable for two months or longer. Failure to make such payments shall be established by notice from an authorized person to the designated official. Such notice shall specify the name and address of the person to whom the allotment is payable. The amount of the allotment shall be the amount necessary to comply with the support order. If requested, the allotment may include arrearages as well as amounts for current support, except that the amount of the allotment, together with any other amounts withheld for support from the officer as a percentage of pay, shall not exceed the limits prescribed in section 303 (b) and (c) of the Consumer Credit Protection Act (15 U.S.C. 1673). An allotment under this Part shall be adjusted or discontinued upon notice from an authorized person.

(b) Notwithstanding the above, no action shall be taken to require an allotment from the pay and allowances of any officer until such officer has had a consultation with an attorney from the Office of the Assistant General Counsel for Administration, in person, to discuss the legal and other factors involved with respect to the officer's support obligation and his/her failure to make payments. Where it has not been possible, despite continuing good faith efforts to arrange such a consultation, the allotment shall start the first pay period beginning after 30 days have elapsed since the notice required in paragraph (d)(1) of § 15b.5 is given to the affected officer.

§ 15b.5 Procedures.

(a) *Service of Notice.* (1) An authorized person shall serve on the designated official the following:

(i) A written statement of delinquent support payments signed by the authorized person.

(ii) A certified copy of the underlying support order.

(iii) A statement of the amount of arrearages and the amount which is to be applied each month toward liquidation of the arrearages, if applicable.

(iv) The full name and address of the person to whom the allotment will be payable.

(v) Any limitations on the duration of the support allotment.

(2) The notice shall be accomplished by certified or registered mail, return receipt requested, or by personal service, upon the appropriate designated official, who shall note the date and time of receipt on the notice.

(3) If the notice is not directed to the appropriate designated official or is otherwise incorrectly addressed, the recipient within the Department of Commerce or NOAA shall forward the notice to the designated official. However, valid service is not accomplished until the notice is received in the office of the designated official.

(4) If applicable, the notice must state that the support allotment qualifies for the additional 5 percent in excess of the maximum percentage limitations found in 15 U.S.C. 1673. Supporting evidence must be submitted establishing that the support order is twelve or more weeks in arrears.

(5) The notice must contain sufficient identifing information about the officer to enable processing. The following officer information is requested:

(i) Full name.

(ii) Social security number.

(iii) Date of birth.

(iv) Duty station location.

(6) When the information submitted is not sufficient to identify the officer the notice shall be returned directly to the authorized person with an explanation of the deficiency. However, prior to returning the notice if there is sufficient time, an attempt should be made to inform the authorized person who caused the notice to be served, that it will not be honored unless adequate information is supplied.

(7) Upon proper service of notice of delinquent support payments, together with all required supplementary documents and information, the pay of the officer shall be reduced by the amount necessary to comply with the support order and liquidate arrearages

provided the maximum amount to be allotted does not exceed:

(i) 50 percent of the officer's aggregate disposable earnings for any month where the officer asserts by affidavit or other acceptable evidence, that he/she is supporting a spouse and/or dependent child, other than a party in the support order. The officer must provide over half of the support for a spouse and/or dependent child in order to qualify for the 50 percent ceiling. When the officer submits evidence, copies shall be sent to the authorized person, together with notification that the officer's support claim will be honored. If the support claim is contested by the authorized person, the matter should be immediately referred to the appropriate court, or other authority, for resolution.

(ii) 60 percent of the officer's aggregate disposable earnings for any month where the officer fails to assert by affidavit or other acceptable evidence the he/she is supporting a spouse and/or dependent child.

(iii) Regardless of the limitations above, an additional 5 percent of the officer's aggregate disposable earnings shall be withheld when it is stated in the notice that the member is in arrears in an amount equivalent to 12 or more weeks' support.

(b) *Aggregate Disposable Earnings.* The following moneys are subject to inclusion in computation of the officer's aggregate disposable earnings:

(1) Basic pay.

(2) Basic allowances for quarters.

(3) Basic allowance for subsistence.

(4) Aviation career incentive pay.

(5) Incentive pay for Hazardous Duty.

(6) Family separation allowances if outside the contiguous United States.

(7) Diving pay.

(8) Sea pay.

(c) *Exclusions.* In determining the amount of any moneys due from or payable by the United States to any individual, there shall be excluded amounts which are:

(1) Owed by the officer to the United States.

(2) Required by law to be deducted from the remuneration or other payment involved, including, but not limited to:

(i) Amounts withheld from benefits payable under Title II of the Social Security Act where the withholding is required by law.

(ii) Federal employment taxes.

(3) Properly withheld for federal and state income tax purposes if the withholding of the amounts is authorized or required by law and if amounts withheld are not greater than would be the case if the individual claimed all dependents to which he/she were entitled. The withholding of additional amounts pursuant to section 3402(i) of Title 26 of the United States Code may be permitted only when the officer presents evidence of a tax obligation which supports the additioal withholding.

(4) Deducted for servicemen's Group Life Insurance coverage.

(5) Advances of pay that may be due and payable by the officer at some future date.

(d) *Officer Notification.* (1) As soon as possible, but not later than 15 calendar days after the date of receipt of notice, the designated official shall send to the officer, at his/her duty station or last known address, written notice:

(i) That notice has been served, including a copy of the documents submitted;

(ii) Of the maximum limitations set forth, with a request that the officer submit supporting affidavits or other documentation necessary for determining the applicable percentage limitation;

(iii) That by submitting supporting affidavits or other necessary documentation, the officer consents to the disclosure of such information to the party requesting the support allotment;

(iv) Of the amount or percentage that will be deducted if the officer fails to submit the documentation necessary to enable the designated official to respond to the legal process within the time limits set forth;

(v) That legal counsel will be provided by the Office of the Assistant General Counsel for Administration; and

(vi) Of the date that the allotment is scheduled to begin.

(2) The officer shall be provided with the following:

(i) A consultation in person with an attorney from the Office of the Assistant General Counsel for Administration, to discuss the legal and other factors involved with the officer's support obligation and his/her failures to make payment.

(ii) Copies of any other documents submitted with the notice.

(iii) The Office of the Assistant General Counsel for Administration will make every effort to see that the officer receives a consultation concerning the support obligation and the consequences of failure to make payments within 30 days of the notice required in paragraph (d)(1). In the event such consultation is not possible, despite continuing good faith efforts to arrange a consultation, no action shall be taken to require an allotment from the pay and allowances of any NOAA Corps Officer until 30 days have elapsed after the notice described in paragraph (d)(1) is given to the affected officer.

(e) *Absence of Funds.* (1) When notice is served and the identified officer is found not be entitled to moneys due from or payable by NOAA, the designated official shall return the notice to the authorized person, and advise that no moneys are due from or payable by NOAA to the named individual.

(2) Where it appears that moneys are only temporarily exhausted or otherwise unavailable, the authorized person shall be fully advised as to why, and for how long, the money will be unavailable.

(3) In instances where the officer separates from active duty service, the authorized person shall be informed that the allotment is discontinued.

(f) *Effective Date of Allotment.* The allotment shall start with the first pay period beginning after the officer has had a consultation with an attorney from the Office of the Assistant General Counsel for Administration but not later than the first pay period beginning after 30 days have elapsed since the notice required in paragraph (d)(1) of this section is given to the affected officer. The Department of Commerce shall not be required to vary its normal NOAA Corps allotment payment cycle to comply with the notice.

(g) *Designated Official.* Notice should be sent to: The Assistant General Counsel for Administration, Office of the General Counsel, U.S. Department of Commerce, Washington, D.C. 20230, (202) 377-5387.

[FR Doc. 83-7297 Filed 3-18-83; 8:45 am]

BILLING CODE 3510-BP-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 9165]

Stihl, Inc., et al.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require a manufacturer and seller of power tools and its advertising agency, among other things, to cease representing that the Stihl 015 AV chain saw has been top-rated by a leading consumer publication; that power was one of the factors

considered in the rating; and that Stihl chain saws start faster and run smoother than other chain saws. The order would prohibit the companies from making false or unsubstantiated representations concerning the performance or durability of any power tool, and would require them to possses and rely upon a reasonable basis when making such claims. Further, the companies would be barred from misrepresenting the purpose or conclusion of any test or evaluation, and would be required to retain documentation for performance-related claims for a period of three years.

DATE: Comments must be received on or before May 20, 1983.

ADDRESS: Comments should be directed to: FTC/S, Office of the Secretary, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/PA, James Skiles, Washington, D.C. 20580. (202) 724-1507.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, U.S.C. 46 and § 3.25(f) of the Commission's Rules of Practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Advertising, Chain saws, Trade practices.

In the matter of Stihl, Incorporated, a corporation, and Stuart Ford, Inc., a corporation; Docket No. 9165, Agreement Containing Consent Order to Cease and Desist.

The agreement herein, by and between Stihl, Incorporated, a corporation, and Stuart Ford, Inc., a corporation, by their duly authorized officers, hereafter sometimes referred to as respondents, and their attorneys, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission's Rule governing consent order procedures. In accordance therewith, the parties hereby agree that:

1. Respondent Stihl, Incorporated, is a corporation organized, existing and doing business under and by virtue of the laws of the State of Deleware, with its office and principal place of business located at 536 Viking Drive, Virginia Beach, Virginia 23452. Respondent Stuart Ford, Inc. is a corporation organized, existing and doing business under and by virtue of the laws of the State of Virginia with its office and principal place of business located at 1108 East Main Street, Richmond, Virginia 23219.

2. Respondents have been served with a copy of the complaint issued by the Federal Trade Commission charging it with violation of Section 5 of the Federal Trade Commission Act.

3. Respondents admit all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondents waive:

(a) Any further procedural steps:

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondents, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute and admission by respondents that the law has been violated as alleged in the said copy of the complaint issued by the Commission, or that any of the facts alleged therein are true.

7. This agreement comtemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's Rules, the Commission may without further notice to respondents, (1) issue its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service, of the decision containing the agreed-to order to respondents' addresses as stated in this agreement shall constitute service. Respondents waive any right they might have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or to contradict the terms of the order.

8. Respondents have read the complaint and the order comtemplated hereby. Respondents understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I

It is ordered that respondent Stihl, Inc., ("Stihl"), and Stuart Ford, Inc., ("Stuart Ford"), corporations, and their successors and assigns, and respondents; officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale, or distribution of any chain saw for consumer or commercial use in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, contrary to fact, that:

A. (1) The current Stihl model 015 AV chain saw is rated best of all home saws tested by a leading consumer publication;

(2) Power was one of the factors considered in the test by a leading consumer publication.

B. Stihl's chain saws start faster than all other chain saws on the market.

C. Stihl's chain saws are the smoothest running chain saws on the market.

II

If is further ordered that respondents, their successors and assigns, and respondents' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection

with the advertising, offering for sale, sale, or distribution of any power tool, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting in any manner, directly or by implication, the purpose, content, validity, reliability, or conclusions of any test or evaluation.

III

It is further ordered that respondents, their successors and assigns, and respondents' officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale, sale, or distribution of any power tool, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from making any representations, directly or by implication, regarding the performance or durability of any such product unless, at the time the representation is made, respondents possess and rely upon a reasonable basis. For purposes of the order a reasonable basis shall consist of one or more competent tests or other competent and reliable evidence that substantiates the representation.

Provided, however, that in circumstances where Stuart Ford relied upon scientific or professional tests, analyses, research, studies, or any other evidence based on expertise of professionals in the relevant area, which was not directly or indirectly prepared, controlled, or conducted by respondent Stuard Ford, Inc., it shall be an affirmative defense to an alleged violation of Part III of this Order of Stuart Ford to prove that it reasonably relied on the expert judgment of its client or of an independent third party in concluding that it had a reasonable basis in accordance with Part III of this Order. Such expert judgment shall be in writing signed by a person qualified by education or experience to render the opinion. Such opinion shall describe the contents of such evidence upon which the opinion is based.

IV

It is further ordered that respondents, for the period of three years after they last disseminated the advertisements of the products covered by this Order, shall retain all test results, data and other documents or information on which they relied for such advertisements and all documentation which contradicts, qualifies or calls into serious question any claim included in such advertisements which were in respondents', possession during either creation or dissemination of such advertisements. Such records shall be available for inspection by the staff of the Commission upon reasonable notice.

V

It is further ordered that respondents notify the Commission at least thirty (30) days prior to any proposed change in respondents such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the Order.

VI

It is further ordered that the respondents shall forthwith distribute a copy of this Order to each of its operating divisions, and to each of tis officers, agents, representatives or employees who are engaged in the preparation and placement of advertisements.

VII

It is further ordered that respondents shall, within sixty (60) days after service of this Order and annually thereafter for three (3) years, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Stihl, Incorporated, and Stuart Ford, Inc.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint charged both respondents with violating Section 5 of the Federal Trade Commission Act. Stihl, Inc., manufactures and markets chain saws and other power tools; Stuart Ford, Inc., Stihl's advertising agency, helped create and disseminate the advertising challenged in the complaint.

The complaint charged the respondents with disseminating advertisements containing several false, misleading or unsubstantiated representations regarding Stihl's chain saws and other power tools. The complaint alleged that advertisements for Stihl chain saws claimed falsely and without a reasonable basis that: (1) In 1980 and 1981, the then-current Stihl model 015 AV chain saw was top-rated by a leading consumer publication and that "power" was one of the factors rated; (2) Stihl chain saws start faster and run smoother than any other chain saw on the market. The complaint also charged that respondents lacked a reasonable basis for the advertised claim that all Stihl power tools last at least twice as long as any other power tool.

The consent order contains various provisions designed to remedy the alleged advertising violations.

Part I of the order forbids the respondents from making certain specific claims unless they are verifiably true. This provision prohibits the claims alleged to be false in the complaint. These prohibited claims are: (1) The current Stihl model 015 AV chain saw is top-rated by a leading consumer publication, and that "power" was a factor considered in the rating; (2) Stihl chain saws start faster and run smoother than all other chain saws on the market.

Part II of the order prohibits the respondents from misrepresenting, in advertising or marketing of power tools, any test or evaluation. Part II forbids misrepresentation of the purpose, content, results, current validity, reliability or conclusions of any such test or evaluation. This provision is designed to correct the kind of misrepresentation of test ratings alleged in the complaint.

Part III of the order prohibits respondents from making any unsubstantiated claim about the performance or durability of power tools. Part III requires that respondents possess and rely on a reasonable basis at the time such claims are made. The provision defines a reasonable basis to be "one or more competent tests or other competent and reliable evidence that substantiates the representation." In addition, Part III describes an affirmative defense which may be available to respondent Stuart Ford, the advertising agency, if it ever charged with a violation of Part III of the order. The provision states that under certain circumstances Stuart Ford may be allowed to show that it reasonably relied on the expert judgment of its client or an independent third party in concluding that it had a reasonable basis for a claim.

Part IV of the order requires respondent to maintain records of its substantiation for its claims for a period

of three (3) years after the dissemination of any advertisement subject to this order. The order also requires respondent to retain for such period of time any documents which contradict or call into question any of its advertising claims. Such documentation may be inspected by the Commission's staff.

Parts V and VI of the order require respondent to distribute a copy of the order to each of its operating divisions and to notify the Commission of any change in its corporate structure which might affect compliance obligations. Finally, the order provides that within sixty (60) days after the effective date of this order, and annually thereafter for three (3) years, respondent must file a report with the Commission detailing its compliance with the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Benjamin I. Berman,

Acting Secretary.

[FR Doc. 83-7241 Filed 3-18-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 401

Seaway Regulations, Miscellaneous Amendments

Correction

In FR Doc. 83-5357, beginning on page 9037, in the issue of Thursday, March 3, 1983, make the following corrections:

1. In the second column in the fourth paragraph, in the first line "§ 401.1C(c)" should read "§ 401.10(c)".

2. In the second column, in the sixth paragraph, in the second line, the sentence should end with "clarity." and the rest of the sentence should be removed.

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AD-FRL 2326-2; Docket No. A-83-01]

Compliance With Statutory Provisions of the Clean Air Act

AGENCY: Environmental Protection Agency.

ACTION: Notice of comment period extention.

SUMMARY: On February 3, 1983, the Administrator proposed in the **Federal Register** to find the implementation plans for certain areas inadequate to comply with the provisions of Part D of the Act (48 FR 4972) and proposed approval or disapproval of plans required to be submitted by July 1, 1982, where extensions of the attainment date to 1987 for carbon monoxide or ozone were previously granted by the Administrator (48 FR 5022-5149). By this notice, the Agency is extending the public comment period from March 21, 1983 to May 5, 1983 on all of those actions proposed at 48 FR 4972 and on the disapprovals (but not the approvals) proposed at 48 FR 5022-5149.

DATES: Written comments must be received no later than May 5, 1983.

ADDRESSES: All written comments should be submitted (in duplicate if possible) to: Central Docket Section (A-130), Docket No. A-83-01, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Johnnie L. Pearson, Office of Air Quality, Planning, and Standards (MD-15), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711 (telephone: (919) 541-5540).

SUPPLEMENTARY INFORMATION: On February 3, 1983, (48 FR 4972-5149), the Agency proposed two sets of actions, approving/disapproving State Implementation Plans (SIP) designed to attain the primary ambient air quality standards as required by Sections 171-179 (Part D) of the Clean Air Act. At that time, the Agency established a 45-day period (ending March 21, 1983) for the receipt of public comment. Subsequent to that action, the Agency has received numerous requests that the Agency provide additional time for the preparation and delivery of comments on the several disapproval actions proposed in the **Federal Register** on February 3, 1983. (It received no such requests as to the proposed approvals.) These requests expressed concern regarding the complexity of the factual and policy issues involved. Requesters also noted that the additional time, if granted, would provide a more adequate opportunity for States to analyze 1982 air quality data to determine whether the Agency's proposed finding of SIP inadequacy is correct or incorrect.

The Agency has concluded that at least some of the requesters do appear to require additional time to formulate comments on the proposed disapproval actions and policies relating to the implementation of the mandated Clean Air Act sanctions. The Agency, therefore, believes it is appropriate to grant these requests for an extension to the public comment period on the proposals at 48 FR 4972 and on the proposed disapprovals of State plans at 48 FR 5022-5149. The Agency is not, however, granting an extension of the comment period on those approvals proposed at 48 FR 5022-5149.

The Agency, recognizing both the need for prompt action on the part of the Agency and the need for public evaluation and comment of the Agency's proposal, believes it is appropriate to provide this limited extension of the comment period. Hence, by today's action, the Agency is granting a 45-day extension of the public comment period to May 5, 1983, as noted above, for the disapproval actions proposed on February 3, 1983. Based upon the requests received to date, the Agency believes that the 45-day extension granted by this notice is sufficient, and therefore intends to deny all subsequent requests for further extensions of the comment period.

List of Subjects in 40 CFR Part 52

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

Authority: This notice is issued under the authority granted by Sections 101, 110, 172, and 301 of the Clean Air Act, 42 U.S.C. 7401, 7410, 7502, 7601.

Dated: March 17, 1983.

Kathleen M. Bennett,

Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 83-7377 Filed 3-18-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 83-190; RM-4262]

TV Broadcast station in Elk City, Oklahoma; Proposed changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes a third television assignment to Elk City, Oklahoma, in response to a petition filed by Griffin Television, Inc.

DATES: Comments must be filed on or before April 29, 1983, and reply comments on or before May 16, 1983.

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

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202)634-6530.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Proposed Rule Making

In the matter of an amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Elk City, Oklahoma); MM Docket No. 83-190, RM-4262.

Adopted: March 2, 1983.

Released: March 15, 1983.

By the Chief, Policy and Rules Division.

1. Griffin Television, Inc. ("petitioner")[1] filed a petition for rule making on November 24, 1982, proposing to amend the Television Table of Assignments (Section 73.606(b) of the Rules) by deleting the educational reservation on (unused) Channel *15 in Elk City, Oklahoma, making it available for commercial use, and substituting Channel *31 in lieu thereof. The proposal could provide for a second commercial television assignment to Elk City. Petitioner stated that it would apply for Channel 15, if made available for commercial use.

2. Elk City (population 9,579), in Beckham County (population 19,243)[2], is located in west centeral Oklahoma, approximately 175 kilometers (110 miles) west of Oklahoma City. Elk City is presently assigned Channel 8 (KECO (TV)) and Channel *15 (unoccupied and unapplied for). Channel *31 can be assigned to Elk City in conformity with the minimum distance separation requirements, without a site restriction.

3. Petitioner asserts that Elk City's 1980 population showed an increase of 31% over the 1970 population, while Beckham County's population increased 22% over the 1970 figures. Petitioner adds that Elk City's economy is primarily based on agriculture, and the gas and oil industry. Elk City is said to be the "deep gas capital of the world," and according to Griffin, this rapidly expanding oil and gas industry will provide an economic base for the city's and county's future growth. The petitioner submitted a comprehensive community profile to demonstrate its need for the proposed assignment.

4. In further support of its proposal, petitioner states that an agreement has been made to mount a LPTV antenna on its tower, for the use of the Elk City Public Schools (at a nominal fee). Petitioner alleges that this provision would facilitate the early inauguration of an educational facility at Elk City which could be seen as a public interest benefit to the community, citing *New Orleans, Louisiana*, 17 F.C.C. 2d 419 (1969). We are also told by the petitioner that its proposal is similar to past cases where the Commission authorized the exchange of a noncommercial allocation, citing *Jacksonville, Florida*, FCC 64-768, released July 31, 1964, 3 R.R. 2d 1505 (1964). In that proceeding the Commission stated that the technical difference between higher and lower UHF channels was not of great significance, thus the licensee was authorized the lower frequency, with a greater potential and competitive viability in the market. As a final argument, the petitioner points out that in addition to establishing a successful UHF operation in Elk City (if a lower channel is used), the proposal would provide the local school system with access to a million dollar tower at virtually no cost, which would be highly unlikely for an educational facility under normal circumstances. Petitioner included a letter from the Oklahoma Educational Television Authority and from the Elk City Public Schools, both stating that they have no objection to the proposed change in reservation of Channel *15, and that they have no immediate plans to use Channel *15.

5. More recent cases since the *Jacksonville* case have consistently held that there is no significant difference between lower and higher UHF channels, and that where an alternate channel exists which can be assigned for commercial purposes, a reserved channel will not be set aside for commercial usage, see, *e.g., Vancouver, Washington*, 46 R.R. 2d 1498 (1980).[3] Here, we feel that no unusual circumstances exist which justify the dereservation of Channel *15 at Elk City.[4] Since we have previously disallowed requested dereservation of educational channels, absent sufficient justification, we propose to retain the *status quo* of Channel *15, and propose Channel 31 as a second commercial television assignment at Elk City.

6. Comments are invited on the proposal to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, with regard to the following community:

City	Channel No.	
	Present	Proposed
Elk City, Oklahoma	8+, *15-	8+, *15-, and 31.

7. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

8. Interested parties may file comments on or before April 29, 1983, and reply comments on or before May 16, 1983, and are advised to read the Appendix for the proper procedures.

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

10. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment to which the reply is directed constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

[1] Griffin Television, Inc. is the licensee of Station KWTV (TV), Oklahoma City, Oklahoma.

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

[3] See also *High Point, North Carolina*, 44 FR 67665 (1979) (BC Docket No. 79-127); *Kalamazoo, Michigan*, 44 FR 67667 (BC Docket No. 79-170); and *Mansfield and Marion, Ohio*, 45 FR 81203 (1980) (BC Docket No. 80-69).

[4] We found such circumstances sufficient to justify the substitution of a lower UHF channel at *Crossville, Tenn.*, 47 R.R. 2d 1285 (1980) and at *Seaford, Del.*, 43 R.R. 2d 1551 (1978).

Federal Communications Commission.

Roderick K. Porter,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the TV Table of Assignments, § 73.606(b) of the Commission Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 83-7229 Filed 3-18-83; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[MM Docket No. 83-80; RM-4270]

FM Broadcast Station in Denver City, Tex.; Correction.

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a typographical error made in the Proposed Rule in this proceeding regarding the assignment of an FM Broadcast Station to Denver City, Texas.

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Mass Media Bureau, (202) 634-6530.

Correction

In the matter of an amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Denver City, Tex.); MM Docket No. 83-80, RM-4270.

On February 24, 1983, a Notice of Proposed Rule Making in the above-captioned proceeding was published in the **Federal Register** on page (48 FR 7760).

Inadvertently, the deadline date for filing reply comments was mentioned as being March 12, 1983 in the document's Preamble. This document corrects that date to read April 12, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-7230 Filed 3-18-83; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 48, No. 55
Monday, March 21, 1983

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

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Memorandum Agreement Regarding Transfer of Public Lands in Montana

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council, the Bureau of Land Management, and the Montana State Historic Preservation Officer have executed a Programmatic Memorandum of Agreement concerning the transfer of 26,740.66 acres of public lands to the State of Montana. This agreement was the subject of a notice published in the **Federal Register** on January 14, 1983 (48 FR 1781).

FOR FURTHER INFORMATION CONTACT: Mr. Louis Wall, Chief, Western Division of Project Review, Advisory Council on Historic Preservation, 730 Simms Street, Suite 450, Golden, CO 80401.

Dated: March 15, 1983.

Robert R. Garvey, Jr.,

Executive Director.

[FR Doc. 83-7259 Filed 3-18-83; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 83-311]

Cooperation Gypsy Moth Suppression and Regulatory Program—1983; Decision Notice

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of a record of decision for the gypsy moth treatment areas in California.

SUMMARY: This gives notices that a decision has been made to cooperate with the State of California on the gypsy moth suppression program. The California Department of Food and Agriculture (CDFA) has decided to use carbaryl for the proposed treatment areas in Alameda, Contra Costra, Los Angeles, Marin, San Mateo, and Santa Clara Counties in California. Based on an evaluation of the Programmatic Environmental Impact Statement (PEIS) and a site-specific environmental analysis for the proposed treatment areas in California the Animal and Plant Health Inspection Service (APHIS) has determined that this treatment method poses no significant adverse impact on the environment of these areas.

FOR FURTHER INFORMATION CONTACT: Gary Moorehead, Staff Director, Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663 Federal Building, Hyattsville, MD 20782, (301) 436-8295.

SUPPLEMENTARY INFORMATION: A notice of the availability of a site-specific environmental analysis document for the proposed treatment areas in Alameda, Contra Costa, Los Angeles, Marin, San Mateo, and Santa Clara Counties in California for the USDA Cooperative Gypsy Moth Suppression and Regulatory Program was published in the **Federal Register** on March 2, 1983 (47 FR 8828).

On March 2, 1983, CDFA decided to conduct a ground spray treatment program using carbaryl in the proposed treatment areas in California.

Based on the Department's review of the PEIS and the site-specific analysis, and in accordance with the National Environmental Policy Act and the Department's PEIS, the Department has decided to cooperate with the State of California in the conduct of this program.

The Organic Act of September 21, 1944, as amended (7 U..C. 147a) authorizes APHIS to cooperate with States to retard the artifical, long-range spread of the gypsy moth and to eradicate isolated infestations of the pest.

Carbaryl, in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136 *et. seq.*), is registered by the Environmental Protection Agency (EPA) for use against gypsy moth. It will be applied according to the label directions and APHIS operating procedures. Appropriate public involvement, notification and utilization of insecticide treatment measures will further reduce human exposure during periods of application.

Gypsy moth egg masses are expected to reach peak hatching in California on or about March 21, 1983. The California Department of Food and Agriculture has notified the Department that if a spraying program on gypsy moth in California is to be effective, they must be prepared to commence spraying on or about March 21, 1983. Therefore, implementation of the program may take place immediately after the date of publication of this decision.

Done at Washington, D.C., this 17th day of March, 1983.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 83-7247 Filed 3-18-83; 8:45 am]

BILLING CODE 3410-34-M

Forest Service

Boise National Forest Grazing Advisory Board; Meeting

The Boise National Forest Grazing Advisory Board will meet at 1 p.m. April 15, 1983, in the Boise National Forest conference room at 1750 Front Street, Boise, Idaho 83702. The purpose of this meeting is to discuss range allotment management plans and to give advice on the use of range betterment funds.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor, Boise National Forest, 1750 Front Street, Boise, Idaho 83702, phone 208-334-1232. Written statements may be filed with the committee before or after the meeting.

Dated: March 16, 1983.

John J. Lavin,

Forest Supervisor.

[FR Doc. 83-7343 Filed 3-18-83; 8:45 am]

BILLING CODE 3410-11-M

Office of the Secretary

National Agricultural Research and Extension Users Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92-463, 86 Stat. 770-776) Science and Education announces the following meeting:

Name: National Agricultural Research and Extension Users Advisory Board.

Date: March 21-22, 1983.

Time: 8:30 a.m.-5:00 p.m., March 21 and 22, 1982.

Place: U.S. Department of Agriculture, 12th and Independence Ave., S.W., Room 139-W, Administration Building, Washington, D.C.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: The Board will be preparing a preliminary report of materials recommending responsibilities and allocations of funds among Federally supported agricultural research and extension agencies.

Contact Person for Agenda and More Information: Barbara L. Fontana, Executive Secretary, National Agricultural Research and Extension Users Advisory Board; Room 351-A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250; telephone (202) 447-3684.

Done in Washington, D.C., this first day of March 1983.

Barbara L. Fontana,

Executive Secretary, National Agricultural Research and Extention Users Advisory Board.

[FR Doc. 83-7278 Filed 3-18-83; 8:45 am]

BILLING CODE 3410-03-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Week Ended: March 11, 1983.

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Mar. 9, 1983	41348	Tower Air, Inc., c/o Stephen L. Gelband, Hewes, Morella, Gelband & Lamberton, 1010 Wisconsin Avenue, N.W. Suite 640, Washington, D.C. 20007. Application of Tower Air, Inc., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests issuance of a certificate of public convenience and necessity which would authorize it to engage in scheduled foreign air transportation of passengers, property and mail, as follows: Between points within the United States of America including, but not limited to, the following coterminal points: New York, NY and Newark, NJ; and points in: Belgium, including Brussels, and Israel, including Tel Aviv. Conforming Applications, Motions to Modify Scope and Answers may be filed by April 6, 1983.
Mar. 10, 1983	41349	Buffalo Airways, Inc., c/o George T. Volsky, 1333 H. Street N.W. Suite 600, Washington, D.C. Application of Buffalo Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests a certificate of public convenience and necessity authorizing charter air transportation of passengers and property between any point or points in the United States or its possessions or territories. Conforming Applications, Motions to Modify Scope and Answers may be filed by April 6, 1983.
Do.	41350	Buffalo Airways, Inc., c/o George T. Volsky, 1333 H. Street N.W. Suite 600, Washington, D.C. Application of Buffalo Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations, requests a certificate of public convenience and necessity authorizing it to engage in foreign charter air transportation of persons and property between any point or points in the United States or its possessions or territories, on the one hand, and, on the other hand, any point or points in foreign air transportation. Conforming Applications, Motions to Modify Scope and Answers may be filed by April 7, 1983.
Mar. 11, 1983	41353	Bellair, Incorporated, c/o Kenneth A. Bellows, P.O. Box 371 Sitka, Alaska 99835. Application of Bellair, Incorporated pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations requests a certificate of public convenience and necessity for an indefinite term to perform scheduled interstate air transporation of persons, property and mail between the terminal point Baranof, the intermediate points Little Port Walter, Port Alexander, and the terminal point Sitka, Alaska. Conforming Applications, Motions to Modify Scope, and Answers may be filed by April 8, 1983.
Do.	41358	Arrow Airlways, Inc., c/o Lawrence D. Wsko, Seamon, Wasko & Ozment, 1211 Connecticut Ave. N.W., Washington, D.C. 20036. Application of Arrow Airways, Inc. pursuant to Section 401 of the Act and Subpart Q of the board's Procedural Regulations for issuance or amendment of a certificate of public convenience and necessity for "back-up" authority to engage in scheduled foreign air transportation of persons, property and mail between the terminal point, Baltimore Maryland, on the one hand, and the terminal point London, United Kingdom, on the other hand, and beyond London to points listed in Arrow's certificate for Route 343-F. (Conforming Application). Answers may be filed by March 29, 1983.
Do.	41361	Era Helicopters, Inc., c/o Robert Reed Gray, Hale Russel & Gray Suite 400, 1025 Connecticut Avenue, N.W., Washington, D.C. 20036. Application of Era Helicopters, Inc. pursuant to Section 401 of the Act and Subpart q of the Board's Procedural Regulations requests authority to provide interstate and overseas air transportation of persons, property and mail on either a scheduled or charter basis. Additionally, ERA requests authority to use, in addition to its corporate name, the trade names "Livingston Copters" and "Jet Alaska". Conforming Applications, Motions to Modify Scope and Answers may be filed by April 8, 1983.
Mar. 8, 1983	40966	Bidzy Ta Hot' Aana, Inc. d/b/a Tanana Air Service, c/o John B. Patterson, 880 H Street, Suite 201, Anchorage, Alaska 99501. Supplemental Data of Bidzy Ta Hot' Aana, Inc. d/b/a Tanana Air Service as required by order deferring processing of application. Answers may be filed by April 5, 1983.
Do.	41344	Trans North Turbo Air Limited d/b/a Trans North Air, c/o Robert Reed Gray, Hale Russell & Gray, 1025 Connecticut Avenue, N.W. Suite 400, Washington, D.C. 20036. Application of Trans North Turbo Air Limited d/b/a Trans North Air pursuant to Section 402 of the Act and subpart Q of the Board's Procedural Regulations requests an amendment to its existing foreign carrier permit to authorize it (1) to provide scheduled foreign air transportation of persons, property and mail between Whitehorse, Yukon Territory, Canada and Fairbanks, Alaska; and (2) to carry mail on its existing route between Whitehorse and Juneau. Answers may be filed by April 5, 1983.
Mar. 7, 1983	41342	Polynesian Airlines (Holdings) Limited and Polynesian Airlines (Operations) Limited d/b/a Polynesian Airlines, c/o Robert D. Papkin, Squire, Sanders & Dempsey, 1201 Pennsylvania Ave., N.W. Washington, D.C. 20004. Joint Application of Polynesian Airlines Limited et al, pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests the issuance of a permit authorizing them to engage in foreign air transportation of persons, property and mail as follows: Between the terminal point Apia, Western Samoa, the terminal Point Pago Pago, American Samoa, and beyond Pago Pago to Rarotonga, the cook Islands, and to Papeete, Tahiti. Answers may be filed by April 4, 1983.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-7281 Filed 3-18-83; 8:45 am]

BILLING CODE 6320-01-M

CIVIL RIGHTS COMMISSION

Alaska and Washington Advisory Committee; Agenda and Notice of Public 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 Alaska and Washington Advisory Committees to the Commission will convene at 6:00 p.m. and will end at 9:00 p.m., on April 14, 1983, at the Cape Fox Hotel, 51 West Egan Drive, Conference Room, Juneau, Alaska 99811. A media conference will be held also by the Alaska and Washington Advisory Committees, which will convene at 10:00 a.m. and will end at 12 Noon, on April 15, 1983, at the Alaska Court and Office Building, Fourth and Main, Court Room A, Juneau, Alaska 99811. The purpose of the meeting is a briefing session on the Alaska-Washington seafood study. The purpose of the media conference is to release the Alaska-Washington report, *Minorities and Women in Seafood Processing.*

Persons desiring additional information or planning a presentation to the Committees, should contact the Chairpersons, Mr. Donald Peter, 108 Stewart Street, Anchorage, Alaska 99504; (907) 272-0531; Ms. Katharine M. Bullitt, 1125 Harvard Avenue East, Seattle, Washington 98102; (206) 447-9800; or the Northwestern Regional Office, 915 Second Avenue, Room 2852; (206) 399-1246.

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

Dated at Washington, D.C., March 16, 1983.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 83-7258 Filed 3-18-83; 8:45 am]

BILLING CODE 6335-01-M

Hearing To Subpena; Civil Rights Information Withheld By Federal Agencies

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1957, 71 Stat. 634, as amended, that a public hearing of the U.S. Commission on Civil Rights is scheduled for April 25, 1983, at 1121 Vermont Avenue, N.W., Washington, D.C., fifth floor conference room.

The purpose of the hearing is to receive subpenaed information within the jurisdiction of the Commission from Federal agencies, particularly concerning their civil rights enforcement efforts. The Commission will issue subpenas and hold a hearing only if the Commission's requests to Federal agencies for needed documents are not met in a timely manner.

The Commission is an independent bipartisan factfinding agency authorized to study, collect, and disseminate information and to appraise the laws and policies of the Federal government with respect to discrimination or denials of equal protection of the laws under the Constitution because of race, color, religion, sex, age, handicap or national origin, or in the administration of justice.

Dated at Washington, D.C., March 16, 1983.

Clarence M. Pendleton, Jr.,

Chairman.

[FR Doc. 83-7261 Filed 3-18-83; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 6-83]

Proposed Foreign-Trade Zone—Harrison County, Mississippi (Gulfport Port of Entry); Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Gulfport/Biloxi Foreign Trade Zone, Inc. (GBFTZ), a Mississippi non-profit development corporation, requesting authority to establish a general-purpose foreign-trade zone in Harrison County, Mississippi, within the Gulfport Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a-81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on March 15, 1983. The applicant is authorized to make this proposal under Section 59-3-35 of the Mississippi Code of 1972, Annotated.

The proposed zone covers 228 acres on four sites in Harrison County. Site 1 is located within the Port of Gulfport on Highway 90. It involves a 55,000 square foot warehouse (Transit Shed 15) and 4 acres of open space. Site 2 covers 99 acres on three parcels at Gulfport-Biloxi Regional Airport in Gulfport to be used for air-cargo related zone activities and as standby space for future development. Site 3 involves 97 acres within the 1500-acre Bernard Bayou Industrial District located on Interstate 10 at Lorraine Road in Harrison County. Site 4 involves a 27-acre parcel within the 520-acre Long Beach Industrial Park on Espy Avenue, Long Beach. Sites 3 and 4 are requested to provide space for firms requiring separate facilities. GBFTZ's board membership is intended to insure cooperation of the zone project with the Harrison County Development Commission, the Mississippi State Port Authority at Gulfport, and the Gulfport/Biloxi Regional Airport Authority.

The application contains evidence of the need for zone services in the Gulfport area. A number of prospective tenants have indicated an interest in using the zone for warehousing/distribution, inspection, manufacturing and assembly of products such as forgings, oil field equipment, tractor components, heating equipment, chemicals, steel wire, building materials, metal hardware, furniture parts, lighting fixtures, aluminum products, electronic components, apparel and food products. Specific manufacturing approvals are not being sought at this time, requests to be made to the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Garnet Fee, District Director, U.S. Customs Service, South Central Region, 250 N. Water Street, Mobile, Alabama 36601; and Colonel Patrick J. Kelly, District Engineer, U.S. Army Engineer District Mobile, P.O. Box 2288, Mobile, Alabama 36628.

As part of its investigation, the examiners committee will hold a public hearing on April 20, 1983, beginning at 9:00 a.m. in the Board Room of the Mississippi State Port Authority Office, Highway 90 at 30th Avenue, Gulfport. The purpose of the hearing is to help inform interested persons about the proposal, to provide an opportunity for their expression of views, and to obtain information useful to the examiners.

Interested parties are invited to present their views at the hearing. Persons wishing to testify should notify the Board's Executive Secretary in writing at the address below or by phone (202/377-2862) by April 12. Instead of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through May 20, 1983. Evidence submitted during the post-hearing period is not desired unless it is shown that the matter is new and material and that there are good reasons why it could not be presented at the

hearing. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

Port Director's Office, U.S. Customs Service, 2301 14th Street, Gulfport, Mississippi 39501, or

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1872, 14th and Pennsylvania, N.W., Washington, D.C. 20230.

Dated: March 16, 1983.

John J. Da Ponte, Jr.,

Executive Secretary, Foreign-Trade Zones Board.

[FR Doc. 83-7268 Filed 3-18-83; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

The following is a consolidated decision on applications for duty-free entry of scientific articles published pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review between 8:30 a.m. and 5:00 p.m. in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Decision: Applications Denied. Applicants have failed to establish that instruments or apparatus of equivalent scientific value to the foreign articles for such purposes as the foreign articles are intended to be used are not being manufactured in the United States.

Reasons: The requirements for the resubmission of applications that have been denied without prejudice to resubmission are contained in § 301.5(e) of the regulations. Each of the applicants has failed to resubmit its application within the specified time period. Pursuant to § 301.5(e)(4), this failure shall result in a denial of the application.

In accordance with § 301.5(f) notice of these decisions is forwarded to the **Federal Register** for publication.

Docket No.: 81-00362. Applicant: SRI International, Department of Chemical Kinetics, 333 Ravenswood Avenue, Menlo Park, CA 94025. Article: Excimer Laser System, Model EMG-101. Date of denial without prejudice to resubmission: December 23, 1982.

Docket No.: 82-00252 Applicant: State University at Stony Brook, Department of Chemistry, Stony Brook, NY 11794. Article: Excimer Laser-Pumped Dye Laser System, EMG 101. Date of denial without prejudice to resubmission: December 23, 1982.

Docket No.: 82-00269. Applicant: University of Rochester, River Campus, Rochester, NY 14627. Article: Excimer Laser, Model TE 861S-2 and Accessories. Date of denial without prejudice to resubmission: December 23, 1982.

Docket No.: 82-00274. Applicant: University of Florida, Division of Urology, J. Hillis Miller Health Center, Box J-247, Room N2-11, Gainesville, FL 32610. Article: Mark II Electrophoresis Apparatus and Accessories. Date of denial without prejudice to resubmission: December 29, 1982.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 83-7267 Filed 3-18-83; 8:45 am]

BILLING CODE 3510-25-M

Certain Softwood Products From Canada; Preliminary Negative Countervailing Duty Determination

Correction

In FR Doc. 83-6316 beginning on page 10395 in the issue of Friday, March 11, 1983, make the following correction:

On page 10397, third column, in the tenth line, "0.9 percent" should have read "0.09".

BILLING CODE 1505-01-M

Tool Steel From Brazil; Suspension of Investigation

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of suspension of investigation.

SUMMARY: The Department of Commerce has decided to suspend the countervailing duty investigation involving tool steel from Brazil. The basis for the suspension is an agreement by the government of Brazil to offset with an export tax all benefits which we find to constitute subsidies on tool steel exported to the United States.

EFFECTIVE DATE: March 21, 1983.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 377-3003.

SUPPLEMENTARY INFORMATION:

Case History

On July 30, 1982, we received a petition from Al Tech Specialty Steel Corporation, Braeburn Alloy Steel Division, Continental Copper & Steel Industries, Inc., Carpenter Technology Corporation, Colombia Tool Steel Company, Crucible Specialty Metals Division, Colt Industries, Inc., Cyclops Corporation, Guterl Special Steel Corporation, Jessop Steel Company, Latrobe Steel Company, on behalf of the U.S. industry producing tool steel, and the United Steelworkers of America, AFL/CIO. The petition alleged that certain benefits which constitute subsidies within the meaning of section 701 of the Act are being provided, directly or indirectly, to the manufacturers, producers, or exporters in Brazil of tool steel.

We found the petition to contain sufficient grounds upon which to initiate a countervailing duty investigation and on August 18, 1982, we initiated a countervailing duty investigation (47 FR 36874). We stated that we expected to issue a preliminary determination by October 25, 1982. We subsequently determined that the investigation is "extraordinarily complicated," as defined in section 703(c) of the Act, and postponed our preliminary determination for 65 days until December 27, 1982 (47 FR 49436).

Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the U.S. International Trade Commission (ITC) of our initiation. On September 13, 1982, the ITC determined that there is a reasonable indication that these imports are materially injuring, or threatening to materially injure, a U.S. industry (47 FR 41881).

We presented a questionnaire concerning the allegations to the government of Brazil in Washington, D.C. On November 15, 1982, we received the response to that questionnaire. During December 13-17, 1982, we verified this information by a review of government documents and company books and records of Acos Finos Piratini S/A (Piratini), Acos Villares S/A (Villares) and Eletrometal Acos Finos S/A (Eletrometal), which exported over 85 percent of Brazilian tool steel to the United States during calendar year 1981.

On December 27, 1982, we preliminarily determined that the government of Brazil was providing subsidies to manufacturers, producers, or exporters of tool steel under seven programs. The programs preliminarily found to confer subsidies were:

- Industrialized Products Tax (IPI) export credit premium
- Preferential working capital financing for exports
- Income tax exemption for export earnings
- Long-term loans
- IPI rebates for capital investment
- Industrial Development Council (CDI) program, and
- Accelerated depreciation for capital goods manufactured in Brazil

Notice of the preliminary affirmative counterveiling duty determination was published on January 3, 1983 (48 FR 53). We directed the U.S. Customs Service to suspend liquidation of all entries of tool steel entered or withdrawn from warehouse, for consumption on or after January 3, 1983, and to require a cash deposit or bond in the amount of 17.766 percent of the f.o.b. value of the merchandise.

On February 10, 1983, the Department initiatied a proposed agreement to suspend the counterveiling duty investigation involving tool steel from Brazil. The basis for the proposed agreement was that the government of Brazil would offset by an export tax the entire amount of benefits we found to confer subsidies on tool steel exported to the United States.

In compliance with the procedural requirements of section 704(e) of the Act, we consulted with the petitioners concerning the proposed agreement and provided them a copy of it.

Scope of Investigation

The product covered by this investigation is tool steel which includes hot-finished tool steel, cold-finished tool steel, high speed tool steel, chipper knife steel and band saw steel bars and rods as currently provided for in items 606.9300, 606.9400, 606.9505, 606.9510, 606.9520, 606.9525, 606.9535, 606.9540, 607.2800, 607.3405, 607.3420, 607.4600, 607.5405 and 607.5420 of the *Tariff Schedules of the United States Annotated.*

The period for which we are measuring subsidization is that fiscal year for each company which most closely corresponds to calendar year 1981. That period is calendar year 1981 for Piratini, February 1, 1981 through January 31, 1982 for Villares, and October 1, 1981 through September 30, 1982 for Electrometal. We have referred to these periods as fiscal year 1981 in this notice.

Changes Since the Preliminary Determination—Industialized Products Tax (IPI) Export Credit Premium

In the preliminary determination we calculated a subsidy rate based upon the 15 percent IPI credit available during the companies' 1981 fiscal year. However, the government of Brazil has made three reductions in the level of the IPI credit during 1982, the most recent on September 30, 1982 to 11 percent, the rate currently in effect. Since the rate established for purposes of the suspension is prospective, we will make a proportional reduction in our calculation of the subsidy rate from ths program

Preferential Working Capital Financing for Exports: Resolution 674

On February 11, 1983, the government of Brazil notified the Department that the Banco do Brasil rate for discounting accounts receivable had increased from 59.6 percent to 72 percent effective January 3, 1983. In addition, effective January 11, 1983, the tax on financial transactions was reduced from 6.9 percent to 4.6 percent. These changes result in a rate differential of 32.6 percent rather than 22.5 percent as stated in the preliminary determination with respect to tool steel. Consequently, since the rate established for purposes of ths suspension is prospective, we will use 32.6 percent as the applicable differential in determining the subsidy rate from this program.

Petitioners' Comments

The Department has consulted with the petitioners and received the following comments from them concerning the proposed suspension agreement. Our response is shown for each comment.

Comment 1: The petitioners argue that any agreement suspending this investigation should be an agreement eliminating injurious effect under section 704(c) of the Act, rather than an agreement to offset completely the net subsidy under section 704(b) of the Act. The petitioners contend that this case meets all the criteria for an agreement under section 704(c).

DOC Position: The statute provides alternate means by which the Department may suspend an investigation. The statute states no preference for one alternative over another. The Department believes that a 704(b) suspension agreement in this case will offset completely the net subsidy. It therefore eliminates any injury caused by the net subsidy.

Comment 2: The petitioners suggest that we add a provision to the proposed agreement requiring that the export tax be paid in full at the time of export. They contend that a delay in collection of the export tax would reduce the real value of the tax, given the high rate of inflation in Brazil. In addition, they request that the terms under which the government of Brazil imposes penalties for late payment of the export tax should be added to the agreement.

DOC Position: The Department believes that the method of collection of the export tax to be used by the government of Brazil will offset completely offset the net subsidy found to exist on the subject products. Brazil requires that the export tax be paid within 45 days of the last day of the month in which the merchandise is exported, which is the minimum amount of time administratively feasible for collection. Our experience shows that Brazilian exporters generally do not receive countervailable benefits until after the date of export. In monitoring the agreement, we will verify that either payment was made within 45 days or the appropriate penalty imposed.

For late payments (payments after 45 days), the government of Brazil imposes penalties sufficient to offset the amount of the benefits derived from the delay in payment. These penalties which are stated in Brazilian law, Portaria 321 dated September 16, 1980 are as follows:

- For voluntary payment within 30 days of the due date, exporters are required to pay:
  (a) Full monetary correction,
  (b) One percent interest on the corrected amount, and
  (c) A 15 percent penalty on the corrected amount
- For voluntary payment after 30 days, exporters are required to pay:
  (a) Full monetary correction,
  (b) One percent interest per month on the corrected amount, and
  (c) A 30 percent penalty on the corrected amount
- For payment as the result of government action, exporters are required to pay:
  (a) Full monetary correction,
  (b) One percent interest on corrected amount, and
  (c) A 100 percent penalty on the corrected amount

Comment 3: The petitioners propose that we change the word "constitute" in paragraph B.1. (h) to "confer." They wish to distinguish between programs that we have found to "constitute" subsidies in this and other investigations of Brazilian products from

those programs which we found actually "confer" benefits which constitute subsidies on the subject products.

DOC Position: We agree with the point raised by the petitioners. In order to clarify that provision, we have reworded paragraph B.1. (h) to read:

Any other program subsequently determined by the Department to confer a benefit which constitutes a subsidy under the Act on the subject products.

Comment 4: The petitioners propose that paragraph B.2. be modified to read: "The Government of Brazil certifies that no new or equivalent benefit shall be granted on the subject products." Their proposed wording eliminates the phrase "as a substitute for any benefits offset by the agreement" from the proposed agreement.

DOC Position: The Department has intended that the language of paragraph B.2 require that the government of Brazil certify that they have not granted any new or equivalent benefits on the subject products regardless of whether these are substitutes for benefits offset by the agreement. To eliminate any ambiguity that may have arisen by the original language, we have deleted the words "as a substitute for any benefits offset by the agreement" from the suspension agreement. In addition, we are making the corresponding changes in paragraph C.3.

Comment 5: The petitioners oppose the use of the period stated in the proposed agreement, June 1981 through May 1982, as the base period for the establishment of export levels under section 704(d)(2) of the Act. They cite the high and growing rates of imports of tool steel from Brazil during that period and suggest that it is "more reasonable" to use calendar year 1981, when shipments were lower, as a base period.

DOC Position: To establish the export level during the interim period, the Department had intended to use July 1981 through June 1982 (the 12-month period prior to the filing of the petition) as "the most recent representative period." We note that the use of that period results in a reduction from present levels of exports of the subject products to the United States. In addition, the interim period ending May 1, 1983, the date the offsetting export tax becomes effective, is considerably shorter than the period allowed by the statute. We have amended the agreement to reflect the July 1981 through June 1982 period.

Comment 6: The petitioners request that we modify paragraph C.4. to require the Department to verify at least four times each year.

DOC Position: The Department believes that effective monitoring is practicable under the agreement. Paragraph C of the agreement requires the government of Brazil to permit such verification and data collection as the Department requests to monitor the agreement. The Department's monitoring efforts for the most part will occur during yearly section 751 administrative reviews. These are conducted in the same manner as reviews of a countervailing duty order. Paragraph C also imposes comprehensive reporting requirements on the government of Brazil which will help ensure effective monitoring.

Comment 7: The petitioners request that paragraph C.2. of the proposed agreement be changed to reflect the language of the proposed suspension agreement in the case of *Certain Stainless Steel Products from Brazil. They propose that paragraph C.2. should read as follows:*

The Government of Brazil shall notify the Department if any exporters of the subject product transship the subject product through third countries or apply for or receive, directly or indirectly, the benefits of the programs described in paragraph (B)(1) regarding the manufacture, production or export of the subject product.

The petitioners contend that the language in paragraph C.2. of the proposed suspension agreement only requires that the government of Brazil give notification where *exporters of the subsidized merchandize* transship through third countries to the United States. The petitoners state that their language would require the government of Brazil to give notification where *any* Brazilian exporter of the subject merchandise transships the subject product through third countries to the United States and give notification whenever any exporter applies for receives the benefits of a program covered by this agreement.

DOC Position The Department intends that paragraph C.2. apply to all transshipments of the subject products from Brazil via third countries to the United States. The language of the proposed agreement has been revised to take into account the concerns of the petitioners, since by covering all transshipments, the paragraph applies to all Brazilian exporters of the covered merchandise who transship. Paragraph C.2, as revised, reads as follows:

The government of Brazil shall notify the Department of any transshipment of the subject products through third countries to the United States and whether the export tax required by this agreement has been paid with respect to those transshipped products.

Suspension of Investigation

The Department consulted with the petitioners and has considered the comments submitted with respect to the proposed suspension agreement. We have determined that the agreement will offset completely the net subisdy with respect to the subject merchandise exported directly or indirectly to the United States, that the agreement can be monitoried effectively, and that the agreement is in the public interest. Therefore, we find that the criteria for suspension of an investigation pursuant to section 704 of the Act have been met. The terms and conditions of the agreement, signed March 14, 1983, are set forth in Annex I to this notice.

Pursuant to section 704(f)(2)(A) of the Act, the suspension of liquidation of all entries, entered or withdrawn from warehouse, for consumption of tool steel from Brazil effective January 3, 1983, as directed in our notice of "Preliminary Affirmative Countervailing Duty Determination, Tool Steel from Brazil," is hereby terminated. Any cash deposits on entries of tool stell from Brazil pursuant to that suspension of liquidation shall be refunded and any bonds shall be released.

The Department intends to conduct an adminstrative review within 12 months of the anniversary date of publication of this suspension as provided in section 751 of the Act.

Notwithstanding the suspension agreement, the Department will continue the investigation if we receive such a request in accordance with section 704(g) of the Act within 20 days after the date of publication of this notice.

This notice is published pursuant to section 704(f)(1)(A) of the Act.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

March 14, 1983.

Annex I—Suspension Agreement

Tool Steel from Brazil

Pursuant to section 704 of the Tariff Act of 1930, as amended (the Act), and § 355.31 of the Commerce Regulations, the United States Department of Commerce (the Department) and the government of Brazil enter into the following suspension agreement (the agreement) on the basis of which the Department shall suspend its countervailing duty investigation initiated on August 18, 1982 (47 F.R. 36874) with respect to tool steel from Brazil. The agreement shall be in accordance with the terms and provisions set forth below.

A. *Scope of the Agreement:* The agreement applies to tool steel manufactured in Brazil and exported, directly or indirectly, from Brazil to the United States (hereinafter referred to as the "subject products"). "Tool

steel" includes hot-finished tool steel, cold-finished tool steel, high speed tool steel, chipper knife steel and band saw steel bars and rods as currently provided for in items 606.9300, 606.9400, 606.9505, 606.9510, 606.9520, 606.9525, 606,9535, 606.9540, 607.2800, 607,3405, 607.3420, 607.4600, 607.5405 and 607.5420 of the *Tariff Schedules of the United States Annotated.*

B. *Basis of the Agreement:* 1. The government of Brazil hereby agrees to offset completely the amount of the net subsidy determined by the Department in this proceeding to exist with respect to the subject products. The offset shall be accomplished by an export tax applicable to the subject products exported on or after May 1, 1983. The export tax shall offset completely any benefits found to exist with respect to the following programs:

(a) Industrialized Products Tax (IPT) export credit premium;

(b) Preferential working capital financing for exports;

(c) Income tax exemption for export earnings;

(d) Long-term loans;

(e) IPI rebates for capital investment;

(f) Industrial Development Council (IDC) program;

(g) Accelerated depreciation for capital goods manufactured in Brazil; and

(h) Any other program subsequently determined by the Department to confer a benefit which constitutes a subsidy under the Act on the subject products.

The Department shall officially notify the government of Brazil of any determination made with respect to items (a) through (h) above.

2. The government of Brazil certifies that no new or equivalent benefits shall be granted on the subject products.

3. The offset of these benefits does not constitute an admission by the government of Brazil that such benefits are subsidies within the meaning of the U.S. countervailing duty law.

4. The government of Brazil agrees that from the effective date of the suspension of the investigation and until the imposition of an export tax no later than May 1, 1983 that completely offsets the net subsidy determined by the Department to exist, the rate of exports of the subject products will not exceed the average monthly rate of exports to the United States in the period July 1981–June 1982. Exports in excess of this quantity will constitute a violation of the agreement pursuant to section 704(i) of the Act.

C. *Monitoring of the Agreement:* 1. The government of Brazil agrees to supply to the Department documentation concerning the method and time of payment of the export tax and any other information the Department deems necessary to demonstrate that it is in full compliance with the agreement.

2. The government of Brazil shall notify the Department of any transshipment of the subject products through third countries to the United States and whether the export tax required by this agreement has been paid with respect to those transshipped products.

3. The government of Brazil shall certify to the Department within 15 days after the first day of each three-month period beginning on July 1, 1983 whether it continues to be in compliance with the agreement by offsetting completely the net subsidy referred to in paragraph B.1 and whether it has granted any new or equivalent countervailable benefits. The first certification shall include the period May 1, 1983—June 30, 1983. Failure to supply such information or certification in a timely fashion may result in the immediate resumption of the investigation or issuance of a countervailing duty order.

4. The government of Brazil shall permit such verification and data collection as is requested by the Department in order to monitor the agreement. The Department will request such information and perform such verification periodically pursuant to administrative reviews conducted under section 751 of the Act.

5. The government of Brazil shall promptly notify the Department, with appropriate documentation, of any change in the amount of benefits to the subject products, of any change in the rate of the export tax, or if it decides to alter or terminate its obligations, with respect to any of the terms of the agreement.

6. If quantitative trade restrictions affecting U.S. imports from all for a substantial number of trading partners of the U.S. are implemented with respect to merchandise covered by this agreement, the parties agree to consult concerning the possibility of modification or amendment of this agreement in such a fashion that will continue to meet the requirements of U.S. law in light of the quantitative restrictions or other types of relief then in effect. Pending any possible modification of this agreement, the terms of this agreement will remain in effect.

D. *Violation of the Agreement:* If the Department determines that the agreement is being or has been violated or no longer meets the requirements of section 704(b) or (d) of the Act, then section 704(i) shall apply.

E. *Effective Date:* The effective date of the agreement is the date of publication.

Signed on this 14th day of March 1983, for the Government of Brazil.

José Alfredo Graça Lima,

First Secretary, Brazilian Embassy.

I have determined that the provisions of paragraph B completely offset the subsidies that the government of Brazil is providing with respect to tool steel exported directly or indirectly from Brazil to the United States and that the provisions of paragraph C ensure that this agreement can be monitored effectively pursuant to section 704(d) of the Act. Furthermore, I have determined that the agreement meets the requirements of section 704(b) of the Act and suspension of the investigation is in the public interest.

U.S. Department of Commerce.

Gary N. Horlick,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-7285 Filed 3-18-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: Dr. Allan T. Scholz (P320), Department of Biology, Eastern Washington University, Cheney, Washington 99004.

2. Type of Permit: Scientific Research.

3. Name and Number of Animals: Harbor seal (*Phoca vitulina*) 105.

4. Type of Take: Seals will be taken by tagging and/or marking and up to 30 seals will also be radio tagged and tracked to study the movements, activity patterns, and population.

5. Location of Activity: Puget Sound, Washington.

6. Period of Activity: 2 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northwest Region, 7600 Sand Point Way, NE, BIN C15700, Seattle, Washington 98115.

Dated: March 15, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-7291 Filed 3-18-83; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Marine Mammals; Receipt of Application for Permit; The Whale Museum

Notice is hereby given that an Applicant has applied in due form for a Permit to import marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: The Whale Museum (P311A), P.O. Box 945, Friday Harbor, Washington 98250.

2. Type of Permit: Scientific Research.

3. Summary of Request: To import one (1) Killer whale *(Orcinus orca)* skull from the Proincial Museum, British Columbia, Canada.

4. Period of Activity: One (1) year.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northwest Region, 7600 Sand Point Way, N.W., BIN C15700, Seattle, Washington 98115.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-7290 Filed 3-18-83; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Marine Mammals; Sefel Geophysical Ltd.

The National Marine Fisheries Service has issued a Letter of Authorization under the authority of the Marine Mammal Protection Act of 1972, as amended, to conduct activities allowed under 50 CFR Part 228, Subpart B—Taking of Ringed Seals Incidental to On-Ice Seismic Activities to the following: Sefel Geophysical Ltd., 201 South Cherokee Street, Denver, Colorado 80223.

This Letter of Authorization is valid for 1983, and is subject to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing Small Take of Marine Mammals Incidental to Specified Activities (50 CFR Part 228, Subparts A and B). This Letter is in addition to five others issued under the same authorization for 1983. Issuance of this letter does not change the original finding that the level of taking will have a negligible impact on the ringed seal species or stock and its habitat and its availability for subsistence use.

This Letter of Authorization is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Alaska Region, P.O. Box 1668, Juneau, Alaska 99801.

Dated: March 15, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-7289 Filed 3-18-83; 8:45 am]

BILLING CODE 3510-22-M

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: International Trade Administration.

Title: Small Business Export Development Assistance Program Application.

Form Numbers: OMB—0106; Agency—Uses SF-424.

Type of Request: New.

Burden: 400 respondents; 10,000 reporting hours.

Needs and Uses: The information to be collected will be used to determine which proposal should be funded. Information provided by the applicants will be used to evaluate and rank the applications. Matching grants of up to $150,000 will be awarded to local entities which in turn will provide export assistance to small businesses desiring to pursue export sales.

Affected Public: Entities able to assist small businesses such as: State and local government agencies, Small Business Development Centers, small business, regional commissions and non-profit corporations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefit.

OMB Desk Officer: Ken Allen, 395-3785.

Agency: International Trade Administration.

Title: Application for an Export Trade Certificate of Review.

Form Numbers: OMB—None; Agency—ITA-4093P.

Type of Request: New.

Burden: 180 respondents; 5,760 reporting hours.

Needs and Uses: The information provided by private or public organization on this application will enable the Department of Commerce to begin an evaluation and to determine, with concurrence of the Department of Justice, if an Export Trade Certificate of Review should be issued or denied to such organization in accordance with Title III of the Export Trading Company Act.

Affected Public: Persons, businesses, state or local government entities, associations, and others involved in export trade activities.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefit.

OMB Desk Officer: Ken Allen, 395-3785.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to Ken Allen, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 83-7282 Filed 3-18-83; 8:45 am]

BILLING CODE 3510-CW-M

Committee for the Implementation of Textile Agreements

Adjusting Import Restraint Levels for Certain Man-Made Fiber Textile Products From the Dominican Republic

March 16, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Decreasing the level of restraint established for man-made fiber brassieres in Category 649 from 1,500,000 dozen to 1,497,750 dozen by the addition of 105,000 dozen swing and the deduction of 107,250 dozen carryforward used in the previous agreement year, and decreasing by the square yard equivalent amount of swing applied to Category 649, the level of restraint for women's, girls', and infants' knit shirts and blouses of man-made fibers in Category 639 from 336,887 dozen to 303,287 dozen. These adjustments apply to man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the agreement year which began on June 1, 1982 and extends through May 31, 1983.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

SUMMARY: The Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of August 7 and 8, 1979, as amended, between the Governments of the United States and the Dominican Republic provides that specific ceilings may be increased by not more than seven percent during an agreement year (swing), provided the amount of increase is offset by an equivalent square yard decrease in one or more specific limits. The agreement further provides for the borrowing of yardage from the following agreement year (carryforward) with the amount used being deducted from the level in the following year. In accordance with the terms of the bilateral agreement and at the request of the Government of the Dominican Republic, the import restraint levels established for man-made fiber textile products in Category 639 and 649 are being adjusted for the twelve-month period which began on June 1, 1982.

EFFECTIVE DATE: March 22, 1983.

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 May 26, 1982, there was published in the **Federal Register** (47 FR 23000) a letter dated May 21, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established import restraint levels for certain specified categories of cotton and man-made fiber textile products, including Categories 639 and 649, produced or manufactured in the Dominican Republic and exported to the United States during the twelve-month period which began on June 1, 1982 and extends through May 31, 1983. In accordance with the terms of the bilateral agreement and at the request of the Government of the Dominican Republic, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, in the letter published below, to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of textile products in Categories 639 and 649 in excess of the respective, adjusted levels of restraint of 303,287 dozen and 1,497,750 dozen.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

March 16, 1983.

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

Dear Mr. Commissioner: On May 21, 1982, the Chairman of the 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 which began on June 1, 1982 and extends through May 31, 1983 of cotton and man-made fiber textile products in certain specified categories, produced or manufactured in the Dominican Republic, in excess of designated levels of restraint. The Chairman further advised you to the levels of restraint are subject to adjustment.[1]

Effective on March 22, 1983, the levels of restraint established for Categories 639 and 649 in the directive of May 21, 1982, are adjusted to the following:

Category	Adjusted 12-month level of restraint [1] (dozen)
639	303,287
649	1,497,750

[1] The levels of restraint have not been adjusted to reflect any imports after May 31, 1982.

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

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-7284 Filed 3-18-83; 8:45]

BILLING CODE 3510-25-M

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of August 7 and 8, 1979, as amended, between the Governments of the United States and the Dominican Republic, which provide, in part, that: (1) Specific limits may be exceeded by designated percentages to account for swing with comparable amounts being deducted from other specific limits; (2) specific limits may also be increased for carryover and carryforward up to 11 percent of the applicable category limits; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

Adjusting the Level of Restraint for Certain Cotton Textile Products from Brazil

March 16, 1983.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Further amending the bilateral agreement with Brazil to increase to 7,608,696 pounds the designated consultation level of 7,173,913 pounds established for cotton yarn in Category 300/301, produced or manufactured in Brazil and exported during the twelve-month period which began on April 1, 1982.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709).

SUMMARY: The Bilateral Cotton and Man-Made Fiber Textile Agreement of March 31, 1982, as amended, between the Governments of the United States and the Federative Republic of Brazil provides consultation levels for certain categories of textile products, such as Category 300/301, which are not subject to specific ceilings and which may be adjusted upon agreement between the two governments. Agreement has been reached between the two governments to amend the bilateral agreement further to increase the designated consultation level for cotton textile products in Category 300/301 to 7,608,696 pounds.

EFFECTIVE DATE: March 16, 1983.

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

SUPPLEMENTARY INFORMATION: On April 23, 1982, there was published in the **Federal Register** (47 FR 17607) a letter dated April 19, 1982 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs establishing levels of restraint for certain categories of cotton and man-made fiber textile products, including Category 300/301, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on April 1, 1982. The letter published below amends the letter of April 19, 1982 to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton textile products in Category 300/301, produced or manufactured in Brazil and exported during the twelve-month period which began on April 1, 1982 and extends through March 31, 1983, in excess of the increased level of 7,608,696 pounds.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

March 16, 1983.

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

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of April 19, 1982, from the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit entry during the twelve-month period which began on April 1, 1982 and extends through March 31, 1983 of cotton and man-made fiber textile products in certain specified categories, produced or manufactured in Brazil, in excess of designated levels of restraint.

Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and 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 and Man-Made Fiber Textile Agreement of March 31, 1982, as amended, between the Governments of the United States and the Federative Republic of Brazil; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on March 16, 1983 and for the twelve-month period which began on April 1, 1982 and extends through March 31, 1983, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 300/301, produced or manufactured in Brazil, in excess of 7,608,696 pounds.[1]

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

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 83-7283 Filed 3-18-83; 8:45 am]

BILLING CODE 3510-25-M

[1] The level of restraint has not been adjusted to reflect any imports March 31, 1982.

COMMODITY FUTURES TRADING COMMISSION

Applicants for Registration as Associated Persons; Extension of Expiration Date of No-Action Positions

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of extension of expiration date of no-action positions.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has previously determined not to take enforcement action with respect to certain applicants for registration as an associated person ("AP") based solely on the failure of such an individual to be registered. 47 FR 53764 (November 29, 1982); 48 FR 4709 (February 2, 1983). These "no-action" positions, which also applied to an AP's sponsoring futures commission merchant ("FCM"), were to have expired on April 30, 1983. The Commission is now extending the expiration date of those two no-action positions until June 30, 1983.

EFFECTIVE DATE: March 21, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Rosenzweig, Assistant Chief Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581. Telephone: (202) 254-8955.

SUPPLEMENTARY INFORMATION: The Commission initially adopted a "no-action" position for certain applicants for AP registration and their sponsoring FCMs where the futures commission merchant with whom the AP was to be associated submitted and received approval of a written certification specifying, *inter alia*, that the FCM is a registered securities broker or dealer and member of the National Association of Securities Dealers ("NASD") and, additionally, that the AP is registered with the NASD as a registered representative or registered principal. The Commission's no-action position was further limited to those applicants whose applications had been submitted to the Commission on or before November 18, 1982. 47 FR 53764 (November 29, 1982). The Commission subsequently extended its no-action position to "commodities only" APs and their sponsoring FCMs if the AP's application was submitted on or before November 18, 1982 and the sponsoring FCM submitted and received approval of a certification containing the information required by the Commission. 48 FR 4709 (February 2, 1983).

Each of those no-actions positions was originally scheduled to expire on April 30, 1983 or the earlier occurrence of any one of the following events: (1) Receipt by the FCM which sought a no-action position on behalf of an AP applicant of a notice from the Commission that the AP's registration has been granted; (2) receipt by the Commission of a termination notice (Form 8-T or U-5) from the sponsoring FCM indicating that an AP applicant has terminated his employment with the FCM, or receipt of any other notice from the FCM indicating that the FCM is withdrawing its certification as to the eligibility of an AP applicant for a no-action position; or (3) notice from the Commission's Division of Trading and Markets to the FCM which sought and obtained a no-action position on behalf of an AP applicant that the no-action position has been revoked with respect to such applicant.[1]

The Commission has determined, however, to extend the expiration date of those two no-action positions from April 30, 1983 to June 30, 1983. The Commission is using the information thus far provided in connection with the no-action requests to improve further its registration processing system. The Commission wishes to emphasize, however, that none of the other criteria for either the granting or termination of such a no-action position—including the requirement that an application for AP registration must have been filed on or before November 18, 1982—is in any way modified by this extension of the expiration date for these no-action positions.

[1] 47 FR 53764, 53765 (November 29, 1982); 48 FR 4709, 4710 (February 2, 1983).

Issued in Washington, D.C., on March 15, 1983, by the Commission.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 83-6184 Filed 3-18-83; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

March 8, 1983.

The USAF Scientific Advisory Board ad hoc committee on Software will meet at Wright-Patterson AFB, Ohio, April 7-8, 1983. The purpose of the meeting will be to review the USAF Logistics Command software process and to examine software development records of the F-15 and F-16. The meeting will convene at 9:00 a.m. and adjourn at 5:00 p.m. on both days.

The meeting will be open to the public; however, seating will be limited to those personnel presenting significant academic and industry credentials as well as discussion topics pertinent to the task statement before the committee.

For further information, contact the Scientific Advisory Board Secretariat at 697-4648.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83-7008 Filed 3-18-83; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Corps of Engineers; Everett Harbor, Wash.; Environmental Impact Statement

AGENCY: U.S. Army Corps of Engineers, Seattle District, Defense.

ACTION: Preparation of an environmental impact statement (EIS) for proposed improvements for navigation of the exisiting Snohomish River and Tributaries Navigation Project in Everett Harbor, Washington.

SUMMARY: The navigation portion of Snohomish River Basin studies undertaken in the early 1970's is being reactivated at the request of the local sponsor, the Port of Everett. A reconnaissance report has been prepared (September 1982) which concluded that a Federal interest existed for modifying segments of the existing Federal project, but that more detailed studies are required to verify a feasible plan. At this time, improvements to the East Waterway and the Snohomish River to river mile (R.M.) 0.5 appear engineeringly feasible and environmentally acceptable. A reconnaissance-level analysis will be conducted early in the study to indicate whether detailed studies are warranted for improvements to the navigation channel above R.M. 0.5. New information has developed that was not available during preparation of the reconnaissance report.

Alternatives are being developed but generally involve dredging of the East Waterway to a depth between 30 and 45 feet and a width between 200 and 500 feet, dredging of the Snohomish River channel to R.M. 0.5 to a depth between 30 and 45 feet and a width between 200 and 350 feet, and disposal of the dredged material. The local sponsor has not yet provided specific disposal sites, but potential sites to be investigated include open water disposal at the state-approved deep water site off Port Gardner; intertidal and shallow subtidal fill at various locations within the harbor area, including Jetty Island; and upland sites in the area. In addition, the alternative of No Action by the Corps of Engineeers will be evaluated. Other alternatives will be developed during scoping as appropriate.

Significant issues to be addressed in the draft EIS include: the need for navigation improvments, quality of sediments dredged and their acceptability for open water disposal, water quality effects, fisheries habitat and ecosystem effects due to dredging and disposal of sediments, and effects of navigation improvements on treaty Indian rights. Data suggest that sediment in the East Waterway could be contaminated and specific tests are scheduled to evaluate the problem and develop appropriate solutions.

Other environmental review and consultation requirements include preparation of a Section 404(b)(1) evaluation. No known listed or proposed endangered species, historic or prehistoric cultural resources, or prime and unique farmlands are expected to be affected.

Public Involvement: A public scoping process will be undertaken to clarify issues of major concern and identify studies that might be needed in order to analyze and evaluate project impacts and on which to determine mitigation needs. A scoping information package will be mailed to all persons identified as having interest in this action. A public scoping meeting or other meetings may be scheduled as needed.

Draft EIS Availability: The draft EIS for this proposed improvement study should be available by late 1984.

Address: Questions and/or comments on this action or the draft EIS may be directed to: Mr. John Malek, Environmental Resources Section, U.S. Army Corps of Engineers, Seattle District, P.O. Box C-3755, Seattle, Washington 98124; telephone (206) 764-3624.

Dated: March 8, 1983.

Norman C. Hintz,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 83-7212 Filed 3-18-83; 8:45 am]

BILLING CODE 3710-GB-M

Department of the Air Force

Acceptance of Group Application And Contract Surgeons in World War II

Under the provisions of Section 401 of Pub. L. 95-202 and DODD 1000.20, the DOD Civilian/Military Service Review Board has accepted an application on behalf of Contract Surgeons in World War II. Person with information or documentation pertinent to the determination of whether the service of this group was equivalent to active military service are encouraged to submit such information or documentation wthin 60 days to the DOD Civilian/Military Service Review Board, Secretary of the Air Force (SAF/MIPC), Washington, D.C. 20330. For further information contact Mrs. Simard, telephone No. 694-5204.

Winnibel F. Holmes,

Air Force Federal Register, Liaison Officer.

[FR Doc 83-7209 Filed 3-18-83; 8:45 am]

BILLING CODE 3910-01-M

Acceptance of Group Application and All Oceangoing Merchant Marines Who Participated in Military Invasions During World War II

Under the provisions of Section 401 of Pub. L. 95-202 and DODD 1000.20, the DOD Civilian/Military Service Review Board has accepted an application on behalf of All Oceangoing Merchant Marines Who Participated in Military Invasions During World War II. Persons with information or documentation pertinent to the determination of whether the service of this group was equivalent to active military service are encouraged to submit such information or documentation within 60 days to the DOD Civilian/Military Service Review Board, Secretary of the Air Force (SAF/MIPC), Washington, D.C. 20330. For

further information contact Mrs. Simard, telephone no. 694–5204.

Winnibel F. Holmes,

Air Force Federal Register Liaison Officer.

[FR Doc. 83–7210 Filed 3–18–83; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF EDUCATION

Application Notice for the Program of Research Grants on Teaching and Learning

AGENCY: Department of Education.

ACTION: Application notice for the program of research grants on teaching and learning.

SUPPLEMENTARY INFORMATION: The Secretary invited grant applications for new awards in Fiscal Year 1983 under the National Institute of Education's (NIE) Program of Research Grants on Teaching and Learning.

The purpose of this program is to support research to further the goal of providing American educators with the tools necessary to help individuals acquire those skills necessary for full and productive participation in society.

Authority for this program is contained in Section 405 of the General Education Provisions Act (20 U.S.C. 1221e).

Any college, state or local education agency, or other public or private agency, organization, group, or individual is eligible to apply.

Closing Dates: An application for a grant must be mailed or hand-delivered by April 22, 1983.

Program Information

Because of the limited resources available, the Secretary has selected eligible research areas from those set forth in 34 CFR 710.5, taking into account NIE's research priorities and national needs. Only applications that address one of these eligible research areas will be funded. This year for convenience, the eligible research areas have been grouped into two categories: (1) Literacy/mathematics learning and (2) teaching/methodology. Further, applicants are encouraged to focus research proposals on one of the specific subtopics listed below.

1. *Literacy/Mathematics Learning.*—The Secretary especially invites applications that propose research on the subtopics of:

(a) Mathematics learning;

(b) Basic cognitive skills in mathematics, reading, writing or other areas;

(c) Language learning and the development of literacy in a second language;

(d) Reading comprehension; or

(e) Writing.

2. *Teaching/Methodology.*—The Secretary encourages all applicants to focus on the influence of policy and practice on the quality of teaching. The Secretary especially invites applications that propose research on the subtopics of:

(a) Rewards and incentives;

(b) Local management of schools; or

(c) Policy implementation and schooling practices.

The Secretary selects applications for grants under each category of eligible research areas. Thus, under this application notice there are two separate competitions.

Grant Application Information

The National Institute of Education has published a program information package on the Program of Research Grants on Teaching and Learning designed to provide more information to prospective applicants on the nature of the program, the availability of funds, expected number of awards, eligibility and review criteria, and grant application instructions. Although the average size of grant awards made in previous competitions has been $50,000 for direct and indirect costs, applications for smaller awards averaging $25,000 or less for direct and indirect costs are encouraged. Persons who wish to receive a copy of the program information package may request one by sending a self-addressed mailing label to the Grants Coordinator, Teaching and Learning Program, Mail Stop 8, National Institute of Education, 1200 19th Street, N.W., Washington, D.C. 20208. Telephone: (202) 254–6000. (A stamped envelope is not usable.)

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 30 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Instructions for Transmittal of Grant Applications

Applicants should note carefully the instructions for the transmittal of applications included below:

Transmittal of grant applications: Grant applications for new awards must be mailed or hand-delivered on or before April 22, 1983.

Grant applications delivered by mail: Grant applications sent by mail should be addressed to: Proposal Clearinghouse, Mail Stop 1, National Institute of Education, 1200 19th Street, N.W., Washington, D.C. 20208. Applications should display in the lower left hand corner of the package the words, "Teaching and Learning Program" and should indicate the area (including the subtopic) to which the proposal is addressed. Applications will be accepted only if they are mailed on or before the closing date and the following proof of mailing is provided:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If a grant application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, applicants should check with their local post office.

An applicant is encouraged to use registered or at least first class mail.

Each applicant whose grant application does not meet the closing dates shown above will be notified that the late application will not be considered for the Fiscal Year 1983 grants competition and that the application will be returned if the applicant prefers.

Grant applications delivered by hand: A hand-delivered grant application must be taken to the Proposal Clearinghouse, National Institute of Education, Room 813, 1200 19th Street, N.W., Washington, D.C. The Proposal Clearinghouse will accept a hand-delivered grant application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturday, Sundays, and Federal holidays. A grant application that is

hand-delivered will not be accepted after 4:30 p.m. on the closing dates shown above.

Available Funds

An estimated $1,600,000 is budgeted for Fiscal Year 1983 for funding grants. However, the President has proposed budget rescissions to the Congress that may eliminate the funds for this program. The deadline in this notice will not be extended, and applicants should prepare and submit applications pending further notification. Applications must be submitted to NIE at the address in this notice. Approximately 15–25 large grants (averaging $50,000 for direct and indirect costs) and 8–20 small grants (averaging $25,000 or less for direct and indirect costs) will be awarded during Fiscal Year 1983. The total amount awarded to any applicant is based on the merits of the grant application as determined by the Secretary.

It is expected that new awards will be for a period not to exceed three years. However, initial funding in most cases will not exceed 12 months. Subsequent funding of multi-year awards will be contingent on satisfactory performance and the availability of funds.

In any event, only research projects of the highest quality will be supported, whether or not the resources of the program are exhausted. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Applicable Regulations

Regulations applicable to this program include the following:

(a) The Teaching and Learning Research Grants Program is governed by the Basic Skills Research Grants Program Regulations (34 CFR Part 710).

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78); and

(c) The National Institute of Education General Provisions Regulations (34 CFR Parts 700 and 702).

For Further Information Contact: Warren Simmons, Teaching and Learning Grants Program, National Insitute of Education, Mail Stop 8, 1200 19th Street, NW., Washington, D.C. 20208. Telephone: 202–254–6000.

Dated: March 15, 1983.

(Catalog of Federal Domestic Assistance Number 84.117, Educational Research and Development)

T. H. Bell,

Secretary of Education.

[FR Doc. 83–7249 Filed 3–18–83; 8:45 am]

BILLING CODE 4000–01–M

Discretionary Grant Programs Under the Rehabilitation Act of 1973, as Amended: Application Notice Establishing Closing Dates for Transmittal of Fiscal Year 1983 Applications

AGENCY: Department of Education.

ACTION: Application notice establishing closing dates for transmittal of fiscal year 1983 applications.

SUMMARY: The purpose of these application notices is to inform potential applicants of fiscal and programmatic information and closing dates for transmittal of applications for certain *new* and *noncompeting continuation* grants awarded by the Department of Education under the Rehabilitation Training Program authorized under Section 304 of the Rehabilitation Act of 1973, as amended.

SUPPLEMENTARY INFORMATION:

Organization of Notice

This notice covers the Rehabilitation Training Program administered by the Rehabilitation Services Administration within the Department of Education. Notices covering noncompeting continuation grant applications for Rehabilitation Long-Term Training and Rehabilitation Continuing Education Programs were published in the **Federal Register** on November 26, 1982.

This notice contains two parts. Part I includes the list of all closing dates covered by this notice. Part II consists of the individual application announcements for each program.

The budget estimates in the individual application notices are based on the Fiscal Year 1983 Second Continuing Resolution and are subject to change by the Congress.

Instructions for Transmittal of Applications

Applicants should note specifically the instructions for the transmittal of applications included below:

Transmittal of Applications: Applications for all *new* grants must be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document.

In order to be assured of consideration for funding, applications for *noncompeting continuation projects* should be mailed or hand delivered on or before the closing date given in the individual program announcements included in this document. If a noncompeting continuation application is late, the U.S. Department of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered by Mail: Except where specified otherwise immediately below and in the individual program announcements, applications for both *new* and *noncompeting continuation projects* must be addressed to the Department of Education Application Control Center, Attention: (Appropriate CFDA No.), Washington, D.C. 20202.

Applicants for programs under 83.129D (Rehabilitation Continuing Education Programs, new projects) and 84.129Z (State Vocational Rehabilitation Unit In-Service Training, noncompeting continuations and new projects) are required to send applications to the Regional Offices of the U.S. Department. The individual program announcement for these programs specifically directs applicants to transmit applications to the appropriate Regional Office. In these cases applications must be mailed or hand delivered to the appropriate address below:

Region I: RSA Regional Commissioner, Department of Education, OSERS, John F. Kennedy Federal Building, Government Center, Boston, Massachusetts 02203;

Region II: RSA Regional Commissioner, Department of Education, OSERS, 26 Federal Plaza, Room 4106, New York, New York 10278;

Region III: RSA Regional Commissioner, Department of Education, OSERS, 3535 Market Street, P.O. Box 13716, Philadelphia, Pennsylvania 19101;

Region IV: RSA Regional Commissioner, Department of Education, OSERS, 101 Marietta Street, N.W., Suite 821, Atlanta, Georgia 30323;

Region V: RSA Regional Commissioner, Department of Education, OSERS, 300 South Wacker Drive, 15th Floor, Chicago, Illinois 60606;

Region VI: RSA Regional Commissioner, Department of Education, OSERS, 1200 Main Tower Building, Room 2040, Dallas, Texas 75202;

Region VII: RSA Regional Commissioner, Department of Education, OSERS, 324 E. 11th Street, 11 Oak Building, 10th Floor, West, Kansas City, Missouri 64106;

Region VIII: RSA Regional Commissioner, Department of

Education, OSERS, Federal Office Building, Room 7415, 19th and Stout Streets, Denver, Colorado 80202;

Region IX: RSA Regional Commissioner, Department of Education, OSERS, Federal Office Building, 50 United Nations Plaza, San Francisco, California 94102; or

Region X: RSA Regional Commissioner, Department of Education, OSERS, 2901 Third Avenue (M/S 111), Seattle, Washington 98121.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping lable, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant for a *new* award will be notified that its application will not be considered.

Applications Delivered by Hand: Applications for *new* and noncompeting continuation grants must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C., to the appropriate Regional Office at the address given above.

The Application Control Center will accept hand-delivered applications between 8:30 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

The Regional Offices will accept hand-delivered applications between 8:30 a.m. and 4:30 p.m. (local time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered for a *new* grant will not be accepted by the Application Control Center or the Regional Office after 4:30 p.m. on the closing date.

Part I—Programs Covered

CFDA No.	Program	Closing date
84.129	Rehabilitation Long-Term Training Projects (New Projects).	May 9, 1983.
84.129D	Rehabilitation Continuing Education Programs (New Projects, Region IV only).	Do.
84.129Y	Experimental and Innovative Training Projects (Noncompeting Continuations).	Do.
84.129Z	State Vocational Rehabilitation Unit In-Service Training Program:	
	(Noncompeting Continuations).	Do.
	(New Projects)	Do.

Part II—Application Announcements for Each Program

84.129—Rehabilitation Long-Term Training Projects

Closing Date: May 9, 1983—New Projects.

Authority for this program is contained in Section 304 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 774)

Awards are made under this program to State vocational rehabilitation agencies and other public or nonprofit agencies or organizations, including institutions of higher education.

The purpose of the Rehabilitation Long-Term Training Program is to support projects designed for training personnel available for employment in public or private agencies involved in the rehabilitation of physically and mentally handicapped individuals, especially those who are the most severely handicapped. Historically Black colleges and universities are encouraged to participate in this program.

Available Funds: The total amount of funds available for rehabilitation training in Fiscal Year 1983 is $19,200,000, including $2,326,000 for new rehabilitation long-term training projects. The range of funded projects is expected to be from $15,000 to $175,000. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

It is estimated that the following funds will be available for new projects in these Long-Term Training categories:

Rehabilitation Counseling	$738,576
Rehabilitation Medicine	584,063
Rehabilitation Facility Administration	67,769
Prosthetics and Orthotics	313,013
Allied Health Professions: Physical Therapy	155,000
Blind	49,155
Deaf	210,010
Undergraduate Education	151,400
Vocational Evaluation	57,252
Total	2,326,238

These long-term training categories are included in the list of training fields set forth in the program regulations in 34 CFR 386.1 and are considered annual funding priorities in accordance with 34 CFR 75.105(b)(2)(ii).

Application Forms: Application forms and program information packages for new awards are available and may be obtained by writing to the Division of Resource Development, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3221, Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Application forms and program information packages will be mailed to grantees who are completing rehabilitation long-term training projects during the 1982–1983 academic year.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competitions.

The Secretary urges that the narrative portion of applications for new awards not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

All applicants for new projects must submit their applications to the Department of Education, Application Control Center, as noted earlier.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Rehabilitation Long-Term Training Program (34 CFR Parts 385 and 386); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further Information: Martin W. Spickler, Ph.D., Director, Division of Resource Development, Rehabilitation Services Administration, Office of Special Education and Rehabilitation Services, U.S. Department of Education, Room 3221, Mary E. Switzer Building, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245–0075.

84.129D—Rehabilitation Continuing Education Programs

Closing Date: May 9, 1983—New Projects (Region IV only).

Authority for this program is contained in Section 304 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 774)

Awards are made under this program to State vocational rehabilitation agencies and other public or nonprofit agencies and organizations, including institutions of higher education.

The purpose of this program is to support training centers that serve either a Federal region or another multi-State geographical area and provide for a broad integrated sequence of training activities that focus on meeting recurrent training needs of rehabilitation personnel employed in public and nonprofit programs providing rehabilitation services to severely physically and mentally disabled individuals.

Available Funds: The total amount of funds available for rehabilitation training in Fiscal Year 1983 is $19,200,000. Of this amount approximately $2,000,000 is available for Rehabilitation Continuing Education Programs Fiscal Year 1983, including $285,093 for the support of new projects in Region IV. Funds are available for the support of new projects under this program in Fiscal Year 1983 in Region IV only.

These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages will be mailed to grantees who are completing Rehabilitation Continuing Education Programs during Fiscal Year 1983. Additional forms and instructions may be obtained by writing to the Division of Resource Development, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3329, Mary E. Switzer Building, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competitions.

The Secretary urges that narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicants applying for assistance under this program must submit their applications to the appropriate Regional Office.

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Rehabilitation Continuing Education Program (34 CFR Parts 385 and 389); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further Information: Martin W. Spickler, Ph.D., Director, Division of Resource Development, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3329, Mary E. Switzer Building, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245-0075.

84.129Y—Experimental and Innovative Training Projects

Closing Date: May 9, 1983—Noncompeting Continuations.

Authority for this program is contained in Section 304 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 774)

Awards are made under this program to State vocational rehabilitation agencies and other public or nonprofit agencies or organizations, including institutions of higher education.

The purpose of the Experimental and Innovative Training Program is to train new types of rehabilitation personnel and to demonstrate new and improved methods of training rehabilitation personnel.

Available Funds: The total amount of funds available for rehabilitation training in Fiscal Year 1983 is $19,200,000. Of this amount approximately $740,000 is available for the support of noncompeting continuation projects for experimental and innovative training. These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages will be mailed to September cycle grantees who are conducting experimental and innovative training projects during the 1982-1983 academic year and who are eligible for noncompeting continuation grant support under this notice.

Applications must be prepared and submitted in accordance with the regulations, instructions and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competitions.

The Secretary urges that the narrative portion of applications not exceed 15 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable Regulations: Regulations applicable to this progam include the following:

(a) Regulations governing the Experimental and Innovative Training Program (34 CFR Parts 385 and 387); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further Information: Martin W. Spickler, Ph.D., Director, Division of Resource Development, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3329, Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245-0075.

84.129Z—State Vocational Rehabilitation Unit In-Service Training Program

Closing Date: May 9, 1983—Noncompeting Continuations; May 9, 1983—New Projects.

Authority for this program is contained in Section 304 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 774)

Awards are made under this program to State vocational rehabilitation agencies, and other public or nonprofit agencies and organizations, including institutions of higher education.

The purpose of this program is to support special projects for training personnel employed by State vocational rehabilitation units in program areas essential to the effective management of the State unit program of vocational rehabilitation services or in skill areas which will enable State unit personnel to improve their ability to provide vocational rehabilitation services to severely handicapped individuals.

Available Funds: The total amount of funds available for rehabilitation training in Fiscal Year 1983 is $19,200,000. Of this amount approximately $2,800,000 is available for noncompeting continuation and new projects under the State Vocational Rehabilitation Unit In-Service Training program in Fiscal Year 1983.

Noncompeting continuation funds are expected to be distributed to the following Federal Regions:

Region II	$221,017
Region III	370,917
Region V	70,035
Region VI	335,932
Region VII	183,271
Region VIII	155,095
Region IX	35,000

Funds for *new* projects are expected to be distributed to the following Federal Regions:

Region I	$224,469
Region II	15,195
Region IV	558,653
Region V	269,940
Region VII	4,680
Region IX	208,831
Region X	146,965

These estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Application Forms: Application forms and program information packages will be mailed to grantees who are eligible to apply for noncompeting continuation grant support under this notice.

Application forms and program information packages for new awards are available and may be obtained by writing to the Division of Resource Development, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3329, Mary E. Switzer Building, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The program information is intended to aid applicants in applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations governing the competitions.

The Secretary urges that the narrative portion of application for: (1) New awards not exceed 25 pages in length, and (2) noncompeting continuation awards not to exceed 15 pages in length. The Secretary further urges that only the information required be submitted.

Applicants applying for assistance under this program must submit their applications to the appropriate Regional Office.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the State Vocational Rehabilitation Unit In-Service Training Program (34 CFR Parts 385 and 388); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

Further Information: Martin W. Spickler, Ph.D., Director, Division of Resource Development, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3329, Mary E. Switzer Building, 400 Maryland Avenue SW., Washington, D.C. 20202. Telephone: (202) 245-0075.

(Catalog of Federal Domestic Assistance No. 84.129 Rehabilitation Training Program)

Dated: March 4, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83-7248 Filed 3-18-83; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Energy Information Administration

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95-621) signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate costs of gas to the industrial facility should not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA, Section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) computed natural gas ceiling prices and the high cost gas incremental pricing threshold which are to be effective April 1, 1983. These prices are based on the prices of alternative fuels.

For further information contact: Leroy Brown, Jr., Energy Information Administration, 1000 Independence Avenue, S.W., Room BE-034, Washington, D.C. 20585; telephone: (202) 252-6077.

Section I

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. FERC, by an Interim Rule issued on March 2, 1981, in Docket No. RM79-21, revised the methodology for calculating the monthly alternative fuel price ceilings for State regions. Under the revised methodology, the applicable alternative fuel price ceiling published for each of the contiguous States shall be the lower of the alternative fuel price ceiling for the State or the alternative fuel price ceiling for the multistate region in which the State is located.

The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in Section III.

[Dollars per Million British Thermal Units (Btu's)]

State:	
Alabama	3.47
Arizona [1]	3.54
Arkansas [1]	3.44
California	3.48
Colorado [2]	3.51
Connecticut [1]	3.85
Delaware [1]	3.73
Florida	3.43
Georgia [1]	3.64
Idaho [2]	3.51
Illinois [1]	3.40
Indiana	3.30
Iowa [1]	3.66
Kansas [1]	3.66
Kentucky [1]	3.40
Louisiana [1]	3.44
Maine	3.84
Maryland	3.72
Massachusetts	3.78
Michigan [1]	3.40
Minnesota	3.48
Mississippi [1]	3.64
Missouri [1]	3.66
Montana [2]	3.51
Nebraska [1]	3.66
Nevada [1]	3.54
New Hampshire [1]	3.85
New Jersey	3.61
New Mexico	3.10
New York [1]	3.73
North Carolina [1]	3.64
North Dakota [1]	3.66
Ohio	3.33
Oklahoma [1]	3.44
Oregon [1]	3.54
Pennsylvania [1]	3.73
Rhode Island [1]	3.85
South Carolina [1]	3.64
South Dakota [1]	3.66
Tennessee [1]	3.64
Texas [1]	3.44
Utah [2]	3.51
Vermont [1]	3.85
Virginia [1]	3.64
Washington [1]	3.54
West Virginia [1]	3.40
Wisconsin [1]	3.40
Wyoming [2]	3.51

[1] Region based price as required by FERC Interim Rule, issued on March 2, 1981, in Docket No. RM-79-21.

[2] Region based price computed as the weighted average price of Regions E, F, G, and H.

Section II. Incremental Pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted average price for No. 2

distillate fuel oil landed in the greater New York City Metropolitan area during January 1983 was $36.24 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, Section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of Btu's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective April 1, 1983, is $8.12 per million Btu's.

Section III. Method Used To Compute Price Ceilings

The FERC, by Order No. 50, issued on September 29, 1979, in Docket No. RM79-21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 167, issued in Docket No. RM81-27 on July 24, 1981, made permanent the rule that established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings. In addition, the FERC, by Order No. 181, issued on October 6, 1981, in Docket No. RM81-28, established that price ceilings should be published for only the 48 contiguous States on a permanent basis.

A. *Data Collected.*—The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: for each selling price, the number of gallons sold to large industrial users in the months of November 1982, December 1982, and January 1983.[1] All reports of volume sold and price were identified by the State into which the oil was sold.

B. *Method Used to Determine Alternative Price Ceilings.*—(1) *Calculation of Volume-Weighted Average Price.* The prices which will become effective March 1, 1983, (shown in Section I) are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, November 1982, December 1982, and January 1983. Reported prices for sales in November 1982 were adjusted by the percent change in the nationwide volume-weighted average price from November 1982 to January 1983. Prices for December 1982 were similarly adjusted by the percent change in the nationwide volume-weighted average price from December 1982 to January 1983. The volume-weighted 3-month average of the adjusted November 1982 and December 1982, and the reported January 1983 prices were then computed for each State.

(2) *Adjustment for Price Variation.* States were grouped into the regions identified by the FERC (see Section III.C). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in Section III.B.(1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

(3) *Calculation of Ceiling Price.* The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices at the national level as discussed in Section III.B(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in Section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State alternative fuel price ceiling base. The State's alternative fuel price ceiling base was compared to the alternative fuel price ceiling base for the multistate region in which the State is located and the lower of these two prices was selected as the final alternative fuel price ceiling base for the State. The appropriate lag adjustment factor (as discussed in Section III.B.4) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

There were insufficient sales reported in Region G for the months of November, December 1982, and January 1983. The alternative fuel price ceilings for the States in Region G were determined by calculating the volume weighted average price ceilings for Region E, Region F, Region G, and Region H.

(4) *Lag Adjustment.* The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 21 cities throughout the United States. The low posted prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 high sulfur residual fuel oil for the ten trading days ending March 14, 1983, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of January 1983. A regional lag adjustment factor was similarly calculated for four regions. These are: one for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G combined; and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III.B.(3).

Listing of States by Region

States were grouped by the FERC to form eight distinct regions as follows:

Region A

Connecticut
Maine
Massachusetts
New Hampshire
Rhode Island
Vermont

Region B

Delaware
Maryland
New Jersey
New York
Pennsylvania

Region C

Alabama
Florida
Georgia
Mississippi
North Carolina
South Carolina
Tennessee
Virginia

[1] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State, or local), and the military are excluded.

Region D

Illinois
Indiana
Kentucky
Michigan
Ohio
West Virginia
Wisconsin

Region E

Iowa
Kansas
Missouri
Minnesota
Nebraska
North Dakota
South Dakota

Region F

Arkansas
Louisiana
New Mexico
Oklahoma
Texas

Region G

Colorado
Idaho
Montana
Utah
Wyoming

Region H

Arizona
California
Nevada
Oregon
Washington

Issued in Washington, D.C., March 17, 1983.

Albert H. Linden, Jr.,

Deputy Administrator, Energy Information Administration.

[FR Doc. 83-7355 Filed 3-18-83; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Jaguar Petroleum Incorporated and R. Wayne Stufflebean; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice of a Proposed Remedial Order which was issued to Jaguar Petroleum Incorporated, formerly at 4122 Victory Drive, Houston, Texas 77002, and R. Wayne Stufflebean, 8818 Arbor Wood, Houston, Texas 77040. This Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR 212.186, 210.62, and 205.202. The principal amount of the alleged violation of 10 CFR 212.186, 210.62, and 205.202 for the period January through December 1980 is $860,350.70.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, Attn: Sandra K. Webb, Director, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002

Within fifteen (15) days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 3304, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Houston, Texas, on the 9th day of March 1983.

Sandra K. Webb,

Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 83-7251 Filed 3-18-83; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Proposal for Surveys of Enrollments and Degrees in Nuclear-Related Disciplines (Forms ER-616 and ER-617)

AGENCY: Office of Energy Research (OER), DOE.

ACTION: Notice of Proposed Forms ER-616, "Nuclear Engineering Enrollment and Degree Survey," and ER-617, "Health Physics (Radiation Protection) Enrollment and Degree Survey."

SUMMARY: The Office of Energy Research (OER) of the Department of Energy (DOE) is proposing Forms ER-616, "Nuclear Engineering Enrollment and Degree Survey," and ER-617, "Health Physics (Radiation Protection) Enrollment and Degree Survey," designed to supersede Forms IR-616 and IR-617, respectively, with similar titles, effective July 1, 1983. OER would implement Forms ER-161 and ER-616 to continue the data series.

DATES: Written comments must be submitted on or before April 20, 1983.

ADDRESS: Comments should be sent to Ms. June S. Chewning at the address listed immediately below.

FOR FURTHER INFORMATION CONTACT: To obtain additional information or copies of the ER-616 or ER-617, contact: Ms. June S. Chewning (ER-43), Senior Manpower Analyst, Office of Energy Research, Department of Energy, Mail Station: 3F-032, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-6641.

SUPPLEMENTARY INFORMATION:

I. Current Action.

II. Differences between Form IR-616/IR-617 and Form ER-616/ER-617.

III. Request for Comments.

I. Current Action

OER proposes Forms ER-616, "Nuclear Engineering Enrollment and Degree Survey," and ER-617, "Health Physics (Radiation Protection) Enrollment and Degree Survey, designed to supersede Forms IR-616 and IR-617, respectively, which had similar titles, and which expire effective June 30, 1983. OER plans to implement Forms ER-616/617 to continue the data series initiated by the Atomic Energy Commission in 1971. Forms ER-616/617 would be conditional upon approval of the Office of Management and Budget. The data will be collected and processed by the Oak Ridge Associated Universities, Inc. OER will publish data from Forms ER-616/617 in reports of the findings, and will include information from the survey respondents in publications incorporating data on other energy sources from various surveys conducted by OER. Publications will be distributed to responders and to requesters from industry, the general public, DOE and other Federal and State government agencies. OER and other DOE components will use the information in conjunction with data from other sources in making projections of the supply of nuclear trained manpower and for program planning. The respondent burden, defined as person-hours required to complete a form, varies depending on department size and student data-keeping methods. The burden for each form is estimated to average one-half hour.

II. Differences between Forms IR-616/617 and ER-616/ER-617

The data collected on Forms ER-616 and ER-617 and the predecessor forms IR-616 and IR-617 are identical. Copies of proposed Forms ER-616 and ER-617 are included in this notice. Slight design changes have been made to simplify and clarify the form. The main changes are:

A. The title of ER-617 has been renamed "Health Physics (Radiation Protection) Enrollment and Degree Survey" to better describe the discipline on which information is requested. The alphabetical designation preceding the numbers has been changed from "IR" to "ER" to reflect the transfer of organizational responsibility for the data to the Office of Energy Research.

B. The presentation of degree options has been changed to show the sub-discipline first in order to eliminate confusion about which specific students should be reported.

C. The address blocks have been enlarged and rearranged into a better sequence, and labels will be used.

D. The questions concerning post-graduation employment plans have been incorporated into the main forms; this information was formerly collected on a supplemental form designated by the respective form numbers followed by "A".

E. The voluntary response nature of the form has been made more readily apparent.

III. Request for Comments

Forms ER-616 and ER-617 are reproduced following this notice. OER invites prospective respondents to comment on the planned revisions within 30 days of the publication of this notice. The following general guidelines are provided to assist in the preparation of responses:

(As a potential data provider)

A. Are the instructions and definitions clear and sufficient?

B. Can the data be submitted using the definitions included in the instructions?

C. Can the data be submitted in accordance with the response time specified in the instructions?

D. How many hours, including time for preparation and administrative review, will your company require to complete and submit the form?

E. What is the estimated cost of completing this form, including the direct and indirect costs associated with the data collection? Direct costs should include all costs, such as development, assembly, equipment, ADP and other administrative costs directly attributable to providing this information.

F. How can the form be improved?

(As a potential user)

A. Do you need data at the levels of detail indicated on the form?

B. For what purposes would you use these data? (Be specific)

C. How could the form be improved to better meet your specific data needs?

D. Are there alternative sources of data and do you use them? What are their deficiencies?

OER is also interested in receiving comments from persons as to their views on the need for the collection of this information at all.

Comments submitted in response to this Notice will be included in the request for Office of Management and Budget approval of this data collection and will become a matter of public record.

Issued in Washington, D.C. March 10, 1983.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

Note.—Information provided through this survey will not be held confidential.

Instructions and Definitions for Completing DOE Form ER-1616

Purpose: This voluntary survey is conducted for the Department of Energy (DOE) in partial fulfillment of their obligation to "assure an adequate supply of manpower for . . . energy research and development programs . . . by . . . the collection analysis and dissemination of necessary manpower supply and demand data . . ." as mandated in P.L. 93-438, the Energy Reorganization Act of 1974, as amended. It is used to determine, by degree level, the yearly supply and anticipated supply of those trained in nuclear engineering or in another engineering discipline with a nuclear option, except in the areas of radiation protection.

Who Should Complete and Submit Forms: All departments with program in nuclear engineering or in other engineering discipline with a nuclear option sufficient to equip its graduates to function as nuclear engineers. *Exception:* Any health physics or radiation protection option within an engineering curriculum should be reported on DOE Form ER-617, which is available from the address or telephone number given below. Each major program should be reported on the appropriate line or on separate lines in the write-in space. Very small specialties should be combined.

When and Where To Submit Forms: Forms should be submitted within two weeks of receipt, or the latest, by mid-November, depending upon your institution's enrollment schedule. Send completed forms to: Duveen L. Shirley, Oak Ridge Associated Universities, P.O. Box 117, Oak Ridge, Tennessee 37830, (615) 576-3409.

A self-addressed, postage-paid envelope is enclosed for your convenience.

Special Instructions: Report only students enrolled in a degree program. Count on-campus semester co-op students (see definition below) as full-time students. If exact figures are not available, give your best estimate and indicate by an "E" after each number that is estimated.

Definitions

Junior: A student who is more than one and less than two academic years short of a Bachelor's degree or equivalent.

Senior: A student who is one year or less short of a Bachelor's degree or equivalent.

Master's Candidate: A student enrolled in a program leading to any degree above the B.S. or B.A. level and below the Ph.D. level.

Co-Op Student: A student who alternates sessions of schooling with sessions of employment in a position related to the academic specialty.

Foreign National: Any student who is a citizen of another country and who has not applied for U.S. citizenship.

White not of Hispanic origin: A person having origin in any of the original peoples of Europe, North Africa, or the Middle East.

Black not of Hispanic origin: A person having origin in any of the black racial groups of Africa.

Hispanic: A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race.

Asian or Pacific Islander: A person having origin in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

American Indian or Alaskan Native: A person having origin in any of the original peoples of North America and who maintains cultural identification through tribal affiliation or community recognition.

BILLING CODE 6450-01-M

DOE Form ER-616 OMB No. APPROVAL EXPIRES JUNE 1986

Important: *Before completing, please read instructions and definitions on back of letter.*

U.S. Department of Energy

NUCLEAR ENGINEERING ENROLLMENT AND DEGREE SURVEY: 1983

This is a voluntary survey authorized by Law 93-438, as amended.

Affix label if address is correct; otherwise, please type here.

Official Supplying Data _____ Title _____

Department(s) _____ Phone _____

Signature _____ Date _____

While you are not required to respond, your cooperation is needed to make the results comprehensive, accurate, and timely. Information will NOT be held confidential, and is supplied to government and industry recruiters.

CURRICULUM OR OPTION	CODE	ENROLLMENTS FALL 1983								DEGREES GRANTED July 1982-June 1983		
		UNDERGRADUATES				MASTER CANDIDATES		DOCTORATE CANDIDATES				
		Junior		Senior								
		Full Time	Part Time	Full Time	Part Time	Full Time	Part Time	Full Time	Part Time	Bachelor	Master	Doctorate
Nuclear engineering program	10											
Nuclear engineering option within chemical engineering program	20											
Nuclear engineering option within engineering science program	30											
Nuclear engineering option within electrical engineering program	40											
Nuclear engineering option within mechanical engineering program	50											
Other: (*Specify, e.g., Industrial, Civil*)	60											
Totals ▶												

*Please break out the following from the totals reported above.		CODE	FT	PT	FT	PT	FT	PT	FT	PT	B	M	D
Foreign nationals	Male	M 1											
	Female	F 1											
White U.S. citizens, not of Hispanic origin	Male	M 2											
	Female	F 2											
Black U.S. citizens, not of Hispanic origin	Male	M 3											
	Female	F 3											
Hispanic U.S. citizens	Male	M 4											
	Female	F 4											
Asian or Pacific Islander U.S. citizens	Male	M 5											
	Female	F 5											
American Indian or Alaskan native U.S. citizens	Male	M 6											
	Female	F 6											

PLACEMENT

ER-616

Please Indicate Placement or Plans of Degree Recipients for July 1982-June 1983

PLACEMENT OR PLANS AFTER GRADUATION	CODE	BACHELORS		MASTERS		DOCTORATES	
		Total Graduates	Number of Foreign Nationals in Total	Total Graduates	Number of Foreign Nationals in Total	Total Graduates	Number of Foreign Nationals in Total
Continued study for higher degree (include post doctoral study)	1						
U.S. academic employment. [*Students employed part-time should be listed under "Continued Study."*]	2						
Federal government employment	3						
Government-owned, contractor-operated installations employment (GOCOs)	4						
State and local government employment	5						
Nuclear utility employment, U.S.	6						
Other industrial employment, U.S.	7						
Employment with foreign employer	8						
U.S. military service	9						
Other (specify)	10						
Still seeking employment	11						
Unknown	12						
TOTAL (should agree with totals of degrees reported on front side).							

REMARKS:

BILLING CODE 6450-01-C

Note.—Information provided through this survey will not be held confidential.

Instructions and Definitions for Completing DOE Form ER-617

Purpose: This voluntary survey is conducted for the Department of Energy (DOE) in partial fulfillment of its obligation "to assure an adequate supply of manpower for . . . energy research and development programs . . . by . . . the collection, analysis, and dissemination of necessary manpower supply and demand data . . ." as mandated in the Energy Reorganization Act of 1974 (P.L. 93-438), as amended. It is used to determine, by degree level, the yearly supply and anticipated supply of those trained in health physics, radiation health or safety, radiological health, or similar programs, who would be qualified to be responsible for some major phase of a program for the evaluation and control of radiation hazards.

Who Should Complete and Submit Forms: All departments with programs in any curriculum the successful completion of which will equip graduates to take the major role in conducting, coordinating, directing, or planning a program for the evaluation and control of radiation hazards for an installation, community, or state agency. Each major program should be reported on the appropriate line or on separate lines in the write-in space. Very small specialties should be combined.

When and Where to Submit Forms: Forms should be submitted within two weeks of receipt, or at the latest, by mid-November, depending upon your institution's enrollment schedule. Send completed forms to: Duveen L. Shirley, Oak Ridge Associated Universities, P.O. Box 117, Oak Ridge, Tennessee 37830, (615) 576-3409.

A self-addressed, postage-paid envelope is enclosed for your convenience.

Special Instructions: Report only students enrolled in a degree program. Count on-campus semester Co-op students (see definition below) as full-time students. If exact figures are not available, give your best estimate and indicate by an "E" after each number that is estimated.

Definitions

Junior: A student who is more than one and less than two academic years short of a Bachelor's degree or equivalent.

Senior: A student who is one year or less short of a Bachelor's degree or equivalent.

Master's Candidate: A student enrolled in a program leading to any degree above the B.S. or B.A. level and below the Ph. D. level.

Co-op Student: A student who alternates sessions of schooling with sessions of employment in a position related to the academic speciality.

Foreign National: Any student who is a citizen of another country and who has not applied for U.S. citizenship.

White not of Hispanic origin: A person having origin in any of the original peoples of Europe, North Africa, or the Middle East.

Black not of Hispanic origin: A person having origin in any of the black racial groups of Africa.

Hispanic: A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin regardless of race.

Asian or Pacific Islander: A person having origin in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

American Indian or Alaskan Native: A person having origin in any of the original peoples of North America and who maintains a cultural identification through tribal affiliation or community recognition.

BILLING CODE 6450-01-M

DOE Form ER-617

OMB No.

APPROVAL EXPIRES JUNE 1986

Important: *Before completing, please read instructions and definitions on back of letter.*

U.S. Department of Energy

HEALTH PHYSICS/RADIATION PROTECTION ENROLLMENT AND DEGREE SURVEY: 1983

This is a voluntary survey authorized by Public Law 93-438, as amended.

Affix label if correct; otherwise, please type correct address here.

Official Supplying Data _____ Title _____

Department(s) _____ Phone _____

Signature _____ Date _____

While you are not required to respond, your cooperation is needed to make the results comprehensive, accurate, and timely. Information will NOT be held confidential, and is supplied to government and industry recruiters.

CURRICULUM OR OPTION	CODE	ENROLLMENTS FALL 1983								DEGREES GRANTED July 1982–June 1983		
		UNDERGRADUATES				MASTER CANDIDATES		DOCTORATE CANDIDATES				
		Junior		Senior								
		Full Time	Part Time	Full Time	Part Time	Full Time	Part Time	Full Time	Part Time	Bachelor	Master	Doctorate
Health physics, radiation protection, or radiation health program	10											
Health physics option within radiobiology or biophysics program	20											
Health physics option within medical physics program	30											
Health physics option within engineering or basic sciences program	40											
Other: (*Specify those not listed*)	50											
Totals ▶												
•Please break out the following from the totals reported above.	CODE	FT	PT	FT	PT	FT	PT	FT	PT	B	M	D
Foreign nationals — Male	M 1											
Foreign nationals — Female	F 1											
White U.S. citizens, not of Hispanic origin — Male	M 2											
White U.S. citizens, not of Hispanic origin — Female	F 2											
Black U.S. citizens, not of Hispanic origin — Male	M 3											
Black U.S. citizens, not of Hispanic origin — Female	F 3											
Hispanic U.S. citizens — Male	M 4											
Hispanic U.S. citizens — Female	F 4											
Asian or Pacific Islander U.S. citizens — Male	M 5											
Asian or Pacific Islander U.S. citizens — Female	F 5											
American Indian or Alaskan native U.S. citizens — Male	M 6											
American Indian or Alaskan native U.S. citizens — Female	F 6											

PLACEMENT

ER-617 Please Indicate Placement or Plans of Degree Recipients for July 1982-June 1983

PLACEMENT OR PLANS AFTER GRADUATION	CODE	BACHELORS		MASTERS		DOCTORATES	
		Total Graduates	Number of Foreign Nationals in Total	Total Graduates	Number of Foreign Nationals in Total	Total Graduates	Number of Foreign Nationals in Total
Continued study for higher degree (include post doctoral study)	1						
U.S. academic employment. [*Students employed part-time should be listed under "Continued Study."*]	2						
Federal government employment	3						
Government-owned, contractor-operated installations employment (GOCOs)	4						
State and local government employment	5						
Medical facilities (including teaching hospital) employment	6						
Nuclear utility employment, U.S.	7						
Non-nuclear utility employment, U.S.	8						
Other industrial employment, U.S.	9						
Employment with foreign employer	10						
U.S. military service	11						
Other (specify)	12						
Still seeking employment	13						
Unknown	14						
TOTAL (should agree with totals of degrees reported on front side).							

REMARKS:

[FR Doc. 83-6823 Filed 3-18-83; 8:45 am]
BILLING CODE 6450-01-C

Materials R&D Panel Energy Research Advisory Board; Meeting

Notice is hereby given of the following meeting:

Name: Material R&D panel of the Energy Research Advisory (ERAB). ERAB is a Committee constituted under the Federal Advisory Committee Act (Pub. L. 92-463. 86 Stat. 770).

Date and Time: April 11, 1983, 8 a.m. to 4 p.m.

Place: Department of Energy, Room 4A-110, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Contact: William Woodard, Energy Research Advisory Board, Department of Energy, Forrestal Building, ER-6, 1000 Independence Avenue, SW., Washington, DC 20585; telephone 202/252-8933.

Purpose of the Parent Board: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Tentative Agenda:

- Discussion of Initial Working Outline for Draft Meeting
- Future Meetings Outside Washington, D.C.

Public Participation: The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact William Woodard at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 8:00 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

Issued at Washington, DC on March 15, 1983.

J. Ronald Young,

Director for Management, Office of Energy Research.

[FR Doc. 83-7252 Filed 3-18-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ST81-216-001]

Columbia Gulf Transmission Company; Extension Reports

March 7, 1983.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The Commission's regulations provide that the transportation or sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. A "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said extension report should on or before March 30, 1983 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Effective date
*ST81-216-001	Columbia Gulf Transmission Co., P.O. Box 683, Houston, TX 77001.	Southern Natural Gas Co	2/14/83	G	3/6/83
ST81-269-001	Monterey Pipeline Co., 821 Gravier St., New Orleans, LA 70112	Columbia Gas Transmission Corp	2/9/83	C	5/11/83
ST81-284-001	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001	Bay State Gas Co	2/14/83	B	5/14/83
ST81-285-001	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001	Fitchburg Gas and Electric Co	2/14/83	B	5/14/83
ST81-286-001	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001	Consolidated Gas Supply Corp	2/8/83	G	5/14/83
St81-287-001	Natural Gas Pipeline Co. of America, 122 South Michigan Ave., Chicago, IL 60603.	Entex, Inc	2/9/83	B	5/10/83
*ST82-134-001	Northern Natural Gas Co., 2223 Dodge St., Omaha, NB 68102	Peoples Natural Gas Co	2/7/83	F	2/3/83

*These extension reports were filed after the date specified by the Commission's regulations, and shall be the subject of a further Commission order.

[FR Doc. 83-6175-Filed 3-18-83; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 7017-000, et al.]

Tumwater Associates, et al.; Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1.a. Type of Application: Preliminary Permit.

b. Project No.: 7017-000.

c. Date Filed: January 24, 1983.

d. Applicant: Tumwater Associates.

e. Name of Project: Tumwater Hydroelectric.

f. Location: On Wenatchee River in Chelan County, Washington within the Wenatchee National Forest.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Tom Forbes, P.O. Box 421, Mercer Island, Washington, 98040 and Mr. Joel Rector,

Attorney at Law, 4832 Colony Circle, Salt Lake City, Utah 84119.

i. Comment Date: May 20, 1983.

j. Description of Project: The Applicant proposes to study two alternative schemes of development utilizing an existing 20-foot-high, 350-foot-long concrete gravity dam and a reservoir with a surface area of 160,000 square feet and a storage capacity of 40 acre-feet at a spillway elevation of 1,487 feet msl owned by the Chelan Public Utility District (District). Alternative I would consist of: (a) An 11-foot-diameter, 1,400-foot-long penstock; (b) a powerhouse containing two generating units with a combined rated capacity of 4,800 kW, operating under a head of 59 feet; (c) a 400-foot-long tailrace channel; and (d) a 5.5-mile-long, 12.5-kV transmission line tying into an existing District line. The average annual energy output would be 25 million kWh. Alternative II would consist of: (a) An 11-foot-diameter, 11,650-foot-long penstock; (b) a powerhouse containing two generating units with a combined rated capacity of 12,000 kW, operating under a head of 165 feet; (c) a 400-foot-long tailrace; and (d) a 3.4-mile-long, 34.5-kV transmission line tying into an existing line owned by the District. The average annual energy output would be 80 million kWh.

A preliminary permit, if issued does not authorize construction. The Applicant seeks a 24-month permit to study the feasibility of constructing and operating the project. No new road construction will be required for the purpose of conducting these studies. The estimated cost for conducting these studies is $150,000.

k. Purpose of Project: Project power will be sold to the Chelan Public Utility District.

l. This notice also consists of the following standard paragraph: A4a, A4c, B, C, and D2.

2.a. Type of Application: Preliminary Permit.

b. Project No.: 7076–000.

c. Date Filed: February 14, 1983.

d. Applicant: Northern Wasco County People's Utility District.

e. Name of Project: Dalles Dam North Fishway Project.

f. Location: On the Columbia River, near The Dalles, at The Dalles Dam, in Klickitat County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Harold E. Haake, Manager, Northern Wasco County People's Utility District, P.O. Box 621, The Dalles, Oregon 97058.

i. Comment Date: May 23, 1983.

j. Description of Project: The proposed project would utilize the existing North Fishway of the existing Corps of Engineers' The Dalles Dam and would consist of: (1) Modification of an inlet structure; (2) a 600-foot-long, concrete-lined penstock tunnel; (3) a powerhouse with one generating unit rated at 4.5 MW; and (4) a transmission line. The project would generate 29 million kWh using surplus water discharged through the fishway.

A preliminary permit does not authorize construction. Applicant seeks a 36-month permit to conduct feasibility studies and prepare an FERC license application. No new roads would be required. The cost would be $60,000.

k. Purpose of Project: Power would be utilized by Applicant in its service area.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, D2.

3.a. Type of Application: Minor License.

b. Project No: 3863–001.

c. Date Filed: September 3, 1982.

d. Applicant: Floyd N. Bidwell.

e. Name of Project: Lost Creek Hydroelectric #1.

f. Location: On Lost Creek, within Lassen National Forest, near Burney, in Shasta County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. E. J. Simpson, 1097 Denton Way, Redding, California 96002.

i. Comment Date: May 18, 1983.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 26-foot-long concrete diversion structure; (2) a 2750-foot-long, 42-inch-diameter steel penstock; (3) a powerhouse containing a single generating unit with a total installed capacity of 1,400 kW; (4) a 70-foot-long tailrace conduit; (5) a 2-mile-long, 12-kV transmission line connecting the powerhouse to an existing PG&E transmission line; and (6) appurtenant facilities. The Applicant estimates that the average annual energy production would be 9.0 million kWh.

k. Purpose of Project: The project power will be sold to the Pacific Gas and Electric Company.

l. This notice also consists of the following standard paragraphs: A2, B, C, and D1.

4.a. Type of Application: Short Form Minor License.

b. Project No.: 4247–001.

c. Date Filed: August 13, 1981 and revised December 20, 1982.

d. Applicant: Long Lake Energy Corporation.

e. Name of Project: Newport Hydroelectric Project.

f. Location: West Canada Creek, Herkimer County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Donald E. Hamer, Long Lake Energy Corporation, 420 Lexington Avenue, Suite 320, New York, New York 10017.

i. Comment Date: April 27, 1983.

j. Competing Applications: Projects Nos. 4313–000, 5196–000. Date Filed: 2/27/81, 8/16/81.

k. Description of Project: The proposed project would consist of: (1) An existing ogee-shaped concrete gravity dam, 8.2 feet high and 242 feet wide, creating a reservoir with a surface elevation of 641.3 feet m.s.l. (when two-foot flashboards are used), covering 35 acres and having a storage capacity of 150-acre-feet; (2) a new intake structure, 50 feet wide and 13 feet deep; (3) an expanded power canal to measure 50 feet wide, 11 feet deep and 170 feet long; (4) an expanded powerhouse to be 46 by 55 feet in area and to contain four 325-kV turbine/generator units operating under a net head of 10.4 feet; (5) a low-voltage, 50-foot transmission line leading to an existing substation; (6) a switchyard; and (7) appurtenant electrical and mechanical facilities.

l. Purpose of Project: The project's average annual generation of 6.3 million kWh will be sold to the Niagara Mohawk Power Corporation.

m. This notice also consists of the following standard paragrahs: A2, B, C, and D1.

5.a. Type of Application: Major License.

b. Project No.: P–3218–001.

c. Date Filed: December 22, 1982.

d. Applicant: City of Orrville, Ohio.

e. Name of Project: Pike Island.

f. Location: Pike Island Locks and Dam on the Ohio River at Tiltonsville, Ohio.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Philip J. Movish, Daverman Associates, Inc., 500 South Salina Street, Syracuse, New York 13202.

i. Comment Date: May 23, 1983.

j. Description of Project: The proposed project would utilize the existing U.S. Corps of Engineers Pike Island Dam and would consist of the following: (1) Replacement of a short section of an existing retaining wall; (2) a proposed 155-foot-wide, 71-foot-high intake structure; (3) a proposed 155-foot by 189-foot powerhouse located on the right abutment of the dam containing; (4) three proposed turbine/generator units with a total installed capacity of 49.5-

MW; (5) a proposed 350-foot-long, 160-foot-wide tailrace; (6) a proposed 8,600-foot-long, 138-kV transmission line; and (7) appurtenant facilities. Applicant proposes to construct a new fishing facility, approximately 250 feet wide and 650 feet long, immediately downstream of the powerhouse, to replace the existing fishing access which will be eliminated by the project. Applicant estimates that the average annual generation would be 244,316 MWh. This license application was filed during the term of the Applicant's preliminary permit for Project No. 3218.

k. Purpose of Project: Project energy would be used by the City to meet the requirements of its residential, commercial, and industrial electric consumers, with any surplus provided to American Municipal Power-Ohio, Inc.

l. This notice also consists of the following standard paragraphs: A2, B, and C.

6.a. Type of Application: 5 MW Exemption.

b. Project No.: P-4402-001.

c. Date Filed: January 24, 1983.

d. Applicant: Lawrence R. Taft.

e. Name of Project: Talcville Water Power Project.

f. Location: On the Oswegatchie River, in St. Lawrence County, New York.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (Act), 16 U.S.C. 2705 and 2708 as amended.

h. Contact Person: Lawrence R. Taft, 10315 Caughdenoy Road, Central Square, New York 13036, Timothy R. Fallon, 3 Maplewood Point, Ithaca, New York 14850, and Peter J. Fallon, 28 Sonora Parkway, Rochester, New York 14618.

i. Comment Date: April 22, 1983.

j. Competing Application: Project No. 6996-000, Dated Filed: January 12, 1983, Due Date: April 15, 1983.

k. Description of Project: The proposed project would operate on a run-of-river basis and would consist of: (1) Reconstruction of the breached Talcville Dam, an integrated concrete gravity structure which is 14 feet long and 13 feet high, having an 80-foot-long spillway section; (2) an existing reservoir having a surface area of 32 acres and a maximum surface elevation of 631 m.s.l.; (3) an existing 135-foot-long, 16-foot-wide, 13-foot-high flume; (4) an existing wood frame powerhouse containing two existing generating units, the first will be renovated and have a rated capacity of 250 kW, the second will be replaced by a new unit having a rated capacity of 750 kW for a total rated capacity of 1 MW; (5) an existing 1.5 MW, 23,000 volt substation; and (6) appurtenant facilities. The Applicant estimates that the average annual energy output would be 5 GWh. The energy derived at the proposed project would be sold to Niagara Mohawk Power Corporation. The property contained in the project area is owned by the Gouveneur Talc Company, Inc.

l. Purpose of Exemption: An Exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

m. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

7. a. Type of Application: Exemption from Licensing (5 MW or less).

b. Project No.: 6952-000.

c. Date Filed: December 21, 1982.

d. Applicant: McMillan Hydro Company.

e. Name of Project: McMillan Hydro.

f. Location: On the North Fork of Little Cow Creek in Shasta County, California.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Mr. Percy R. McMillan, P.O. Box 226, Round Mountain, California 96084.

i. Comment Date: April 22, 1983.

j. Description of Project: The proposed project would utilize an existing diversion at approximate elevation 4,000 feet and would consist of three-developments: Development 1 comprising: (a) A 24-inch-diameter, 3,600-foot-long penstock; (b) Powerhouse #1 containing two turbine-generators with rated capacities of 50 kW and 150 kW and a combined average annual output of 868,538 kWh; (c) a tailrace to Pond #1, an existing impoundment with a 5 acre-foot storage capacity; and (d) a 2,200-foot-long transmission line to Powerhouse #2; Development 2 comprising (a) a tee in the penstock for Powerhouse #3; (b) a 12-inch-diameter, 2,251-foot-long penstock; (c) existing Powerhouse #2 to be upgraded with a turbine-generator with a rated capacity of 75 kW and an average annual output of 178,281 kWh; and (d) a 1,300-foot-long transmission line to Powerhouse #3; and Development 3 comprising (a) a 24-inch-diameter, 2,870-foot-long penstock from Pond #1; (b) Powerhouse #3 containing 3 turbine-generators with rated capacities of 100 kW for one unit and 300 kW each for the remaining two units, with a combined average annual output of 2,320,023 kWh; and (c) a 7,500-foot-long transmission line connecting with existing Parific Gas and Electric Company lines.

k. Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

l. This notice also consists of the following standard paragraphs: A1, B, C and D3a.

8. a. Type of Application: Preliminary Permit.

b. Project No.: 7012-000.

c. Date Filed: January 20, 1983.

d. Applicant: Greene County Electric Company.

e. Name of Project: Old Factory Dam Project.

f. Location: Sparta, White County, Tennessee.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Daniel E. Burgner, Rt. 10, Box 183A, Greenville, Tennessee 37743.

i. Comment Date: May 16, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing 430-foot long and 16-foot-high concrete dam; (2) an existing reservoir having a storage capacity of 100 acre-feet and a surface area of 25 acres; (3) a new powerhouse with an installed generating capacity of 500 kW; (4) transmission lines; and (5) appurtenant facilities. The Applicant estimates that all power generated would be sold to a local utility company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

9.a. Type of Application: Preliminary Permit.

b. Project No.: 6640-001.

c. Date Filed: February 10, 1983.

d. Applicant: Arkansas River Power Authority.

e. Name of Project: John Martin.

f. Location: Arkansas River, near the town of Hasty, Bent County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: James M. Henderson, General Manager, Arkansas River Power Authority, Box 70, Lamar, Colorado 81052.

i. Comment Date: April 22, 1983.

j. Description of Project: The proposed project would utilize the existing John Martin Dam and Reservoir owned and operated by the U.S. Army Corps of Engineers. The project would consist of: (1) A 100-foot long penstock running from the existing outlet works; (2) a new powerhouse located on the south bank of the Arkansas River containing

turbine-generators with a total rated capacity of 2,500 kW; (3) a 3-mile long transmission line; and (4) appurtenant facilities. The project would generate up to 5,500,000 kWh annually.

k. Purpose of Project: Energy produced at the project would be sold to member municipal electric systems.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

m. Proposed Scope of Studies Under Permit: Applicant seeks issuance of a preliminary permit for a period of three years, during which time it would perform surveys and geologic investigations, coordinate studies with the U.S. Army Corps of Engineers, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be less than $30,000.

10.a. Type of Application: Preliminary Permit.

b. Project No.: 7038-000.

c. Date Filed: 1/31/83.

d. Applicant: Great Northern Hydro Company.

e. Name of Project: Stillaguamish Tributaries Hydropower.

f. Location: North Fork Wallace River, and May Creek, in Snohomish County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Ed Grant, President, Great Northern Hydro Company, 210 10th Street, Gold Bar, Washington 98251.

i. Comment Date: May 13, 1983.

j. Description of Project: The proposed project would consist of two sites. Site 1 on May Creek would consist of: (1) A diversion structure with a maximum height of 6-feet; (2) a 36-inch-diameter, 900-foot-long penstock; and (3) a powerhouse containing a generating unit with a rated capacity of 2,650 kW. Site 2 on the North Fork of Wallace River would consist of: (1) A diversion structure with a maximum height of 6-feet; (2) a 36-inch-diameter, 10,500-foot-long penstock; and (3) a powerhouse containing a generating unit with a rated capacity of 4,100 kW. The Applicant estimates a 22.7-GWh and 21.2-GWh average annual energy production, respectively. The Applicant has requested a 36-month permit in which to do feasibility studies and prepare a license application at a cost of $100,000.

k. Purpose of Project: Power would be sold to local utilities.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

11. a. Type of Application: Preliminary Permit.

b. Project No.: 7045-000.

c. Date Filed: February 1, 1983.

d. Applicant: Mainstream Hydro Corporation.

e. Name of Project: Sullivan Project.

f. Location: On the Sugar River in Sullivan County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: George K. Lagassa, President, Mainstream Hydro Corporation, 40 Bridge Street, Portsmouth, New Hampshire 03801.

i. Comment Date: May 13, 1983.

j. Description of Project: The proposed project would consist of: (1) The existing Broad Street Dam 6 feet high and 115 feet long; (2) a reservoir having a surface area of 2 acres with neglible storage, and a normal water surface elevation of 518 feet m.s.l.; (3) a new 8-foot diameter steel penstock 740 feet long; (4) a new powerhouse located adjacent to the existing Sullivan Machine Company Dam housing units have a generating capacity of 1500 kW; (5) a new 4.16-kV transmission line; and (6) appurtenant facilities. The Applicant estimates the average annual energy prouction would be 4,840,000 kWh. The Dam is owned by the City of Claremont.

k. Purpose of Project: All project power would be sold to the Connecticut Valley Electric Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 12 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies would be $10,000.

12. a. Type of Application : Exemption from Licensing (5 MW or less).

b. Project No.: 6388-001.

c. Date Filed: December 17, 1982.

d. Applicant: Lawrence J. McMurtrey.

e. Name of Project: Lost Creek.

f. Location: Lost Creek within Snoqualmie—Mt. Baker National Forest in Snohomish County, Washington.

g. Filed Pursuant to: Energy Security Act of 1980 (16 U.S.C. §§ 2705 and 2708 as amended).

h. Contact Person: Mr. Lawrence J. McMurtrey, 12122—196th, N.E., Redmond, Washington 98052.

i. Comment Date: April 22, 1983.

j. Competing Application: Project No. 6529-000 Date Filed: 7/16/82 Notice Issued: 10/19/82.

k. Description of Project: The proposed project would consist of: (1) a 2-foot-high, 36-foot-long diversion structure; (2) a 36-inch-diameter, 8,000-foot-long penstock; (3) a powerhouse containing a generating unit with a rated capacity of 2.32 MW; and (4) appurtenant facilities. The Applicant estimates 10.15 GWh average annual energy production.

l. Purpose of Project: Power would be sold to local utilities.

m. This notice also consists of the following standard paragraphs: A1, B, C, D3a.

13.a. Type of Application: Preliminary Permit.

b. Project No: P-2973-003.

c. Date Filed: February 1, 1983.

d. Applicant: Fall River Rural Electric Cooperative, Inc.

e. Name of Project: Island Park.

f. Location: On Henry's Fork of the Snake River near Ashton, in Fremont County, Idaho.

g. Filed Pursuant to: 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Calvin H. Wickham, P.O. Box 617, Ashton, Idaho 83420.

i. Comment Date: May 16, 1983.

j. Description of Project: The proposed project would utilize the existing Bureau of Reclamation's Island Park Dam and would affect lands of the United States within the Targhee National Forest. Applicant proposes to study two alternative projects as follows:

(1) Alternative One comprising: (a) A water intake tunnel which would tap the existing outlet tunnel upstream from the gate chamber on the right abutment of the dam (b) an underground powerhouse containing a generating unit having a rated capacity of 6,500-kW operated under a 79-foot head and at a flow of 1,370 cfs (c) a tailwater discharge tunnel return to the existing outlet-spillway tunnel; and (d) appurtenant facilities; or

(2) Alternative Two comprising: (a) A water intake on the left abutment (b) a penstock through the abutment (c) a powerhouse on the left bank at the toe of the dam containing a generating unit having a rated capacity of 6,500-kW operated under a 79-foot head and at a flow of 1,370 cfs; and (d) appurtenant

facilities. Project energy would be fed into Applicant's system through an existing 3-mile-long 12.5-kV underground powerline.

k. Purpose of Project: Project energy would be sold to another utility or would be utilized in Applicant's electric distribution system. Applicant estimates that the average annual generation would be 25,000 MWh.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

m. Proposed Scope and Cost of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would perform studies and would prepare an application for an FERC license. Applicant estimates the cost of the work under the permit would be $100,000.

14. a. Type of Application: License for 5 MW or Less.

b. Project No: 6728–000.

c. Date Filed: September 30, 1982.

d. Applicant: Clifton Power Corporation.

e. Name of Project: Clifton Mill No. 3.

f. Location: Spartanburg County, South Carolina.

g. Filed Pursuant to: Order No. 185, RM81–10.

h. Contact Person: Mr. Charles B. Mierek, Clifton Power Corporation, Tucker, Georgia 30084.

i. Comment Date: April 22, 1983.

j. Competing Application: Project No. 6642–000, Date Filed: August 26, 1982.

k. Description of Project: The proposed project would consist of: (1) An existing reservoir with a storage capacity of 4-acre-feet and a surface area of 50 acres at power pool elevation of 625 feet m.s.l.; (2) an existing stone-rubble, gravity type dam approximately 275 feet long and 28 feet high, with 52 inch high flashboards; (3) an existing brick and concrete powerhouse containing two generating units rated at 500 kW and 1,200 kW; (4) a proposed 600 volt, 500 foot transmission line; and (5) appurtenant facilities. The estimated average annual generation would be 7,014,000 kWh.

l. Purpose of Project: The Applicant proposes to sell the generated power to Duke Power Company.

m. The notice also consists of the following standard paragraphs: A2, B, C, and Dl.

15. a. Type of Application: Preliminary Permit.

b. Project No: 7084–000.

c. Date Filed: February 14, 1983.

d. Applicant: Lassen Associates.

e. Name of Project: Lassen.

f. Location: On Parsnip Creek within Modoc National Forest, near Likely, in Lassen County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Tom Forbes, P.O. Box 421, Mercer Island, Washington 98040.

i. Comment Date: May 13, 1983.

j. Description of Project: The proposed project would consist of: (1) A 5-foot-high concrete diversion structure; (2) a 10,000-foot-long pipeline; (3) a 16,400-foot-long, 36-inch-diameter steel penstock; (4) a powerhouse containing one generating unit rated at 2.1 MW; and (5) a transmission line. The average annual generation is estimated to be 8.3 million kWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 24 months during which it would conduct feasibility studies and prepare an FERC license application. No new roads would be required. The work would cost $150,000.

k. Purpose of Project: Power would be sold to a local utility.

l. The notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

16. a. Type of Application: Case—Specific Exemption for Small Hydroelectric Power Project of 5 MW or less Capacity.

b. Project No: 6870–000.

c. Date Filed: November 22, 1982.

d. Applicant: Richard J. and Georgenia M. Wilkinson.

e. Name of Project: Prospect Creek Hydroelectic Project.

f. Location: Prospect Creek in Sanders County, Montana.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705, and 2708 *as amended*).

h. Contact Person: Mr. Richard J. and Georgenia M. Wilkinson, P.O. Box 848, Thompson Falls, Montana 59873.

i. Comment Date: April 25, 1983.

j. Description of project: The proposed project would consist of: (1) A proposed 10-foot-high and 50-foot-long diversion structure composed of reinforced concrete; (2) a proposed 4000-foot-long and 60-inch diameter, buried penstock; (3) a proposed powerhouse containing two turbine/generator units, one 1250 kW and one 800 kW unit for a total installed capacity of 2050 kW; (4) a proposed tranmission line approximately one-half mile in length and interconnecting with the Montana Power Company; and (5) appurtenant facilites. The Applicant estimates the average annual energy production to be 8.5 GWh.

k. This notice also consists of the following standard paragraphs: A1, B, C, and D3a.

17. a. Type of Application: Preliminary Permit.

b. Project No: 7002–000.

c. Date Filed: January 17, 1983.

d. Applicant: Hoopa Valley Business Council.

e. Name of Project: Supply Creek Power.

f. Location: On Supply Creek in Humboldt County, California within the Hoopa Valley Indian Reservation.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. L. R. Ulibarri, Planning Department, Hoopa Valley Business Council, P.O. Box 1348, Hoopa, California 95546.

i. Comment Date: May 13, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing 5-foot-high, 55-foot-long diversion-intake structure at elevation 1,000 feet, owned by the Hoopa Valley Indian Tribe; (2) a 36-inch-diameter, 800-foot-long penstock; (3) a powerhouse containing a single generating unit with a rated capacity of 1,200 kW, operating under a head of 500 feet; and (4) a 1,000-foot-long tranmission line tying into an existing line owned by the Pacific Gas and Electric Company. The average annual energy output would be 5.5 million kWh.

A preliminary permit, if issued does not authorize construction. The Applicant seeks a 36 month permit to study the feasibility of constructing and operating the project. No new access road will be required for the purpose of conducting these studies. The estimated cost for conducting these studies range between $80,000 and $140,000.

k. Purpose of Project: Project power will be sold to the Pacific Gas and Electric Company.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

18. a. Type of Application: Preliminary Permit.

b. Project No: 7030–000.

c. Date Filed: January 27, 1983.

d. Applicant: Dryden Hydro Associates.

e. Name of Project: Dryden Hydroelectric.

f. Location: On Wenatchee River, in Chelan County, Washington.

g. Filed Pursaunt to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Tom Forbes, P.O. Box 421, Mercer Island, Washington 98040 and Mr. Joel Rector, Attorney at Law, 4832 Colony Circle, Salt Lake City, Utah 84117.

i. Comment Date: May 13, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing 15-foot-high, 550-foot-long, concrete gravity dam owned by the Chelan Public Utility District; (2) a reservoir with a surface area of 150,000 square feet and a storage capacity of 35 acre-feet at crest elevation 970 feet msl; (3) an existing intake structure; (4) an existing canal; (5) a 6-foot-diameter, 150-foot-long penstock; (6) a powerhouse containing two generating units with a combined rated capacity of 4,000 kW, operating under a head of 57 feet; (7) an existing tailrace channel; and (8) appurtenant facilities. The average annual energy output would be 22 million kWh.

A preliminary permit, if issued does not authorize construction. The Applicant seeks a 24 month permit to study the feasibility of constructing and operating the project. No new access roads will be required for the purpose of conducting these studies. The estimated cost for conducting these studies is $150,000.

k. Purpose of Project: Project power will be sold to either the Bonneville Power Administration or a local service utility.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

19. a. Type of Application: Preliminary Permit.

b. Project No: 7028–000.

c. Date Filed: January 27, 1983.

d. Applicant: The Grisdale Hill Company.

e. Name of Project: Cottage Grove Dam.

f. Location: On Coast Fork of Willamette River, in Lane County, Cottage Grove, Oregon.

g. Filed Pursaunt to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Ms. Joy Leong, Morrison and Foerster, 1920 N Street, N.W., Washington, D.C. 20036.

i. Comment Date: May 11, 1983.

j. Description of Project: The proposed project, to be located at the base of the existing Corps of Engineers' Cottage Grove Dam, would consist of: (1) A new outlet structure; (2) a 200-foot-long, 54-inch-diameter penstock; (3) a powerhouse to contain one turbine-generating unit with a rated capacity of 1.4 MW operating under a head of 50 feet; (4) a switchyard; and (5) a 500-foot-long, 115-kV transmission line to connect to an existing Pacific Power and Light Company line. The average annual energy would be 5.5 million kWh. The Applicant seeks a 24-month preliminary permit to study the feasibility of constructing and operating the project and to prepare an FERC license application. No new roads would be required to conduct the studies.

k. Purpose of Project: Power produced at the project would be offered for sale to Bonneville Power Administration or to a local investor-owned utility.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2

20.a. Type of Application: Application for License (5MW or Less).

b. Project No.: 6744–000.

c. Date Filed: October 4, 1982.

d. Applicant: The City of Ithaca, New York.

e. Name of Project: Ithaca Falls.

f. Location: Fall Creek, Tompkins County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: M. Helen Jones, City Planner, City of Ithaca, City Hall, 108 East Green Street, Ithaca, New York 14850.

i. Comment Date: April 25, 1983.

j. Competing Application: Project No. 5878–000 Date Filed: 1/15/82, 5928–000 Date Filed: 1/29/82.

k. Description of Project: The proposed run-of-the-river project would consist of: (1) An existing dam, 140.0 feet long and 5.0 feet high; (2) an existing reservoir with a surface area of 1.15 acres, a usable storage capacity of 3.0 acre-feet, and a normal maximum surface elevation of 544.0 feet M.S.L.; (3) two proposed reinforced concrete intake structures, one 22.0 feet long, 18.0 feet wide, and 12.0 feet high, the other 13.0 feet long, 8.0 feet wide, and 15.0 feet high; (4) a proposed tunnel raceway with concrete lining, 200.0 feet long; (5) a proposed 6.0-foot diameter steel penstock, 750.0 feet long; (6) a proposed reinforced concrete powerhouse, 42.0 feet long and 39.0 feet wide, containing a single generating unit with a total installed capacity of 2,507 kW; (7) a proposed 8.3-kV transmission line, 160.0 feet long; and (8) appurtenant facilities. The Applicant estimates that the average annual energy output would be 7,421,849 kWh. The existing project facilities are owned by Cornell University.

l. Purpose of Project: Project power would be sold to the New York State Electric and Gas Company.

m. This notice also consists of the following standard paragraphs: D1, A3, B and C.

21.a. Type of Application: Preliminary Permit.

b. Project No.: 7054–000.

c. Date Filed: February 3, 1983.

d. Applicant: Mountain West Hydro, Inc.

e. Name of Project: Pup Creek.

f. Location: Clackamas County, Oregon; Pup Creek.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C 791(a)–825(r).

h. Contact Person: David Browning, Mountain West Hydro, Inc., 2155 Christina N.W., Salem, Oregon 97304.

i. Comment Date: May 16, 1983.

j. Description of Project: The proposed project would consist of: (1) A 6-foot-high diversion structure; (2) a 6,600-foot-long, 16-inch-diameter steel penstock; (3) a powerhouse with a total installed capacity of 1,100 kW; and (4) a 300-foot-long, 12-kV transmission line connecting with an existing Portland General Electric Company transmission line. The proposed project would affect United States lands within Mt. Hood National Forest. A preliminary permit does not authorize construction. The Applicant seeks a 36-month permit to study the feasibility of constructing and operating the project. No new roads would be constructed for conducting the studies. The work under the preliminary permit would cost $83,000.

k. Purpose of Project: The estimated annual output of 6.09 million kWh generated by the project would be sold to the Bonneville Power Administration or the Portland General Electric Company.

l. This notice also consists of the following standard paragraphs: A4b, A4c, A4d, B, C, D2.

22.a. Type of Application: Preliminary Permit.

b. Project No.: 7094–000.

c. Date Filed: February 22, 1983.

d. Applicant: Taft Hydro Corporation.

e. Name of Project: Lake Algonquin.

f. Location: Sacandaga River, near the town of Wells, Hamilton County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Lawrence R. Taft, 10315 Caughdenoy Road, Central Square, New York 13036.

i. Comment Date: May 20, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing 17-foot high, 250-foot long concrete gravity dam with a 77-foot long center gate structure with 3 vertical lift roller gates; (2) an existing 275-acre reservoir (Lake Algonquin) at elevation 986.0 feet m.s.l.; (3) a new 100-foot long penstock; (4) a new powerhouse containing turbine-generators with a total rated capacity of 680 kW; (5) a new 2,000-foot long transmission line; and (6) appurtenant facilities. The dam is owned by the town of Wells, New York.

The project would generate up to 3,000,000 kWh annually.

k. Purpose of Project: Energy produced at the project would be sold to Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

m. Proposed Scope of Studies Under Permit: A preliminary permit, if issued, does not authorize construction. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans and a study of environmental impacts. Based on results of these studies, Applicant would decide whether to proceed with more detailed studies and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $10,000.

23.a. Type of Application: Exemption (5 MW or Less).

b. Project No.: 6301–000.

c. Date Filed: May 7, 1982.

d. Applicant: Woods Creek, Inc. and Murray-Pacific Corporation.

e. Name of Project: Trout Creek.

f. Location: On Trout Creek, within Mt. Baker—Snoqualmie National Forest, near Index, in Snohomish County, Washington.

g. Filed Pursuant to: Energy Security Act of 1980, Section 405 16 U.S.C. 2705 and 2708 *as amended.*

h. Contact Person: Neil H. Macdonald, Woods Creek/Murray-Pacific Corporation, 14 South Idaho Street, Seattle, Washington 98134.

i. Comment Date: April 25, 1983.

j. Competing Application: Project No. 5342–000, Date Filed: September 8, 1981, Notice Issued: November 1, 1981.

k. Description of Project: The proposed project would consist of: (1) A 6-foot-high, 120-foot-long concrete weir; (2) a concrete intake structure; (3) a 9,900-foot-long, 4-foot-diameter steel penstock; (4) a powerhouse containing two generating units, each rated at 2,500 kW; and (5) a 6.5-mile-long transmission line. The average annual energy generation is estimated to be 16.5 million kWh.

l. Purpose of Project: Power will be sold to Puget Sound Power and Light Company.

m. This notice also consists of the following standard paragraphs: A1, B, C, and D3a.

24. a. Type of Application: Preliminary Permit.

b. Project No.: P–6994–000.

c. Date Filed: January 11, 1983.

d. Applicant: City of Memphis, Tennessee.

e. Name of Project: H.M. Bessie.

f. Location: the Bessie Cutoff area of the Mississippi River, in Lake County, Tennessee, Fulton County, Kentucky, and New Madrid, Missouri.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Arnold Fieldman, Mr. Channing D. Strother, Jr., Goldberg, Fieldman & Letham, P.C., 1100 Fifteenth Street, N.W., Washington, D.C. 20005, and Ira C. Stanfill, Memphis Light, Gas and Water Division, P.O. Box 430, Memphis, Tennessee 38101.

i. Comment Date: May 16, 1983.

j. Description of Project: The proposed project would consist of: (1) the Construction of a new channel; (2) a new powerhouse containing 25 generating units having a total rated capacity of 100 MW; (3) a new 161-kV, 5.6-mile long transmission line and an upgrading of an existing 69-kV 24-mile long transmission line; and (4) appurtenant facilities. The Applicant estimates that the average annual energy output would be 641 GWh.

k. Purpose of Project: The most likely market for the energy derived at the proposed project would be the Tennessee Valley Authority.

l. The notice also consists of the following standard paragraphs: A4a, A4c, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $14,000.

25. a. Type of Application: Exemption Under 5 MW.

b. Project No.: 6905–000.

c. Date Filed: December 2, 1982.

d. Applicant: T & G Hydro Project.

e. Name of Project: T & G Hydro Project.

f. Location: On Canyon Creek, near Whitmore, in Shasta County, California.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 *as amended.*

h. Contact Person: Mr. H. Ward Gandy, T & G Hydro, 5163 Surry Drive, Redding, California 96002.

i. Comment Date: April 22, 1983.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) A 3-foot-high, 5-foot-long concrete diversion structure; (2) a 2,500-foot-long, 10-inch-diameter pipeline; (3) a 1,500-foot-long, 10-inch-diameter steel penstock; (4) a powerhouse containing a single 100-kW generating unit with an estimated annual generation of 825,000 kWh; and (5) appurtenant facilities.

An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

k. The notice also consists of the following standard paragraphs: A1, B, C, and D3a.

a. Type of Application: Preliminary Permit.

b. Project No: 6939–000.

c. Date Filed: December 17, 1983.

d. Applicant: The City of Jackson, Ohio.

e. Name of Project: Belleville Locks and Dam.

f. Location: on the Ohio River, in Meigs County, Ohio and Wood County, West Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: W.M. Lewis & Associates, Inc., 740 Fifth Street, P.O. Box 1383, Portsmouth, Ohio 45663, Attention: Mr. James S. Sigg, Manager, Studies and Planning.

i. Comment Date: April 22, 1983.

j. Competing Application: Project No. 6900–000, Date Filed: December 1, 1982, Due Date: April 20, 1983.

k. Description of Project: The proposed project would utilize the existing Corps of Engineers' Belleville Locks and Dam and would consist of: (1) A new powerhouse containing three generating units having a total rated capacity of 54.6 to 100.2 MW; (2) interconnection with an existing 138-kV transmission line; and (3) appurtenant facilities. The Applicant estimates that the average annual energy output would be between 287.0 and 526.6 GWh.

l. Purpose of Project: The energy derived at the proposed project would be utilized by the Applicant.

m. This notice also consists of the following standard paragraphs: A4a, A4c, B, C and D2.

n. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 11 months. The work proposed under

the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $100,000.

a. Type of Application: License (5 MW or Less).

b. Project No: 6715–000.

c. Date Filed: September 23, 1982.

d. Applicant: Gold Run Hydro Associates.

e. Name of Project: Long Ravine Pipe Power.

f. Location: On Lower Boardman Canal in Placer County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Eddy Balocco, 2855 Mitchell Drive, Suite 140, Walnut Creek, California 94598.

i. Comment Date: April 22, 1983.

j. Competing Application: Project No. 6047, Date Filed: February 26, 1982, Notice Issued: March 24, 1982.

k. Description of Project: The proposed project would consist of: (1) A 20-foot long, 30-inch diameter bifurcation section connected to an existing unpressurized 30-inch diameter penstock, and the new powerhouse; (2) a powerhouse containing a turbine-generating unit with a rated capacity of 168 kW; (3) a 100-foot long transmission line connecting to an existing Pacific Gas and Electric line; and (4) a 20-foot long tailrace feeding into Lower Boardman Canal. The Applicant estimates a 1,030,180 kWh annual energy production.

l. Purpose of Project: Power will be sold to local utilities.

m. This notice also consists of the following standard paragraphs: A2, B, C, D1.

28.a. Type of Application: Exemption of a 5MW or less Hydroelectric Facility.

b. Project No: 6524–001.

c. Date Filed: October 1, 1982.

d. Applicant: Hy-Tech Company.

e. Name of Project: Elk Creek Falls Hydroelectric.

f. Location: On Elk Creek in Clearwater County, Idaho within the Clearwater National Forest.

g. Filed Pursuant to: Energy Security Act 1980 (16 U.S.C. 2705 and 2708 as amended).

h. Contact Person: Mr. Carl W. Haywood, Managing Partner, 2109 Broadview Drive, Lewiston, Idaho 83501 and Mr. David J. Milan, James M. Montgomery, Consulting Engineers, Inc., 1301 Vista Ave., Boise, Idaho 83705.

i. Comment Date: April 25, 1983.

j. Competing Application: Project No. 6518–000 Date Filed: 7/14/82 Notice Issued: August 5, 1982.

k. Description of Project: The proposed project would consist of: (1) A 4-foot-high, 45-foot-long diversion structure at elevation 2,660 feet; (2) a 60-inch-diameter, 2,500-foot-long penstock; (3) a powerhouse containing three generating units with a combined rated capacity of 2,980 kW, operating under a head of 360 feet; (4) a 20-foot-long tailrace; and (5) a 4-mile-long, 13.5-kV transmission line tying into a Washington Water and Power Company line. The average annual energy output is 10 million kWh.

Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

l. Purpose of Project: Project power will be sold to the Washington Water and Power Company.

m. This notice also consists of the following standard paragraphs: A1, B, C and D3a.

Competing Applications

A1. Exemptions for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such a license application. Submission of a timely notice of intent allows an interested person to file the competing license application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted.

A notice of intent must conform with the requirements of 18 CFR 4.33 (b) and (c) (1982). A competing license application must conform with the requirements of 18 CFR 4.33 (a) and (d).

A2. Applications for License—Anyone desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either the competing application itself (see 18 CFR 4.33 (a) and (d), and Part 16, where applicable) or a notice of intent (see 18 CFR 4.33 (b) and (c)) to file a competing application. Submission of a timely notice of intent allows an interested person to file an acceptable competing application no later than the time specified in § 4.33(c) or §§ 4.101 to 4.104 (1982).

A3. Public notice of the filing of the initial application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, no competing application for license, exemption or preliminary permit, or notices of intent to file competing applications, will be accepted for filing in response to this notice (see 18 CFR 4.30 to 4.33 or §§ 4.101 to 4.104 (1982), as appropriate). Any application for license or exemption from licensing, or notice of intent to file a license or an exemption application, must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 to 4.33 or §§ 4.101 to 4.104 (1982), as appropriate.

Preliminary Permits

A4a. Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or before 30 days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A4b. No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or there are proposed to be major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application (see 18 CFR 4.30 to 4.33 (1982)).

A4c. The Commission will accept applications for license or exemption from licensing, or a notice of intent to submit such an application in response to this notice. A notice of intent to file an application for license or exemption must be submitted to the Commission on or before the specified comment date for the particular application. Any application for license or exemption from licensing must be filed in accordance with the Commission's regulations (see 18 CFR 4.30 to 4.33 or §§ 4.101 to 4.104 (1982), as appropriate).

A4d. Submission of a timely notice of intent to file an application for preliminary permit allows an interested

person to file an acceptable competing application for preliminary permit no later than 60 days after the specified comment date for the particular application.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214 (1982). In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST" or "MOTION TO INTERVENE," as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Chief, Applications Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments

D1. License applications (5 MW or less capacity)—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. Preliminary permit applications—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. Exemption applications (5MW or less capacity)—The U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Act, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. Exemption applications (Conduit)—the U.S. Fish and Wildlife Service, The National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: March 16, 1983.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-7260 Filed 3-18-83; 8:45 am]

BILLING CODE 6717-01-M

Office of the Secretary

International Energy Program; Request for Comment on Proposed Approval by the Secretary of Energy Pursuant to Section 5 of the Voluntary Agreement and Plan of Action

AGENCY: Department of Energy.

ACTION: Publication of Notice of Proposed Approval of Participation by U.S. Oil Companies in the International Energy Agency's Fourth Allocation Systems Test and Request for Comment.

SUMMARY: A draft of a proposed letter of approval with respect to U.S. oil company participation in the Fourth Test of the International Energy Agency's Emergency Oil Allocation Systems, including operating procedures and recordkeeping requirements, is being published for public comment.

DATE: Written comments to be submitted by April 11, 1983.

ADDRESS: Comments should be submitted to Craig S. Bamberger, Assistant General Counsel for International Trade and Emergency Preparedness, Department of Energy, Mail Stop 6F-094, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Craig S. Bamberger, Assistant General Counsel for International Trade and Emergency Preparedness, Room 6A-141, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585; (202) 252-2900.

SUPPLEMENTARY INFORMATION: Pursuant to section 252 of the Energy Policy and Conservation Act, 42 U.S.C. 6272, the Secretary of Energy monitors the carrying out of voluntary agreements to implement the Agreement on an International Energy Program (TIAS 8278, November 18, 1974) by U.S. oil companies and issues certain approvals with respect thereto. In this connection, U.S. oil companies who are members of the Voluntary Agreement and Plan of Action to Implement the International Energy Program, 2 CCH Federal Energy Guidelines, para. 15,845, will be requested to assist the International Energy Agency (IEA) in conducting a test of the IEA's Emergency Oil Allocation Systems beginning with the transmission of a disruption telex on April 22, 1983. The Department of Energy, in cooperation with the staffs of the Department of Justice, the Department of State and the Federal Trade Commission, has developed the drafts of the clearance documents which follow below and which are published today for comment.

The first document is a draft letter of approval for U.S. oil companies participating in the IEA's Fourth Allocation Systems Test (AST-4). The second document, an attachment to this letter, is the "Operating Procedures and Requirements for Recordkeeping by U.S. Companies in the Fourth Allocation Systems Test (AST-4)" which U.S. participants will be required to observe in AST-4. These operating procedures and recordkeeping requirements will apply existing DOE regulations, contained in Title 10 CFR Part 209, to AST-4.

The proposed approval letter and operating procedures/recordkeeping requirements are similar to those which were provided for the IEA's Third Allocation Systems Test (AST-3) held in 1980, *see* 45 FR 71314 (October 27, 1980). Several changes have been made based on experience of the U.S. Government in monitoring AST-3, and operating procedures and recordkeeping requirements have been simplified and made less burdensome.

In addition, a new form of approval has been adopted for the provision of confidential or proprietary company information or data by participating companies. In previous tests, the types of information or data which could be disclosed in the tests without need for specific U.S. Government approval were enumerated, and specific approval was required for the disclosure of other types of information or data. Paragraph 9 of the proposed approval letter likewise enumerates types of information or data which may be disclosed, but under paragraph 9(n) of this letter, it also would be permissible to disclose for the purpose of AST-4, "such additional * * * types of information or data as may be needed on a timely basis in implementing the [IEA's] oil allocation procedures" if a request for advance approval of such disclosure were not feasible. However, prompt notice of any such additional disclosure must be given to U.S. Government monitors observing the test along with an explanation of why advance approval could not be obtained, and approval for the continued submission or exchange of such information or data can be terminated.

DOE has determined that utilization of a verbatim transcript for portions of the test is practicable. Accordingly, as provided in section 252(c)(3) of EPCA, it is contemplated that a transcript will be taken of many of the group sessions during AST-4. In addition, U.S. Government observers will maintain a full and complete record of AST-4 in the form of memoranda, documents and communications logs of U.S. oil company personnel involved in the test.

AST-4 is primarily a training exercise, involving aspects of the IEA emergency sharing system which previously were tested in AST-3. Like AST-3, it will test company-to-company communications concerning voluntary offers by oil companies to reallocate oil under the IEA system and communications between the Industry Supply Advisory Group (ISAG), an industry group serving at IEA headquarters as part of the IEA Emergency Management Organization, and governmental National Emergency Sharing Organizations (NESOs) in each participating IEA member country.

U.S. oil companies will participate in AST-4 as IEA "Reporting Companies" which will provide information and data to ISAG and the IEA Secretariat, including information and data with respect to oil availability during the hypothetical supply disruption and with respect to possible hypothetical actions to reallocate available oil in accordance with the IEA sharing formula. U.S. companies also will assist the IEA by providing staff for the ISAG.

One unique feature of this system test is the role of a "Group of Experts," engaged as consultants to the IEA, who will witness AST-4 and participate in appraising it. The draft antitrust approval letter permits the Group of Experts to have access to information and data disclosed by U.S. companies and their representatives in AST-4. The Experts have not yet been identified by the IEA, and must be selected before this approval letter will be issued. Depending on the nature of any connections which they may have with the energy industry, modifications may be made in the draft letter with respect to their access to information and data.

Comment Procedure

Written comments regarding the proposed approval letter and recordkeeping guidelines will be accepted and considered if received by 4:30 p.m., April 11, 1983. Any person submitting written comments with respect to the letter and recordkeeping requirements should submit ten (10) copies to Craig S. Bamberger, Assistant General Counsel for International Trade and Emergency Preparedness, Department of Energy, Mail Stop 6F-094, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585. Comments should be identified on the outside of the envelope and on documents submitted with the designation "Proposed Approval Letter and Operating Procedures/ Recordkeeping Requirements for AST-4."

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, in one copy only, in accordance with procedures set forth in 10 CFR 205.9(f). Any material not accompanied by a statement of confidentiality will be considered to be non-confidential. The Department of Energy reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Issued in Washington, D.C., March 17, 1983.

Craig S. Bamberger,

Assistant General Counsel for International Trade and Emergency Preparedness.

Appendix

Proposed letter from the Secretary, United States Department of Energy, to United States Reporting Companies.

1. The International Energy Agency (IEA) will conduct in the near future a fourth test of the emergency allocation systems (AST-4). The Department of Energy (DOE) considers AST-4 an important part of our preparedness efforts. We hope your company will participate and provide full cooperation to the IEA in this undertaking.

2. This letter sets out guidelines for participation in AST-4 by U.S. oil companies and personnel of U.S. oil companies and provides required approvals for the disclosure or exchange of confidential or proprietary information or data in connection with AST-4, as required by the Voluntary Agreement and Plan of Action to Implement the International Energy Program ("Voluntary Agreement"), 2 CCH Federal Energy

Guidelines, Paragraph 15,845. Participation by U.S. companies is governed by section 252 of the Energy Policy and Conservation Act (EPCA), DOE regulations at 10 CFR Part 209, and the Voluntary Agreement.

3. The primary objectives of AST-4 are: (a) To continue the program of periodic training of personnel of participating IEA governments, oil companies and the IEA Secretariat in the data systems and emergency oil allocation procedures developed to implement the provisions of the Agreement on an International Energy Program (IEP) (TIAS 8278, November 18, 1974), which are delineated in the Emergency Management Manual (EM) and the Industry Supply Advisory Group/Secretariat Operations Manual (ISOM); (b) to exercise all elements of the National Emergency Sharing Organization (NESO) in each participating IEA country that are essential to the efficient and successful operation of the IEA emergency oil sharing systems, including national emergency procedures; and (c) to test modifications and improvements made to the systems and procedures since the last test (AST-3) held in the autumn of 1980. The scope of AST-4, as detailed in the AST-4 Test Guide, is to be broadly similar to that of AST-3 as far as the IEA Secretariat, ISAG, Reporting Company and NESO activities are concerned.

4. AST-4 will begin with the sending of a disruption telex on April 22, 1983, and will continue for approximately eight weeks. It will consist of one full and one curtailed allocation cycle. Prior to the completion of the full regular cycle commencing May 2, 1983, a second disruption telex will be released by the IEA Secretariat. Questionnaire A (QA) and Questionnaire B (QB) data will be submitted and allocation rights and allocation obligations will be calculated by the Secretariat and relayed to countries and companies for each cycle. Following communication of allocation rights and allocation obligations for the second cycle, the test will cease as far as IEA-directed activity is concerned. Thus the large majority of ISAG representatives will be involved for less than four weeks, although a few ISAG representatives may remain until the completion of the test.

5. An Experts Group engaged as consultants to the IEA Secretariat will witness the test and study the voluntary offer process. The Experts Group will contribute to the test appraisal, and for this purpose is expected to discuss the test with individuals participating in the test. For purposes of this letter, the activities of the Experts Group shall be considered to be part of the carrying out of AST-4.

6. Industry will participate in several ways. First, industry representatives will staff the Industry Supply Advisory Group (ISAG); the ISAG, with the IEA's Allocation Coordinator, Secretariat and a Standing Group on Emergency Questions Emergency Group composed of representatives of IEA member countries, will comprise the IEA Emergency Management Organization at IEA headquarters in Paris, France, which will conduct the test. Second, Reporting Companies will submit QA and other data to the IEA Secretariat and the ISAG, and individually will discuss these data with the IEA Secretariat and with the ISAG to the extent required for the test; their affiliates will make similar data submissions and have similar individual discussions with the NESOs of the participating countries in which they operate. Third, Reporting Companies will propose and simulate the carrying out of certain hypothetical supply reallocation measures called "Type 2" allocation by the IEA; in this connection, Reporting Companies may communicate with other Reporting Companies: (a) For the purpose of identifying suitable suppliers or receivers of oil to formulate "closed loop" Type 2 offers, (b) to enable Reporting Companies to work out logistics needed to implement Type 2 offers, or (c) to undertake needed subsequent modification of Type 2 offers which have previously been accepted by the Allocation Coordinator. Finally, it is our understanding that some NESOs may have employees of Reporting or Non-Reporting Companies or their affiliated as members or advisors.

7. In Paris, the test will be conducted, for notice purposes under the Voluntary Agreement, as a single meeting of ISAG carried out in accordance with Section 5 of the Voluntary Agreement. In addition to individual tasks and contacts with the Secretariat by ISAG members, working sessions will include meetings of all ISAG members and smaller group meetings of several ISAG members, as well as joint working sessions of a few ISAG members assigned to solve particular problems. The ISAG Manager or his designee may meet with members of the AST-4 Control Group, consisting of the Chairman of the Industry Advisory Board, the Chairman of the Standing Group on emergency Questions and the IEA Executive Director, with the AST-4 Design Group Chairman, or with members of the Standing Group on Emergency Questions Emergency Group. A verbatim transcript of certain sessions will be made under the supervision of U.S. Government observers; such transcripts will be available for review participants in the sessions so transcribed or for their counsel, either during the test or later. For some ISAG sessions, a full and complete record will be prepared by U.S. Government observers who are present. A full and complete record of other communications will be maintained by the U.S. test participants. More detailed recordkeeping requirements, including operating procedures, are set out in the attachment to this letter. These recordkeeping requirements have been prepared in cooperation with the Department of State, the Department of Justice and the Federal Trade Commission, and are to be considered an integral part of this letter of approval.

8. In order to carry out the test, it will be necessary for Reporting Companies to provide the IEA Secretariat and the ISAG with certain information or data on IEA questionnaire forms and formats, and to submit voluntary offers to supply or receive reallocated oil, and they may have to engage in other communications with the IEA Secretariat or ISAG to clarify, amplify, correct, or supplement such data submissions and voluntary offers. Further, ISAG members may have to exchange this and other information or data among themselves, with members of the IEA Secretariat, with IEA Reporting Companies, and with NESOs. Access to such information or data and to ISAG discussions and work sessions will be open to official observers from the European Community and IEA member countries authorized by the IEA to be present at the test, and to the Experts Group. Aside from the IEA questionnaire and format data and information as to voluntary offers, much of the data or information will be available from public sources. Some such information or data, while actually public information, may not be definitely known to be publicly available by those exchanging it or it may be considered confidential by some companies. Some of the data or information needed to be provided or exchanged clearly will be confidential or proprietary.

9. Accordingly, approval under section 5(b) of the Voluntary Agreement is hereby given to Voluntary Agreement participants and their employees engaged in AST-4 to submit and exchange the types of information or data listed below which involve or might involve disclosure of confidential or proprietary information or data. However, this approval is granted only to the extent that the submission or exchange of these types of confidential or proprietary information or data is necessary during the first cycle, and until allocation rights and allocation obligations have been determined and communicated by the IEA Secretariat in the second cycle, in order to implement the oil allocation procedures of the IEP as guided by the EMM, the ISOM, and the AST-4 Test Guide, and to meet specific problems as they arise during AST-4. Approval is further limited to information or data covering the historical period March 1981 through August 1981. This letter neither approves nor disapproves the activities of company employees serving on NESOs or any communication between a Reporting Company or its affiliate and a NESO. Under these limitations, and those set forth in paragraphs 10, 11, 12, 13 and 14, the submission and exchange of the following types of information or data is approved:

(a) Disaggregated March thru August 1981 QA or QB data submitted during AST-4, *i.e.*, data as required by the QA and QB reporting instructions in effect for AST-4 as further defined in the AST-4 Test Guide, and ISAG work formats derived from such data, including:

—Indigenous production of crude oil and natural gas liquids (NGLs) and feedstocks;
—Imports and exports of crude oil, NGLs and feedstock;
—Petroleum product imports and exports (in crude oil equivalents);
—International marine bunkers;
—Inventory levels and changes; and
—Stocks at sea.

This data base will be amended by Reporting Companies, coordinating with their affiliates as required, and by NESOs for Non-Reporting Companies operating within their boundaries, based on the Secretariat's disruption telex at the beginning of each cycle, and as elaborated during each cycle by

updating telexes from the Secretariat. Reporting Companies may mask data if they so choose in accordance with the procedures established in the AST-4 Test Guide. Reporting Companies will rearrange their international supply plans to reflect the reduced availability of certain types of crude oil as well as certain other restrictions as indicated in the disruption telex and updating telexes and will report the new supply plan on QA submitted to the Secretariat. In addition, each NESO will compile QB from information or data received from Reporting Companies or their affiliates operating within its country and from Non-Reporting Companies operating within its country and will submit QB to the Secretariat. Some of the data submitted by companies will be unaffected by the assumed supply disruption and will therefore be actual data. Such actual data are likely to include the following:

—Inventory level changes in March 1981 and inventories at the end of March 1981, from which inventories as of March 1, 1981 can be derived (see paragraph 10(b) with respect to provision of this data to the ISAG);
—Indigenous crude/NGL production through all six months in the data base; and
—International marine bunkers.

(b) Capability of a refinery to process crude oil or specific crude oils, and the capability of a pipeline, dock or terminal or other storage or transit facility to receive, store, or throughput crude oils or specific crude oils or petroleum products or specific petroleum products.

(c) Capability of a port, installation, or waterway to receive or move vessels of various sizes and configurations.

(d) The availability of tankers, including their location, routine, size, specifications and operating characteristics.

(e) Main characteristics of crude grades and product specifications (excluding individual company crude yields and product specifications).

(f) Actual and estimated historical production data on crude oils and NGLs for individual countries.

(g) Aggregated historical country supply patterns for crude oil, NGLs and petroleum products, *e.g.*, imports by country of origin, exports to country of destination, and inventory profiles.

(h) Specific refinery considerations that prevent acceptance or release of certain crudes, *e.g.*, the inability of a refinery to process specific types of crude oil or to make certain specialty products for which the crude oil is particularly suited; the inability of a type of crude oil to meet product specifications; hazards to refinery operations which processing of a particular type of crude oil might cause; or the need for a refinery to operate at a minimum throughput level.

(i) Identification of supply logistics problems relating to certain countries or regions of countries.

(j) Identification, without disclosure of specific costs, prices or financial information, or other underlying facts, of the existence of certain individual company considerations which would preclude or make impracticable a proposed movement of oil, involving:

(i) Commercial policy;

(ii) Supply or transportation factors;

(iii) Affiliate, third-party, concessional or other contractual arrangements; or

(iv) Constraints relating to actions or policies of governments.

(k) Identification of differences between the crude oil and petroleum product supply mix and demand for products in certain countries or regions of countries.

(l) Information or data concerning voluntary offers made by Reporting Companies to supply or receive, and information or data concerning the implementation of voluntary offers which have been accepted by the Allocation Coordinator.

(m) Clarification, amplification, correction, explanation or supplementation of the types of information enumerated in (a)-(1), provided that this subparagraph (m) does not supersede any specific prohibition contained in this approval letter.

(n) Such additional information or data or types of information or data as may be needed on a timely basis in implementing the oil allocation procedures of the IEP as guided by the EMM, the ISOM and the AST-4 Test Guide, if a request for advance approval under paragraph 17 is not feasible; provided, that prompt written notice of such submission or exchange together with a description of the circumstances necessitating such submission or exchange without a request for advance approval must be given to the representatives of the Secretary of Energy, the Attorney General and the Federal Trade Commission attending the test. Approval for the continued submission or exchange of such information or data can be terminated prospectively by the Department of Energy representative of the Department of Justice representative.

10. In order to carry out the test, these information and data must be provided and exchanged on a disaggregated basis and the finding required by section 5(b)(2) of the Voluntary Agreement in this regard is hereby made, with the following limitations:

(a) During the first test cycle, U.S. ISAG personnel will examine QAs and QBs to detect supply or logistical anomalies that might indicate that an error had been made by a Reporting Company or NESO in preparing or transmitting the data. After detecting a potential supply or logistical anomaly, a U.S. ISAG member may discuss such anomaly with Secretariat personnel, members of ISAG, the Reporting Company or NESO which transmitted the anomalous QA or QB data and the Reporting Company whose data is included in a QB and which data is thought to be such an anomaly. U.S. ISAG personnel may not discuss suspected anomalies with any other persons. All discussions of anomalies among U.S. ISAG personnel and other members of ISAG must be conducted in the presence of a U.S. Government observer at AST-4. When responding to an inquiry from the ISAG member regarding such anomalies, a U.S. Reporting Company may only confirm the accuracy of the reported data, provide corrected data, or discuss with ISAG members whether the reported data accurately reflect the cycle's reallocation and the cycle's disruption scenario. Any further explanation of such anomalies may only be provided to personnel of the IEA Secretariat.

(b) Company-specific opening inventory data as of March 1, 1981, data showing inventory level changes in March 1981 and the "check total" for March 1981 as reflected in QAs and QBs shall not be made available to ISAG personnel on a routine basis, but only as necessary to solve specific supply problems when they arise. A U.S. Government observer present at the AST-4 test site may give written approval for disclosure of such data, upon receipt and consideration of a written request from the ISAG Manager of his delegate stating that access to such data is necessary.

(c) It is understood that the IEA Secretariat will not permit any disaggregated QA data of a Reporting Company, other than data submitted by the Reporting Company in AST-4, to be accessed by any other Reporting Company or ISAG representative thereof.

(d) The Experts Groups will witness the provision and exchange of these disaggregated information and data, in AST-4. The Voluntary Agreement participants and their representatives serving on the ISAG, however, may not disclose to the Experts Group any additional confidential or proprietary information or data. Section 5(b)(1) of the Voluntary Agreement may apply to certain other communications (not involving confidential or proprietary information or data) with the Experts Group by U.S. Reporting Companies or their representatives serving on the ISAG.

(e) The Deparment of Energy representative, with the concurrence of the Department of Justice representative, after consultation with the Federal Trade Commission representative at AST-4, may terminate this approval as it applies to the conduct of any supply analysis by U.S. ISAG personnel if such analysis may lead to unwarranted disclosure of competitively sensitive supply or logistical information, or have any other unwarranted anticompetitive effect.

11. This approval does not extend to provision or exchange of:

(a) Confidential or proprietary crude oil or petroleum product prices;

(b) Costs or market shares of crude oil or petroleum products (other than those which can be derived from the QA or QB data submitted during AST-4); or

(c) Individual company information regarding overall long-term investment, divestment, refining, operating, transportation or marketing programs.

12. A U.S. Reporting Company will be permitted to communicate confidential or proprietary information or data with another Reporting Company only after first cycle allocation rights and allocation obligations have been determined and communicated, and continuing until its second cycle QA has been submitted to the IEA Secretariat, and only to enable it to formulate "closed-loop" voluntary offers, to arrange the logistics needed to implement Type 2 offers, and to modify previously approved voluntary offers if necessary, for the purpose of carrying out first cycle supply reallocation measures. Type

2 transactions are those intended to balance allocation rights and allocation obligations and to alleviate differences between product demand and the available supply mix. These communications will be limited to discussions of the quality and volumes of oil that would be involved in a voluntary offer and the timing or logistics involved in effecting the physical transfer of such oil. No other confidential or proprietary information or data shall be discussed or exchanged. Prices or values of the oil shall not be discussed. Type 1 transactions are transactions made by a company to satisfy its own commercial supply, distribution or logistics needs in response to an oil supply emergency situation. Type 1 transactions will be assumed to have occurred without inter-company communications during AST-4.

13. Participation in AST-4 does not create an obligation on U.S. ISAG members or U.S. Reporting Companies to provide or exchange any information or data which may be confidential or proprietary.

14. In no case shall an employee or representative of a U.S. company participant in the Voluntary Agreement or any affiliate of a U.S. company, which affiliate is listed as a participant in the Voluntary Agreement, supply to his company or to any other person, any confidential or proprietary information or data obtained as a consequence of his membership in the ISAG or participation in any NESO, except such information or data as is necessary to be supplied in the course of carrying out AST-4 or related NESO activities. No U.S. ISAG member may remove any documents related to the test from the IEA premises, except as authorized in writing by a U.S. Government representative attending the test.

15. Copies of all QA data shall be provided on QA formats, as distinguished from telex form, to:

Ms. Catherine Monzel, Voluntary Agreement Coordinator, International Affairs, IA-11, Department of Energy, Forrestal Building, Room 7G-076, 1000 Independence Avenue, S.W., Washington, D.C. 20585; Telex No. 710-822-0176; TWX No. 710-822-0001; or

Ms. Melanie Stewart Cutler, Energy Section, Antitrust Division, Department of Justice, P.O. Box 14141, Washington, D.C. 20044; Telex No. 710-822-1907; TWX No. 710-822-1907.

16. Any confidential or proprietary information or data exchanged or furnished pursuant to the test to or by a U.S. Reporting Company or its representative serving on the ISAG shall be supplied by them, upon request, to U.S. Government observers from the Department of Energy, Department of State, Department of Justice or Federal Trade Commission. During AST-4 U.S. Government observers may obtain access to the offices of U.S. participants at the test site in Paris for the purpose of observing AST-4 related activities, reviewing records kept in conneciton with AST-4 or interviewing U.S. Reporting Company employees participating in AST-4.

17. This approval may be modified or revoked in writing by the Department of Energy representative, with the concurrence of the Department of Justice representative in consultation with the Federal Trade Commission representative, if developments during AST-4 indicate that modification or revocation is warranted. Any modification or revocation shall be in writing and conveyed to all participants in the Voluntary Agreement and the ISAG Manager or his designee. No modification or revocation shall have retroactive effect.

18. This approval of U.S. company participation in the test and of the provision of certain data and information (including the need to provide it in disaggregated form) has been the subject of consultation with the Department of State and has been concurred in by the Department of Justice, after consultation with the Federal Trade Commission, all as required by the Voluntary Agreement. Copies of correspondence reflecting our consultation with the Department of State, and the Department of Justice's concurrence in our approval, after consultation with the Federal Trade Commission, are annexed.

Operating Procedures and Requirements for Recordkeeping by U.S. Companies in the Fourth Allocation Systems Test (AST-4)

1. Introduction

The following operating procedures and requirements are in further implementation of the existing U.S. recordkeeping requirements in Section 252 of EPCA and 10 CFR Part 209 and apply to the fourth IEA Allocation Systems Test (AST-4). These operating procedures and requirements apply to U.S. Reporting Companies and to U.S. Reporting Company representatives serving on the ISAG who will be participating in the test at the Test Site.

If experience indicates the need, the U.S. Government observers at the Test Site will have discretion to allow alternative operating procedures and recordkeeping requirements consistent with Section 252 of EPCA and existing regulations.

2. Definitions

For purposes of these requirements the following definitions apply:

(a) "Communication" means any written or unwritten disclosure, provision or exchange of data or information (excluding administrative, procedural, or ministerial data or information), not subject to attorney-client privilege, in or relating to the carrying out of AST-4.

(b) "Test Site" means that space in IEA headquarters designated by the Allocation Coordinator as the work area in which AST-4 shall be conducted.

(c) "Test Site Communication" means any unwritten face-to-face Communication occurring on the Test Site, other than in a Test Meeting.

(d) "Test Site Telephone Communication" means any telephonic Communication received at or sent from the Test Site.

(e) "Off-Site Communication" means any unwritten face-to-face or telephonic Communication which does not occur on the Test Site.

(f) "Test Meeting" means the following group meetings held on the Test Site (with or without IEA Secretariat participation):

(i) Meetings of the entire ISAG;

(ii) Meetings of the ISAG's Country Supply, Supply Coordination or Supply Analysis subgroups; or

(iii) Meetings of the ISAG Manager and/or Deputy Manager with ISAG subgroup heads.

3. U.S. Government Monitoring and Recordkeeping at the Test Site

(a) A U.S. Government observer shall be present throughout all Test Meetings, and may be present at the Test Site during any other Communications. It is intended that a U.S. Government observer will be present continuously at the Test Site to monitor Test Meetings, Communications, work sessions and individual work by Reporting Company representatives serving on the ISAG: (i) During such regular work hours as ISAG adopts; and (ii) at any extraordinary hours if given reasonable advance notice. U.S. Reporting Company representatives serving on the ISAG may: (i) engage in individual work or in Communications other than Test Site Communications or Communications in Test Meetings, even if no U.S. Government observer is present at the Test Site; or (ii) engage in Test Site Communications despite the absence of a U.S. Government observer at the Test Site if reasonable advance notice of such Communications has been given to the U.S. Government observers, or if reasonable advance notice cannot be given; provided, that adequate records of such Communications and, with respect to (ii), of the circumstances concerning notice given or of the circumstances which necessitated such Communications without reasonable advance notice, are made by the U.S. Reporting Company representatives serving on the ISAG.

(b) Test Meetings shall be monitored by a U.S. Government observer, who shall be responsible for keeping a written record of each session, or for ensuring that a verbatim transcript is made. Failure of the U.S. Government to maintain a full and complete written record shall not vitiate the antitrust defense accorded by Section 252 of EPCA unless such failure is due to the willful act of a U.S. Reporting Company representative serving on the ISAG or of a U.S. Reporting Company.

(c) U.S. Government observers shall be permitted to be present during any test activities, including Communications, involving a U.S. Reporting Company representative serving on the ISAG, except Communications between an individual U.S. Reporting Company representative serving on the ISAG and his legal counsel.

4. Unwritten Communications Involving U.S. Reporting Company Representatives Serving on the ISAG

(a) These recordkeeping requirements for unwritten Communications apply to Test Site Communications, Test Site Telephone Communications, and Off-Site Communications by or to U.S. Reporting Company representatives serving on the ISAG, including Communications with members of the Industry Advisory board or the Experts Group, but excluding Communications with the IEA Secretariat, members of the SEQ Emergency Group, or the U.S. NESO.

(b) All unwritten Communications of U.S. Reporting Company representatives serving on the ISAG which relate to AST-4 shall occur on the Test Site except when circumstances make an Off-Site Communication necessary, *i.e.*, when a need for an immediate Communication arises unexpectedly or after normal working hours or otherwise makes a return to the Test Site impracticable or unreasonable, or when time zone differences involved in necessary Communications otherwise would require early morning arrival or late nite stay at the Test Site.

(c) Except when a U.S. Government observer present agrees to make the record, a U.S. Reporting Company representative serving on the ISAG shall make a full and complete record of any Test Site Communication, Test Site Telephone Communication on Off-Site Communication, by means of entering in a standardized log the date, time, identity of the parties (by name and organization) and a description of the transaction or information or data discussed, including identification of any problem involved and any conclusions reached or recommendations made. In the case of an Off-Site Communication, he also shall state the special circumstances necessitating this Communication; and in the case of a Test Site Communication occurring in the absence of a U.S. Government observer from the Test Site, he also shall state the circumstances concerning reasonable advance notice given to the U.S. Government observers, or the circumstances which necessitated such Communication without reasonable advance notice.

(d) When a U.S. Reporting Company representative serving on the ISAG has been assigned to a joint work session to solve a specific identified problem, the overall subject matter of which already is contained in a full and complete record of a Test Meeting, the result of which work session will be reported at a meeting where a full and complete record will be maintained, then notwithstanding subsection (c), the record of such session to be kept by the U.S. ISAG representative need only include the date, time and identity of the parties and a brief indication of the substance of the discussion during the work session, with a reference to the Test Meeting where it was more fully discussed.

(e) When a U.S. Reporting Company representative serving on the ISAG communicates with an individual in a NESO, he shall ascertain whether the NESO individual normally is employed by an oil company, and if so the identity of that company should be recorded in the log kept pursuant to Section 4(c).

(f) When more than one U.S. Reporting Company representative serving on the ISAG is involved in a Communication, the representatives may designate who shall make and supply the record. Non-U.S. Reporting Company representatives serving on the ISAG may agree to furnish the records of Communications with U.S. Reporting Companies and with U.S. Reporting Company representatives serving on the ISAG which are otherwise required to be furnished by the U.S. Reporting Companies or their representatives on the ISAG, if such records are kept in the required form and supplied to a U.S. Government observer in accordance with these requirements, and if the U.S. Reporting Companies or their representatives involved so agree.

5. Disposition of Records Made and Documents Prepared or Received at the Test Site by U.S. Reporting Company Representatives Serving on the ISAG

(a) Each U.S. Reporting Company representative serving on the ISAG shall provide to a U.S. Government observer at the Test Site, within three working days of the first day it covers, a copy of any log kept pursuant to Section 4(c), and within one working day of the occurrence, a copy of any other written Communication which he prepares or receives that relates to the carrying out of AST-4.

(b) The requirement imposed by paragraph (a) of this Section may be waived by the U.S. Government observers at the Test Site, to the extent that the IEA Secretariat agrees to provide copies of such Communications to the U.S. Government observers in accordance with these requirements.

6. U.S. Government Monitoring at U.S. Reporting Company Offices

(a) U.S. Government observers shall be permitted to interview all U.S. Reporting Company employees engaged in AST-4 activities at Reporting Company offices upon reasonable advance notice to the U.S. Reporting Company involved. Any interviewed employee may have counsel present.

(b) U.S. Government observers shall be permitted to examine and copy, at company headquarters during normal business hours and upon reasonable notice to the Reporting Company involved, any Communication, or any document or other information source not subject to attorney-client privilege, in the possession of a U.S. Reporting Company, concerning the carrying out of AST-4 activities.

7. Recordkeeping Requirements for U.S. Reporting Companies

(a) A U.S. Reporting Company promptly shall make a full and complete record of the following Communications or documents (excluding documents which are administrative, procedural or ministerial in nature) and shall maintain such records and records of any other of the following documents (other than those which are administrative, procedural or ministerial in nature) which relate to the carrying out of AST-4:

(i) Intra-corporate documents, not subject to attorney-client privilege, including telexes received and sent, memoranda concerning intra-company discussions of hypothetical sales or exchanges, documentation concerning actions requested by the ISAG or proposed by a Reporting Company, and any other documents generated by the test;

(ii) Communications with Reporting Company representatives serving on the ISAG, including any of its own representatives serving on the ISAG, except when the Reporting Company has agreed with the ISAG or with a Reporting Company representative serving on the ISAG that the record of the Communication will be made and provided to U.S. Government observers at the Test Site, by ISAG or by the Reporting Company representative;

(iii) Communications with another company or with the IEA Secretariat, including Communications with respect to developing or implementing a voluntary offer; and

(iv) Communications with the Experts Group.

(b) Records of unwritten Communications should be made by U.S. Reporting Companies in the manner described in Section 4 for U.S. Reporting Company representatives serving on the ISAG.

8. Disposition of Records by Reporting Companies

(a) Each U.S. Reporting Company within two weeks of preparation shall forward copies of all records required by Section 7 to an appropriate office at company headquarters, where they shall be maintained for five years separately from other company records. These records may be subject to U.S. Government examination during and after AST-4.

(b) Each U.S. Reporting Company shall send to the Department of Energy, the Department of Justice and the Federal Trade Commission, within seven days after the close of the week (ending Saturday) of the Communications recorded thereunder, records required to be made and maintained under Sections 7(a) (ii), (iii) and (iv), except that records of unwritten Communications with another company shall be sent no later than the close of the week (ending Saturday) of the Communications recorded. Any portions of such records which are believed not to be subject to public disclosure should be specified. If possible, copies of Communications by U.S. Reporting Companies shall be sent to the U.S. Government simultaneously with and by the same means of transmission used to send the original. In the case of a voluntary offer a "clear" rather than a coded copy should be sent.

9. Reports of Actions Taken

(a) Under the Voluntary Agreement, U.S. Reporting Companies must report to the U.S. Government actions taken pursuant to a plan of action. Therefore, for the purposes of AST-4, each U.S. Reporting Company shall report to the Departments of Energy and Justice and the Federal Trade Commission, actions and hypothetical actions taken as part of the test, such as voluntary offers accepted, and reallocations of supply in response to accepted voluntary offers. Communications with respect to developing or implementing a voluntary offer are to be reported under Section 8(b).

(b) A report shall be submitted within seven days of the end of the week (ending Saturday) in which the action was taken.

(c) The style and content of a report are left to the discretion of the individual U.S. Reporting Company. It can be submitted in any fashion a company believes will best reflect what it has done. In the case of voluntary offers, the record should include

substantially all of the material terms contained in the voluntary offer itself.

10. Reporting Addresses

Reports and records required hereunder to be sent to U.S. Government agencies should be addressed to:

Ms. Catherine Monzel, Voluntary Agreement Coordinator, International Affairs, IA-11, Department of Energy, Forrestal Building, Room 7G-076, 1000 Independence Avenue, S.W., Washington, D.C. 20585; Telex No. 710-822-0176, TWX No. 710-822-0001;

Ms. Melanie Stewart Cutler, Energy Section, Antitrust Division, Department of Justice, P.O. Box 14141, Washington, D.C. 20044; Telex No. 710-822-1907, TWX No. 710-822-1907; or

Mr. Harvey Blumenthal, Federal Trade Commission/CS-4, Washington, D.C. 20580.

[FR Doc. 83-7356 Filed 3-18-83; 8:45 am]

BILLING CODE 6450-01-M

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice 1]

Agency Forms Submitted for OMB Review

AGENCY: Export-Import Bank of the United States.

ACTION: In accordance with the provisions of the Paperwork Act of 1980, Eximbank has submitted a proposed collection of information to the Office of Management and Budget for Review.

Purpose: The proposed form is to be used by commercial banks participating in Eximbank's guarantee program. The collection will provide Eximbank with the information necessary to evaluate the transaction and to assure that relevant statutory programs are met.

Summary: The following summarizes the information collection proposal submitted to OMB:

(1) Type of request—new.

(2) Number of forms submitted—one.

(3) Form number—EIB No. 73-1.

(4) Title of information collection—Application and Supplementary Agreement to the Export-Import Bank of the United States.

(5) Frequency of Use—Upon request by a commercial bank for a guarantee of loan.

(6) Respondents—Commercial banks throughout the United States.

(7) Estimated number of responses—635.

(8) Estimated total number of hours needed to fill out form—159. Section 3504(h) of Pub. L. 96-511 does not apply.

Additional Information or Comments: Copies of the proposed format and supporting documents may be obtained from Adrian B. Wainwright, Agency Clearance Officer, (202) 566-8111. Comments and questions should be directed to (OMB) Francine Picoult, (202) 395-7231.

Dated: March 16, 1983.

Adrian B. Wainwright,

Agency Clearance Officer.

[FR Doc. 83-7286 Filed 3-18-83; 8:45 am]

BILLING CODE 6690-01-M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 83-149, et al.]

Allen Broadcasting Corp. et al.; Hearing

Adopted: February 28, 1983.

Released: March 3, 1983.

In re applications of Allen Broadcasting Corporation, Honolulu, Hawaii, MM Docket No. 83-149, File No. BPCT-820901KM; Janesville Broadcasting Company, Honolulu, Hawaii, MM Docket No. 83-150, File No. BPCT-821108KE; for construction permit; designating applications for consolidated hearing on stated issues.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Allen Broadcasting Corporation (Allen) and Janesville Broadcasting Company (Janesville) for authority to construct a new commercial television broadcast station on Channel 32, Honolulu, Hawaii.

2. On February 10, 1983, Janesville filed an amendment to its application stating that the transmitter and tower site proposed may no longer be available. An appropriate issue will be specified.

3. No determination has been reached that the tower height and location proposed by Janesville would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

4. Section 73.682(a)(15) of the Commission's Rules states that the effective radiated power of the aural transmitter shall not be less than 10 percent nor more than 20 percent of the peak radiated power of the visual transmitter. Janesville's aural power is 100% of the visual. The applicant will be required to correct this situation by an appropriate amendment.

5. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issue specified below.

6. Accordingly, *it is ordered,* That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications *are designated for hearing in a consolidated proceeding,* before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Janesville, whether there is reasonable assurance that its specified transmitter site will be available.

2. If issue one is answered in the affirmative, to determine whether there is a reasonable possibility that the tower height and location proposed by Janesville would constitute a hazard to air navigation.

3. To determine which of the proposals would, on a comparative basis, better serve the public interest.

4. To determine, in light of the evidence adduced pursuant to the foregoing issue, which of the applications should be granted.

7. *It is further ordered,* That the Federal Aviation Administration is made a party respondent with respect to Issue 2.

8. *It is further ordered,* That Janesville shall submit, pursuant to § 73.682(a)(15) of the Commission's Rules, to the presiding Administrative Law Judge within 20 days after the date of release of this Order, an appropriate engineering amendment to correct the aural effective radiated power.

9. *It is further ordered,* That to avail themselves of the opportunity to be heard, the applicants and the party respondents herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

10. *It is further ordered,* That the applicant herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594, of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rules, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

Laurence E. Harris,

Chief, Mass Media Bureau.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 83-7233 Filed 3-18-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-134, et al.]

Educational Television of Houston, Inc., et al.; Hearing

Adopted: February 25, 1983
Released: March 3, 1983.

In re applications of Educational Television of Houston, Inc., Houston, Texas; MM Docket No. 83-134, File No. BPET-820305KF; Amerivision Corporation, Houston, Texas; MM Docket No. 83-135, File No. BPET-820510KT; Texas Educational Network, Inc., Houston, Texas; MM Docket No. 83-136, File No. BPET-820510KU; for Construction permit: designating applications for consolidated hearing on stated issues.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications of Educational Television of Houston, Inc. (ETH), Amerivision Corporation (Amerivision) and Texas Educational Network, Inc. (TENI) for authority to construct a new non-commercial educational television station on Channel 14, Houston, Texas.[1]

2. Due to the adjacency of Channel 14 to frequencies used by land mobile radio services, a Channel 14 permittee that inadequately suppresses its secondary emissions could cause interference to land mobile radio services. *See* Section 73.687(i)(l) of the Commission's Rules. Accordingly, the grant of a construction permit to any of the applicants will be conditioned to require the permittee to take adequate measures, prior to program test authority, to prevent interference to land mobile radio stations in the 460-470 MHz band.

3. Since we have not received a determination from the Federal Aviation Admnistration that the tower height and location proposed by ETH and Amerivision would not constitute a hazard to air navigation, and issue regarding this matter will be specified.

4. The material submitted in Amerivision's and TENI's applications does not demonstrate the applicants' financial qualifications.[2] Although the financial standards are unchanged, the Commission is changing FCC Form 340 to require only certification as to financial qualifications.[3] Accordingly, the applicants will be given 30 days from the date of release of this Order to review their financial proposals in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the same manner as called for in the December 13, 1982 Public Notice, as to their financial qualifications. If either applicant cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify and appropriate issue.

5. Applicants for new broadcast stations are required by Section 73.3580 of the Commission's Rules to give local notice of the filing of their applications. They must then file with the Commission certification of compliance with the requirements as described in § 73.3580(h). We have no evidence that TENI has published the required local notice. To remedy this, TENI will be required to file with the presiding Administrative Law Judge certification of compliance with § 73.3580 within 30 days after release of this Order.

6. TENI proposes a transmitter site 59 miles from the site of the station authorized to Texas Gulf Communications, Inc. to operate on Channel 21, Nederland, Texas, whereas § 73.610 of the Rules requires a minimum separation of 60 miles, producing a one-mile short-spacing. The applicant has requested a waiver of § 73.610, but has offered no reasons to support its waiver request. Applicants proposing short-spacing sites must make the threshold showing that fully-spaced sites are not available. TENI has not done so. Since ETH and Amerivision have each specified a fully-spaced site, we cannot assume that no fully-spaced sites are available to TENI. Accordingly, an appropriate issue will specified.

7. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

8. Accordingly, *it is ordered,* That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications *are designated for hearing in a consolidated proceeding* to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Educational Television of Houston, Inc. and Amerivision Corporation, whether there is a reasonable possibility that the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine with respect to Texas educational Network, Inc. whether the application is consistent with § 73.610 of the Commission's Rules and, if not, whether circumstances exist which would warrant a waiver of the Rule.

3. To determine the extent to which each applicant's proposed operation will be integrated into the overall cultural and educational objectives of the respective applicants;

4. To determine the manner in which each applicant's proposed operation meets the needs of the community to be served;

5. Whether the factors in the record demonstrate that one applicant will provide a superior non-commercial broadcast service.

6. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

9. *It is further ordered,* That, in the event of a grant of any of the applications, the construction permit shall contain the following condition:

During equipment tests, authorized by § 73.1610 of the Commission's Rules, the permittee shall take adequate measures to identify and substantially eliminate objectionable interference which may be caused to existing land mobile radio facilities in the 460-470 MHz band. Documentation that objectionable interference will not be caused to existing land mobile radio facilities shall be submitted along with the application for license and the appropriate request for program test authority.

10. *It is further ordered,* That the Federal Aviation Administration *is made a party respondent* to this proceeding with regard to Issue 1.

11. *It is further ordered,* That Amerivision Corporation and Texas Educational Network, Inc. shall each submit a financial certification in the same form as required by Section III,

---

[1] ETH filed a "Petition for Leave to Amend" on July 12, 1982, accompanied by an amendment updating information as to the terms of credit by RCA. Also, on September 24, 1982, TENI filed a "Petition for Leave to Amend" which updates Section II, pursuant to Section 1.65 of the Commission Rules. For good cause shown, both petitions are granted and the respective amendments accepted for filing.

[2] Amerivision did not file its balance sheet or equipment letter. The bank requires a pledge of TENI's assets and guaranties of principals; however, the principals have not indicated a willingness to furnish such guaranties.

[3] In the interim, non-commercial educational TV applicants will be allowed to certify. Public Notice released December 13, 1982 FCC 82-557.

F.C.C. Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate.

12. *It is further ordered,* That Texas educational Network, Inc. shall file certification with the presiding Administrative Law Judge that it has or will publish local notice of the filing of its application within 30 days after the date of release of this Order.

13. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

14. *It is further ordered,* That the applicants herein shall pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules give notice of the hearing within time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.2594(g) of the Rules.

Federal Communications Commission.

Laurence E. Harris,

Chief, Mass Media Bureau.

Roy J. Stewart,

Chief, Video Services Divisions, Mass Media Bureau.

[FR Doc. 83-7232 Filed 3-18-83; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 83-174, et al.]

Margarette Kathelene Wamsley et al.; Hearing

Adopted: February 23, 1983.
Released: March 8, 1983.

In re applications of; Margarette Kathelene Wamsley, Roy, Utah; Req: 107.9 MHz, Channel 300C, 100k W (H&V), 1740 feet; MM Docket No. 83-174, File No. BPH-810420AD; Robert L. Wikstrom, Roy, Utah; Req: 107.9 MHz, Channel 300C, 49kW (H&V), 2360 feet; MM Docket No. 83-175, File No. BPH-810817AH; Roy Broadcasters, Inc., Roy Utah; Req: 107.9 MHz, Channel 300C, 68kW, (H&V), 2370 feet; MM Docket No. 83-176, File No. BPH-810818AI; Faith Communications Corporation, Roy, Utah; Req: 107.9 MHz, Channel 300C, 100 kW (H&V), 1260 feet; MM Docket No. 83-177, File No. BPH-810819BT; for construction permit for a new FM station; designating applications for consolidated hearing on stated issues.

By the Chief, Mass Media Bureau.

1. The Commission, by the Chief, Mass Media Bureau, acting pursuant to delegated authority, has under consideration the above-captioned mutually exclusive applications filed by Margarette Kathelene Wamsley (Wamsley), Robert L. Wikstrom (Wikstrom), Roy Broadcasters, Inc., (RBI), and Faith Communications Corporation (Faith).

2. *Wikstrom.* Wikstrom's balance sheet does not segregate current liabilities from long-term liabilities. Accordingly, we must assume that all liabilities shown are current. Since these liabilities exceed current assets, we find no funds available from this source. In addition, the balance sheet is more than 90 days old. Moreover, Wikstrom did not include any lease agreements for the equipment, land and buildings. Therefore, the material submitted in Wikstrom's application does not demonstrate his financial qualifications. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, Wikstrom will be given 30 days from the release of this Order to review his financial proposal in light of Commission requirements, to make any changes that may be necessary and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to his financial qualifications. If Wikstrom cannot make the required certification, he shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.,* BC Docket No. 82-378.

3. Applicants for new broadcast stations are required by § 73.3580 of the Commission's Rules to give local notice of the filing of their applications. They must then file with the Commission the statement described in Section 73.3580(h) of the Rules. We have no evidence that Wikstrom published the required notice. To remedy this deficiency, Wikstrom will be required to publish local notice of his application, if he has not already done so, and to file a statement of publication, within 30 days of the release of this Order, with the presiding Administrative Law Judge.

4. Wikstrom's proposal constitutes a major environmental action, as defined by Section 1.1305(a) of the Commission's Rules, since his tower will exceed 300 feet in height above ground. Therefore, a proposal to construct such a tower must include a narrative statement containing environmental information specifically requested under Section 1.1311 of the Communication's Rules. Wikstrom attempts to incorporate by reference environmental information contained in another application. In accordance with Instruction E of the application form, if an applicant wishes to incorporate by reference, it must identify that application by file number and filing date, and the page or exhibit referred to. Where possible, the call letters of the station should also be given. However, with reference to the application file number given by Wikstrom, our data base shows that this application was dismissed on September 1, 1981. Therefore, it will be necessary for Wikstrom to file an amendment with the presiding Administrative Law Judge, within 30 days of the release of this Order.

5. Wikstrom has not submitted a description in narrative form of the programming service relating to the issues of public concern facing his proposed service area. See *Deregulation of Radio,* 84 FCC 2d 968, 999 (1981). Accordingly, it will be necessary for the applicant to file an amendment with the presiding Administrative Law Judge, within 30 days of the release of this Order.

6. Vincent L. Hoffart (Hoffart) has filed an informal objection as a "concerned citizen" against Wikstrom's application. Although FCC Form 301 requires an applicant to list his other media interests, Hoffart alleges that Wikstrom has failed to: (i) list himself as an officer of Great American Radio Corp. (KCKO), Spokane, Washington, (ii) Give the date of his acquisition of Great American Radio Corp. stock, (iii) reveal his directorship in Sevier Valley Broadcasting Co. (KSVC(AM) and KKWZ(FM), Richfield, Utah) and (iv) mention the application for a new FM station filed by Metropolitan School of the Bible, Edmunds, Washington, although he is listed as the president. An examination of Wikstrom's application and other information before us reveals that while Wikstrom's application lists interests in applications for new FM stations at Olympia, Washington and at Sweet Home, Oregon, it does not contain any reference to whether he was an officer and/or director of Metropolitan School of the Bible [1] and Sevier Valley Broadcasting Co. In addition, although Wikstrom lists having a 14.5% interest in Great American Radio Corp., which he later sold, the application makes no mention of the date he acquired the stock or the fact that he was an officer and/or director of this corporation. Accordingly, an issue

[1] The Sweet Home application was dismissed on January 8, 1982 and the Edmond's application was returned on December 15, 1981 as unacceptable for filing.

will be specified to determine if Wikstrom failed to disclose all the information called for by Section II, Items 17 and 18 of FCC Form 301 (June 1977) and, if so, the effect of the non-disclosure on his qualifications to be a Commission licensee.

7. *RBI.* RBI's bank letter fails to comply with Paragraph 4(e) of Section III in that it does not specify the terms of repayment or the interest rate of the loan. In addition, although the loan will require the personal guarantees of stockholders, RBI has not submitted a statement establishing their willingness to guarantee the loan, as required by Paragraph 4(e) of Section III. Therefore, the material submitted in RBI's application does not demonstrate its financial qualifications. Although the financial standards are unchanged, the Commission has changed the application form to require only certification as to financial qualifications. Accordingly, RBI will be given 30 days from the release of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in revised Section III, Form 301, as to its financial qualifications. If RBI cannot make the required certification, it shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82-378.

8. RBI's proposal consitutes a major environmental action, as defined by § 1.1305(a) of the Commission's Rules, since its tower will exceed 300 feet in height above ground. Therefore, a proposal to construct such a tower must include a narrative statement containing environmental information specifically requested under Section 1.1311 of the Commission's Rules. RBI attempts to incorporate by reference environmental information contained in another application. In accordance with Instruction E of the application form, if an applicant wishes to incorporate by reference, it must identify that application by file number and filing date, and the page or exhibit referred to. Where possible, the call letters of the station should also be given. However, with reference to the application file number given by RBI, our data base shows that this application was dimissed on September 1, 1981. Therefore, it will be necessary for RBI to file an amendment with the presiding Administrative Law Judge, within 30 days of the release of this Order.

9. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

10. The applicants are qualified to construct and operate as proposed. However, since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

11. Accordingly, *it is ordered,* That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications *are designated for hearing in a consolidated proceeding,* at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether Wikstrom failed to disclose all the information called for by Section II, Items 17 and 18 of FCC Form 301 and, if so, the effect thereof on the applicant's basic and/or comparative qualifications.

2. To determine which of the proposals would, on a comparative basis, best serve the public interest.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issue, which, if any, of the applications should be granted.

12. *It is further ordered,* That Wikstrom shall file a statement with the presiding Administrative Law Judge showing compliance with the public notice requirements of § 73.3580 of the Commission's Rules within 30 days of the release of this Order.

13. *It is further ordered,* That Wikstrom shall file an amendment with the presiding Administrative Law Judge outlining his proposed programming service relating to the issues of public concern facing his proposed service area, within 30 days of the release of this Order.

14. *It is further ordered,* That both Wikstrom and RBI shall, within 30 days of the release of this Order, submit financial certifications in the form required by Section III, FCC Form 301, or advise the presiding Administrative Law Judge that the certification cannot be made, as may be appropriate.

15. *It is further ordered,* That both Wikstrom and RBI shall submit environmental narrative statements with the presiding Administrative Law Judge, pursuant to § 1.1311 of the Commission's Rules, within 30 days of the release of this Order.

16. *It is further ordered,* That Vicent L. Hoffart is made a party to this proceeding with respect to Issue one only.

17. *It is further ordered,* That the Petitions for Leave to Amend, filed by Faith Communications Corporation, are granted and the accompanying amendments are accepted.

18. *It is further ordered,* That, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

19. *It is further ordered,* That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594(g) of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 73.3594(g) of the Rules.

Federal Communications Commission.

Laurence E. Harris,

Chief, Mass Media Bureau.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 83-7231 Filed 3-18-83; 8:45 am]

BILLING CODE 6712-01-M

Public Information Recordkeeping Requirement Submitted to Office of Management and Budget for Review

On March 8, 1983 the Federal Communications submitted the following information recordkeeping requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of this submission are available from Richard D. Goodfriend, Agency Clearance Officer, (202) 632-7513. Comments should be sent to Edward H. Clarke, Office of Management and Budget, OIRA, Room 3201 NEOB, 726 Jackson Place, NW., Washington, D.C. 20503.

Title: Temporary Permit to Operate a General Mobile Radio Service System.

Form No.: FCC 574-T.

Action: New.

Respondents: Individuals, associations, partnerships and corporations eligible to hold a radio station authorization in the General Mobile Radio Service.

Estimated Annual Burden: 3,000 Responses; 300 Hours.

The temporary permit is completed and retained by the applicant. It is valid for 180 days from the date FCC Form 574 is mailed to the FCC.

Dated: March 15, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-7234 Filed 3-18-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Formation of Bank Holding Companies; Bank of Southside Virginia Corp. et al.

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 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 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 Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *The Bank of Southside Virginia Corporation,* Carson, Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of The Newco Bank, Carson, Virginia (successor by merger to The Bank of Southside Virginia). Comments on this application must be received not later than April 14, 1983.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Merchants and Planters Corporation,* Newport, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Merchants and Planters Bank, Newport, Tennessee. Comments on this application must be received not later than April 14, 1983.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis Missouri 63166:

1. *GCB Bancshares, Inc.,* Sheridan, Arkansas; to become a bank holding company by acquiring 80 percent of the voting shares of Grant County Bank, Sheridan, Arkansas. Comments on this application must be received not later than April 14, 1983.

D. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota. 55480:

1. *Hamburg Financial, Inc.,* Edina, Minnesota; to become a bank holding company by acquiring 94.5 percent of the voting shares of State Bank of Hamburg, Hamburg, Minnesota. Comments on this application must be received not later than April 13, 1983.

Board of Governors of the Federal Reserve System, March 15, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-7206 Filed 3-18-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by a Bank Holding Company; First National of Nebraska, Inc.

The company listed in this notice has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated. With respect to the application, interested persons may express their views in writing to the address indicated. 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. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *First National of Nebraska, Inc.,* Omaha, Nebraska; to acquire 92.6 percent of the voting shares or assets of Valley State Bank, Yankton, South Dakota. Comments on this appliction must be received not later than April 14, 1983.

Board of Governors of the Federal Reserve System, March 15, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-7205 Filed 3-18-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities; Manufacturers Hanover Corp.

The organizations identified 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 these applications, 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 comment 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.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing 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.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Manufacturers Hanover Corporation,* New York, New York

(industrial bank activities; Colorado): To engage through its indirect subsidiaries, Continental Industrial Bank, Continental Merchants Industrial Bank, North Continental Industrial Bank, Southglenn Continental Industrial Bank, First Continental Industrial Bank, and South Continental Industrial Bank, in offering NOW Accounts, Money Market Deposit Accounts, and transaction accounts as permitted under state law. These activities will be conducted from offices in Denver, Westminster, Littleton and Englewood, Colorado, serving the Denver Metropolitan Area. Comments on this application must be received not later than April 6, 1983.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *BancOhio Corporation,* Columbus, Ohio (financing and servicing activities; Ohio and Kentucky): To engage, through its subsidiary, BancOhio Mortgage Company, in making, acquiring or servicing for its own account or for the account of others, all types of residential and commercial mortgage loans and other extensions of credit (including issuing letters of credit and accepting drafts) and other such activities as are incidental thereto. These activities will be conducted from offices in Akron and Newark, Ohio, serving the entire states of Ohio and Kentucky. Comments on this application must be received not later than April 7, 1983.

C. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Southern Bancorporation, Inc.,* Greenville, South Carolina (consumer finance activities; Oklahoma): To engage through its subsidiary, World Acceptance Corporation in the following activities: making extensions of credit as a licensed consumer finance lender. Such activities will be conducted from an office in Sand Springs, Oklahoma, serving the approximate city limits of Sand Springs and certain other parts of Tulsa County within a ten mile radius of Sand Springs. Comments on this application must be received not later than April 14, 1983.

2. *Southern Bancorporation, Inc.,* Greenville, South Carolina (consumer finance activities; Oklahoma): To engage through its subsidiary, World Acceptance Corporation in the following activities: making extensions of credit as a licensed consumer finance lender. Such activities will be conducted from an office in Tulsa, Oklahoma, serving the approximate city limits of Tulsa and certain other parts of Tulsa County within a ten mile radius of Tulsa. Comments on this application must be received not later than April 14, 1983.

3. *Southern Bancorporation, Inc.,* Greenville, South Carolina (consumer finance activities; Oklahoma): To engage through its subsidiary, World Acceptance Corporation in the following activities: Making extensions of credit as a licensed consumer finance lender. Such activities will be conducted from an office in Sapulpa, Oklahoma, serving the approximate city limits of Sapulpa and certain other parts of Creek County and Tulsa County within a ten mile radius of Sapulpa. Comments on this application must be received not later than April 14, 1983.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Mustang Financial Corporation,* Rio Vista, Texas, (financing activities; Texas): To engage, through its subsidiary, Mustang Credit corporation, in consumer and commercial finance activities, including the extensions of direct loans to consumers, the discount of retail and installment notes or contracts, and other extensions of credit such as would normally be made by a finance company. These activities would be conducted from an office in Cleburne, Texas, primarily serving Johnson County, Texas, and occasionally serving persons who live outside of Johnson County. Comments on this application must be received not later than April 12, 1983.

Board of Governors of the Federal Reserve System, March 15, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-7207 Filed 3-18-83; 8:45 am]

BILLING CODE 6210-01-M

GOVERNMENT PRINTING OFFICE

Depository Library Council To the Public Printer; Meeting

The Depository Library Council to the Public Printer will meet during the period April 27-29, 1983 at the Sheraton National Hotel, Arlington, Virginia.

The purpose of this meeting is to discuss the Depository Library Program.

The meeting will be open to the public. Anyone who wishes to attend should notify the Director, Library Programs Service, Government Printing Office, Washington, D.C. 20401 (telephone: (703) 557-2050).

General participation by members of the public, or questioning of Council members or other participants, shall be permitted with the approval of the Chair.

Dated: March 11, 1983.

William J. Barrett,

Deputy Public Printer.

[FR Doc. 83-7262 Filed 3-18-83; 8:45 am]

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Availability of Funds for Maternal and Child Health

AGENCY: Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) announces that funds are now available for grants for carrying out the following activities: special projects of regional and National significance; maternal and child health research and training; genetic disease testing, counseling and information projects; and hemophilia diagnostic and treatment centers. Awards will be made under the authority of Section 502(a) of the Social Security Act, as amended by the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35), which is commonly referred to as the Maternal and Child Health (MCH) Federal Set-Aside Program. Because of the diverse nature of the section 502(a) grants and of their varying funding cycles, HRSA, through this notice, invites potential applicants to inquire about specific application requirements for the particular grant in which they are interested and then to make their applications for funding.

FOR FURTHER INFORMATION CONTACT: Potential applicants wishing to inquire about possible grant support should address their inquiries in writing to the Office of the Director, Division of Maternal and Child Health, Bureau of Health Care Delivery and Assistance, Room 6-05, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301 443-2170.

DATE: Dates by which applications must be received differ for the several categories of grants, but range from May 1 to August 1, 1983. Specific information on filing deadlines will be included in the program guidelines which will be mailed to interested applicants as part of the application materials. Interested applicants should make their inquiries to the address above as soon as possible.

SUPPLEMENTARY INFORMATION: The Omnibus Budget Reconciliation Act of 1981 revised Title V of the Social Security Act to establish the Maternal

and Child Health Services Block Grant. Between 10 and 15 percent of the funds appropriated for Title V in each fiscal year are to be retained by the Secretary for the award of grants for the purposes specified above. These programs were previously supported under sections 503(2), 504(2), 511 and 512 of the Social Security Act and under sections 1101 and 1131 of the Public Health Service Act as in effect prior to the enactment of Pub. L. 97–35.

Approximately $15 million is anticipated to be available for support of new and competitive renewal projects. Of the $15 million available, approximately $2.5 million has been allocated for training, $2.2 million for research, $2.5 million for genetics, $1.2 million for hemophilia, and $6.6 million for other special projects.

A Notice of Proposed Rulemaking (NPRM) proposing rules for implementing this set-aside program was published on January 12, 1983 (48 FR 1323). That NPRM proposes revising 42 CFR Part 51a (Grants for Maternal and Child Health and Crippled Childrens Services), Part 51d (Grants for Service Projects for Genetic and Other Diseases), and Part 51f (Project Grants for Genetic Diseases Testing and Counseling Programs) by eliminating repetitive and unnecessary provisions in those regulations and by providing for a single regulation to govern the various grants included in the set-aside program. The comment period on the NPRM ended on February 11, 1983.

On June 25, 1982, 42 CFR Parts 51a, 51d, and 51f, which were initially issued under the authorities of Title V of the Social Security Act and sections 1101 and 1131 of the Public Health Service Act, as in effect prior to the 1981 Public Law 97–35 amendments, were amended to make them applicable to grants awarded under the new section 502(a) authority (see 47 FR 27824). The preamble to that amending documents states that until a concise new regulation governing the set-aside grant program can be developed, the amended regulations issued under the former categorical authorities (42 CFR Parts 51a, 51d and 51f) are to govern to award of set-aside funds. However, the Department notes that 42 CFR Part 51a was removed from the Code of Federal Regulations effective October 1, 1982 (see 47 FR 48593).

In terms of what types of entities may apply for the various types of set-aside grants, it should be noted that the statute at section 502(a)(2) provides that training grants may be made only to public or nonprofit private institutions of higher learning and that research grants may be made only to public or nonprofit private institutions of higher learning or to nonprofit agencies and organizations engaged in research or in maternal and child health or crippled children's programs. Under the applicability provisions of 42 CFR Part 51d, governing comprehensive hemophilia diagnostic and treatment center grants, only public and nonprofit private entities are eligible to receive such grants (see 42 CFR 51d.101). Similarily, with respect to genetic diseases testing and counseling program grants, only public and nonprofit private entities are eligible to receive such grants (see 42 CFR 51f.103). There are no statutory or regulatory limitations on the type of entity which may apply for special project grants of regional and national significance.

All requests for application information must be in writing and must specify clearly the type of applicant organization or agency, the specific type of project for which information is desired, and a brief one paragraph description of the activity for which support will be requested. It is essential that all interested applicants responding to this announcement specify either research, training, genetic disease testing, counseling and information, hemophilia diagnostic and treatment centers or special projects of regional and national significance as the primary purpose of their application.

The MCH program is listed as No. 13.110 in the OMB *Catalog of Federal Domestic Assistance.*

Dated: March 14, 1983.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 83–7214 Filed 3–18–83; 8:45 am]

BILLING CODE 4160–16–M

Health Professions Eligible for Scholarship Consideration Under the Health Professions Preparatory Scholarship Program for Indians and the Indian Health Scholarship Program

The Health Professions Preparatory Scholarship Program for Indians is authorized by section 103 of the Indian Health Care Improvement Act, Pub. L. 94–437. The Indian Health Scholarship Program was initially authorized by section 104 of Pub. L. 94–437, but is now authorized by section 338G (formerly section 757) of the Public Health Service Act. Both programs are intended to encourage Indians to enter the health professions and to assure the availability of Indian health professionals to serve Indians. This list is based upon the needs of the Indian Health Service as well as upon the needs of Indians for additional service by specific health professions.

Regulations at 42 CFR 36.304 provide that the Indian Health Service shall, from time to time, publish a list of health professions eligible for consideration for the award of Health Professions Preparatory Scholaships for Indians and Indian Health Scholarships. Also, section 338G (b) of the Public Health Service Act (42 U.S.C. 294y–1) authorizes the determination of specific health professions for which Indian Health Scholarships will be awarded.

Pending the availability of funds, consideration will be given to qualified applicants for scholarship support under the above named scholarship programs in the following health professions categories:

Medical Technology
Radiology Technology
Optometry
Nursing * * *
  Bachelor of Science in Nursing
  Associate Degree in Nursing
Medicine
Masters in Hospital Administration

This list of eligible health professions is effective for the 1983/1984 academic year only.

FOR FURTHER INFORMATION CONTACT: Mr. Pierre Colombel, Indian Health Service, Parklawn Building, Room 6A–29, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: 301–443–5441.

Robert Graham,

Administrator, Assistant Surgeon General.

[FR Doc. 83–7215 Filed 3–18–83; 8:45 am]

BILLING CODE 4160–16–M

Public Health Service

Health Resources and Services Administration; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of December 9, 1982, by the Secretary of Health and Human Services to the Assistant Secretary for Health (48 FR 9067), the Assistant Secretary for Health has delegated to the Administrator, Health Resources and Services Administration, all of the authorities delegated to the Assistant Secretary for Health under Title V of the Public Health Service Act (42 U.S.C. 219 *et seq.*), as amended, insofar as they pertain to the functions assigned to the Health Resources and Services Administration, excluding the authority to accept offers of real property.

Offers of personal property shall not be accepted by the Health Resources and Services Administration if the total costs associated with acceptance are

expected to exceed the cost of purchasing a similar item and the cost of normal care and maintenance.

The Administrator, Health Resources and Services Administration, may redelegate the authority delegated to him, except redelegation of the authority under section 501 is limited to the acceptance of unconditional gifts of personal property valued at $5,000 or less. In addition, the Administrator, Health Resources and Services Administration, may redelegate to the Director, National Hansen's Disease Center, the authority to accept conditional gifts of $5,000 or less offered to National Hansen's Disease Center.

Exercise of the authorities under Title V of the Public Health Service Act shall be in accordance with established policies, procedures, guidelines, and regulations as prescribed by the Office of the Secretary and the Public Health Service.

All previous delegations of authority under Title V of the Public Health Service Act made to the Health Resources Administration and the Health Services Administration have been superseded. Provision has been made for previous delegations and redelegations made to other officials within the Health Resources and Services Administration of authority under Title V of the Public Health Service Act to continue in effect pending further redelegation provided they are consistent with the delegation to the Administrator, Health Resources and Services Administration.

The delegation to the Administrator, Health Resources and Services Administration, became effective on March 9, 1983.

Dated: March 9, 1983.

Edward N. Brandt, Jr.

Assistant Secretary for Health.

[FR Doc. 83-7287 Filed 3-18-83; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Community Planning and Development

[Docket No. N-83-1219]

Community Development Block Grant Program

AGENCY: Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: HUD is issuing a Notice of the dates for submission of applications to the HUD Area Office in Kansas City, Missouri for the HUD-operated Small Cities Program in Kansas under the Community Development Block Grant Program for Fiscal Year 1983.

FOR FURTHER INFORMATION CONTACT: Helen Duncan, State and Small Cities Division, Office of Community Planning and Development, Department of Housing and Urban Development, Washington, D.C. 20410; (202) 755-6322. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given that in accordance with 24 CFR 570.420(h)(3) the Department of Housing and Urban Development (HUD) has established dates for submission of applications for Small Cities Program Grants in the State of Kansas for Fiscal Year 1983. Notice of application submission dates for any other States where HUD is administering the program in Fiscal Year 1983 will appear in the **Federal Register** at a later date. Applications for funding under the Single Purpose and Comprehensive Grant provisions of the HUD-operated Small Cities Program will be accepted only during the designated time period. Applications received in the Area Office after the deadline must be postmarked no later than the applicable deadline submission date. Any applications postmarked after that date are unacceptable and will be returned.

Applicants from the State of Kansas are hereby advised to submit their applications for Single Purpose Grants pursuant to 24 CFR 570.430, or their applications for Comprehensive Grants pursuant to 24 CFR 570.426, to the HUD Area Office in Kansas City, Missouri.

	No earlier than	No later than
Kansas	Apr. 4, 1983	Apr. 18, 1983.

Dated: March 14, 1983.

Stephen J. Bollinger,

Assistant Secretary for Community Planning and Development.

[FR Doc. 83-7273 Filed 3-18-83; 8:45 am]

BILLING CODE 4210-29-M

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

[Docket No. N-83-1218]

Availability of Funding Under the Community Housing Resource Board Program

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of fund availability.

SUMMARY: HUD is soliciting applications from eligible Community Housing Resource Boards for funding under the Community Housing Resource Board (CHRB) Program. Resource Boards must meet eligibility criteria and minimum funding standards for specific project proposals in order to qualify for consideration.

DATE: Applications for funding must be submitted by May 19, 1983.

FOR FURTHER INFORMATION CONTACT: Doris D. Williams, Room 5256, Office of Procurement and Contracts, Office of the Assistant Secretary for Administration, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410. Application kits will be sent only upon written request to the Office of Procurement and Contracts at the above address. Telephone requests for applicants kits will not be honored.

SUPPLEMENTARY INFORMATION: This Notice of Funds Availability is issued pursuant to the regulations for the CHRB Program contained in 24 CFR Part 120. Interested Resource Boards are urged to review these regulations and the factors for award in the application kit to determine whether or not they should apply under this program.

The program has two categories of funding: (1) Maintenance and (2) Improvement. A Resource Board should apply for *maintenance* funding when its activities have resulted in full implementation of the terms of the Voluntary Affirmative Marketing Agreement (VAMA). Funding in this category will be provided to maintain Resource Board efforts related to the goals of the VAMA.

A Resource Board should apply for *Improvement* funding when the terms of the VAMA have not been fully implemented. Funding in this category will be provided to improve the capability of Resource Board efforts related to the goals of the VAMA.

Eligible Resource Boards may apply for funds under only one category.

Program Background: Section 808(e) of Title VIII of the Civil Rights Act of 1968, as amended, require the Secretary to "cooperate with and render technical assistance to Federal, State, local and other public or private agencies, organizations, and institutions which are formulating or carrying on programs to prevent or eliminate discriminatory housing practices * * * and administer the programs and activities relating to housing and urban development in a manner affirmatively to further the policies of this title."

Further, Section 809 requires that the "Secretary * * * commence such education and conciliatory activities as in his judgment will further the purposes of this title * * * call conferences of persons in the housing industry and other interested parties to acquaint them with the provisions of this title and his suggested means of implementing it, and shall endeavor with their advice to work out programs of voluntary compliance and of enforcement."

In order to promote the achievement of the goal of fair housing throughout the United States, the Department of Housing and Urban Development has developed the Voluntary Affirmative Marketing Agreements Program. This nationwide program focuses on local efforts to assure nondiscrimination in connection with the sale, rental or financing of housing and the provision of services and facilities in connection therewith and to promote achievement of a condition in which individuals of similar income levels in the same housing marketing area have available to them a like range of choices in housing regardless of their race, color, religion, sex or national origin.

Consistent with its responsibilities under Title VIII, HUD has entered into Voluntary Affirmative Marketing Agreements (VAMAs) with the National Association of Realtors and the National Association of Real Estate Brokers. These agreements are intended to promote a broad equal opportunity program which is designed to assure that housing will be marketed on a nondiscriminatory basis. In addition, signatories to a VAMA agree to conduct certain programs and activities to acquaint communities with the availability of equal housing opportunities, to establish office procedures to ensure that there is no denial of equal professional service and to make materials available which explain the commitment of signatories to the goal of fair housing.

The VAMAs, signed by housing associations at the national level, are implemented locally, and in addition to providing a program to promote fair housing efforts, commit HUD to provide technical assistance to local real estate boards who become signatories to the agreement. Assistance in implementing VAMA commitments is provided to the local real estate boards through HUD-established Community Housing Resource Boards composed of representatives of community organizations dedicated to equal housing opportunity. This program is included in the Catalog of Federal Domestic Assistance, under program number 14.401, Fair Housing Assistance Program. All reporting requirements contained in this Notice are in compliance with the Paperwork Reduction Act of 1980, approved by the Office of Management and Budget under OMB control number 2529-0001.

Eligible Applicants. In order to be eligible to participate in the program, an applicant must first meet the following criteria:

(a) The applicant must be a Resource Board consisting of HUD-appointed representatives from community organizations or agencies dedicated to equal housing opportunity, formed to fulfill HUD's obligation to provide technical assistance to local real estate boards in the implementation and monitoring of progress under the VAMA.

(b) The Resource Board must have been in existence at least six months prior to the date of this Notice of Funds Availability.

(c) The Resource Board must not have received funding under the fiscal year 1983 CHRB Notice of Funds Availability.

Method of Distribution. Applicants for funding must submit all information required in the application kit, including a separate funding proposal and a one page synposis of the proposed project. Funding amounts will be either $15,000 or $25,000. $15,000 will be awarded to CHRBs in jurisdictions with populations under 50,000; $25,000 will be awarded to CHRBs in jurisdictions with populations of 50,000 or more. Two categories of awards have been established: *Maintenance,* where VAMAs have been fully implemented, and *improvement,* where VAMAs have not been fully implemented. Projects will be evaluated for funding within each category to avoid disadvantage to Resource Boards seeking to fully implement VAMA objectives, but which are located in areas where results under the VAMA have not been demonstrated.

Although HUD does not intend to differentiate between the categories in terms of funding levels, information received through the Voluntary Affirmative Marketing Monitoring Form, HUD 941A, indicates that a larger number of Resource Boards will be funded in the improvement category, since the majority of Resource Boards assist local real estate boards that have not fully accomplished the goals of the VAMA. In order to be eligible to apply for and receive funds, a Resource Board must demonstrate in its application that it meets the criteria specified in §§ 102,15(d), 120.20, 120.25, 120.30 and 120.35 of the CHRB regulations (24 CFR Part 120).

It is important to note that, although funds may be used to cover the operating costs associated with the specific funded activities of the Resource Board program, proposals that use the majority of their funds *for program costs* (as opposed to administrative costs) will receive priority consideration.

Application Requirements. Congress has appropriated $3.5 million dollars to promote the fair housing technical assistance efforts of the Community Housing Resource Boards. Funding will be limited to a one-time proposal for a one-year effort following which Resource Board will be encouraged to seek funds from other sources for continuing projects. HUD believes that this program can provide the assistance necessary to affort existing Resource Boards the capability of rendering more effective assistance to local real estate boards. Grant amounts may vary depending upon the size of the jurisdiction where the Resource Board operates. HUD has determined that large jurisdictions are eligible to receive larger grants than small jurisdictions.

Since training is an essential part of this program, all funded Resource Boards are required to set aside 5% of the HUD funds for training for development purposes. Further clarification on training requirements will be provided by HUD Headquarters during the funding year.

The format and content requirements for applications are described in application kits which will be provided to each Board interested in applying. Application kits will be sent upon written request, after April 8, 1983 at the address set forth above. All applicants will receive the same application kits.

Where the factors for award differ for the maintenance and improvement categories, such differences are set forth in the application kit. In reviewing of applications under the ranking criteria, the Assistant Secretary for Fair Housing and Equal Opportunity will give priority consideration to projects which will have a significant impact in areas with substantial minority populations. In addition, the Assistant Secretary may take into account the geographic location of projects, to assure a broad geographic distribution of projects under the program.

Regional Offices will be advised of the CHRBs in their jurisdiction that submit applications for funding, and informed of the Assistant Secretary's awardees prior to any press release. In addition, program monitors will be required to submit quarterly monitoring reports on the activities of the funded

CHRBs to the Government Technical Representative and the Regional Administrator.

Notification of Applicants. All applicants will be notified by mail of the results of their applications, as soon as review and evaluation of the applications are completed. No information will be made available to applicants during the period of HUD review and evaluation, except for notification of those applicants that are determined to be ineligible.

All awards are expected to be announced by HUD within 90 days of the final submission date set forth above. Applications for funding must be submitted by May 19, 1983. No application received by HUD after that date will be considered unless the application is received before awards are made, and one of the late application exceptions set forth in the application kit is met.

(Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601))

Dated: March 14, 1983.

Antonio Monroig,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 83-7274 Filed 3-18-83; 8:45 am]

BILLING CODE 4210-28-M

Office of Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-83-1142]

Tax-Exempt Construction Financing for Turnkey Public Housing Projects

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

ACTION: Notice of HUD policy.

SUMMARY: HUD is giving notice of its policy concerning tax-exempt construction financing for development of turnkey public housing projects, including the conditions which must be met by developers who wish to use such financing.

EFFECTIVE DATE: March 21, 1983.

FOR FURTHER INFORMATION CONTACT: Raymond W. Hamilton, Director, Public Housing Development Division, Office of Public Housing, Office of the Deputy Assistant Secretary for Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410; (202) 426-0938. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Escalating interest rates for turnkey financing have significantly increased development costs and frequently precluded turnkey developers from proceeding with development of projects. During periods of high interest rates, Field Offices and Public Housing Agencies ("PHAs") should consider the use of the conventional (bid) development method to avoid this problem. However, for those projects for which the turnkey method is selected, tax-exempt construction financing may be authorized under the conditions outlined in this Notice, in order to reduce project development costs. Tax-exempt construction financing under Section 11(b) of the United States Housing Act of 1937 (the "Act") may be made available through a PHA or an agency or instrumentality PHA. Tax-exempt construction financing may also be made available through a PHA or an agency other than a PHA (e.g., a City or county government or a state agency) under Section 103 of the Internal Revenue Code. *Information and Commitments To Be Submitted to the Field Office.* The entity proposing to provide tax-exempt construction financing to the turnkey developer shall submit the following information to the Field Office for review. The submission must be made in sufficient time to allow review and approval by the Field Office prior to execution of the Contract of Sale.

a. A request from the PHA that the tax-exempt financing be approved by HUD.

b. Depending upon the source of tax-exemption, paragraph (1) or (2) below is applicable:

(1) If the entity is a PHA issuing obligations under Section 11(b), an opinion of counsel for the PHA that it has the legal authority to provide tax-exempt construction financing and may do so in accordance with state law. If the entity is an agency or instrumentality PHA, evidence of compliance with the requirements set forth in 24 CFR 811.105.

(2) If the issuance is under Section 103, an opinion of bond counsel that the issuance will be in compliance with all requirements of Federal law and regulations.

c. A copy of the proposed construction loan documents, including the trust indenture and related documents, and any agreements between the developer, the issuer, trustee and lender.

d. A statement identifying the amount for the construction financing costs to be included in the Contract of Sale price and an itemization of all amounts to be paid to the lender underwriter and other parties, whether as interest, discounts or fees. (These information collection requirements have been approved by the Office of Management and Budget under OMB control number 2502-0248).

Field Office Review. In addition to the normal turnkey review discussed in Handbooks 7417.1 or 7417.1 REV-1, as applicable, the Field Office shall review the documents outlined above and ensure that the following requirements are met:

a. Where the issuer is a PHA, neither the PHA nor the agency or instrumentality PHA shall assume any liability in connection with the tax-exempt obligations other than the obligation to acquire the completed project pursuant to the turnkey Contract of Sale.

b. The entity issuing the tax-exempt obligations shall not receive any compensation in connection with the construction financing, except for HUD-approved expenses.

c. The maturity date of the tax-exempt obligations shall not unreasonably exceed the anticipated construction period incorporated in the turnkey Contract of Sale and the period of tax-exemption shall be explicitly limited to this period.

d. The turnkey developer's price shall reflect the cost savings to be realized by using tax-exempt construction financing.

e. The amount of the tax-exempt obligations shall not exceed the total developer's price as stated in the turnkey Contract of Sale.

f. Any income realized from investment of the tax-exempt funds prior to being advanced to the developer must accrue to the PHA to be used as a donation to reduce the total development cost of the project. Such income should be invested to earn interest in time deposits that are Federally insured, in Treasury securities, in securities issued by a Federal agency or Federally sponsored agency, or in certificates of deposit that are fully secured by a pledge of securities similar to those listed above.

g. The interest rate proposed must be reasonable; the current ceiling for obligations issued under 24 CFR Part 811 Subpart A should be used as a guide in determining reasonable construction interest rates. The expenses of issuing the obligations and the financing costs must be reasonable and necessary for the issuance and servicing of the obligations. Tax-exempt financing should not be approved unless the interest and financing costs of the tax-exempt issuance are significantly less than non-tax-exempt construction financing.

Field Office Notification of Approval. If the Field Office approves the use of tax-exempt construction financing,

notifications to the issuer, the PHA (if other than the issuer) and the developer shall be prepared by the Area Counsel for the signature of the Field Office Manager/Supervisor. The notification shall indicate the following:

a. Identification of the project number and the tax-exempt obligations.

b. The total amount of the tax/exempt obligations, including the specific amounts included for interest on the obligations and for all financing costs.

c. If the tax-exemption is under Section 11(b), a statement that HUD has aproved the obligations pursuant to Section 11(b) of the Act.

d. If the issuer is a PHA, a statement that the issuance is approved pursuant to Section 422 of the Annual Contributions Contract.

e. A statement that prior to settlement under the Contract of Sale, the PHA and trustee or lender must submit to the Field Office a report of all advances made in connection with the construction of the project (separately identifying interest payments and all discounts, fees and expenses paid) and a statement as to the amount of investment income realized from the tax-exempt funds prior to each advance to the developer.

Applicability of Notice. This Notice is applicable to tax-exempt construction financing for any turnkey project for which the executed Contract of Sale is approved by HUD after the effective date of this Notice.

Information collection requirements contained in this Notice have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 and have been assigned OMB control number 2502-0248.

(Sec. 7(d) Department of HUD Act; 42 U.S.C. 3535(d))

Dated: March 14, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-7272 Filed 3-18-83; 8:45 am]

BILLING CODE 4210-27-M

Office of the Secretary

[Docket No. D-83-695]

Delegation of Authority; Amendment

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Delegation of authority.

SUMMARY: This delegation of authority delegates the power and authority of the Secretary of Housing and Urban Development with respect to discretionary grants from the Secretary's Fund under section 107(b)(1) of Title I of the Housing and Community Development Act of 1974, in behalf of new communities assisted under Title VII of the Housing and Urban Development Act of 1970 or Title IV of the Housing and Urban Development Act of 1968, to the Assistant Secretary for Community Planning and Development and the General Deputy Assistant Secretary for Community Planning and Development. The previous delegation of authority with respect to grants under section 107(b)(1) is rescinded.

EFFECTIVE DATE: March 21, 1983.

FOR FURTHER INFORMATION CONTACT: Grant E. Mitchell, Assistant General Counsel, New Communities Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, 202-755-6550. (This is not a toll-fee number.)

SUPPLEMENTARY INFORMATION: Title I of the Housing and Community Development Act of 1974 establishes the Community Development Block Grant Program. With certain exceptions, the authority to implement this program was delegated by the Secretary to the Assistant Secretary for Commmunity Planning and Development and General Deputy Assistant Secretary for Community Planning and Development in a delegation of authority published February 5, 1975 at 40 FR 5385 (later amended and published at 40 FR 37074 on August 25, 1975, 40 FR 54606 on November 25, 1975, 41 FR 15359 on April 12, 1976, 42 FR 45037 on September 8, 1977 and 44 FR 76598 on December 27, 1979). Section B.3. of the delegation of authority listed above excepted from the delegation the power and authority of the Secretary with respect to discretionary grants from the Secretary's Fund under section 107(b)(1) (prior to 1981, designated as section 107(a)(1)) of Title I of the Housing and Community Development Act of 1974 in behalf of new communities assisted under Title VII of the Housing and Urban Development Act of 1970 or Title IV of the Housing and Urban Development Act of 1968. It is less clear, but likely, that the delegation also excluded the power and authority of the Secretary with respect to grants under Section 107(b)(1) "in behalf of new community projects assisted under Title X of the National Housing Act which meet the eligibility standards set forth in Title VII of the Housing and Urban Development Act of 1970 and which were the subject of an application or preapplication, under such title prior to January 14, 1975". (The quoted language was added to the former Section 107(a)(1) by Section 15(c) of the Housing Authorization Act of 1976, Pub. L. 94-375.)

The power and authority of the Secretary which was excepted from the basic delegation as described above was delegated by the Secretary to the General Manager of the New Community Development Corporation (with the concurrence of the Assistant Secretary for Community Planning and Development or the General Deputy Assistant Secretary for Community Planning and Development also required for final approval action) by a delegation of authority published June 27, 1975 at 40 FR 27286 and amended and published at 41 FR 15360 on April 12, 1976. However, as a result of the termination of the New Communities Program and in order to continue the administration of Title I grants for new communities, the power and authority of the Secretary with respect to grants under section 107(b)(1) is now being delegated to the Assistant Secretary for Community Planning and Development and General Deputy Assistant Secretary for Community Planning and Development.

Accordingly, the Secretary delegates as follows:

Section A. Authority Delegated. Section B.3. of the delegation of authority published February 5, 1975 at 40 FR 5385 (as amended) is hereby terminated.

Section B. Supersedure. This delegation supersedes the delegation of authority published June 27, 1975 at 40 FR 27286 and as amended and published April 12, 1976 at 41 FR 15360.

(Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: March 14, 1983.

Samuel R. Pierce, Jr.,

Secretary, Department of Housing and Urban Development.

[FR Doc. 83-7275 Filed 3-18-83; 8:45 am]

BILLING COE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-50379]

Alaska; Proposed Withdrawal and Opportunity for Public Hearing

On February 10, 1983, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the surveyed and unsurveyed public lands and national forest lands described herein, subject to valid

existing rights, from settlement, sale, location, or entry under the general public land laws, as specified in paragraphs 1 and 2 hereof, to provide for settlement of the land claims of Chugach Natives, Inc., under the Alaska Native Claims Settlement Act of December 18, 1971 (hereinafter "ANCSA"), as amended (43 U.S.C. 1601 et seq.), pursuant to a Settlement Agreement entered into by and among the Department of the Interior, the Department of Agriculture, the State of Alaska, and Chugach Natives, Inc.:

1. The following described lands are proposed for withdrawal from settlement, sale, location, or entry under the general public land laws, including selections by the State of Alaska under the Alaska Statehood Act (72 Stat. 339 et seq.), as amended, and Subsection 906(b) of the Alaska National Interest Lands Conservation Act (hereinafter "ANILCA") of December 2, 1980 (94 Stat. 2371, 2437), location and entry under the general mining laws (30 U.S.C. Ch. 2) and leasing under the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181 et seq.), to be reserved for conveyance to Chugach Natives, Inc., pursuant to Subsection 14(h)(8) of the ANCSA (43 U.S.C. 1601, 1613(h)(8)) or for exchange of lands or interests therein with Chugach Natives, Inc., pursuant to Subsection 22(f) of the ANCSA (43 U.S.C. 1601, 1621(f)) and Subsections 1302(h) and 1430(a) of the ANILCA (94 Stat. 2371, 2475, 2531), under the terms and conditions of the Settlement Agreement:

U.S. Survey No. 440 situated at the head of Orca Bay, District of Alaska.

U.S. Survey No. 2241 situated at Cordova, Territory of Alaska.

U.S. Survey No. 3345 A & B, Tract A, Block 1, Eyak addition, Townsite of Cordova, Alaska.

Copper River Meridian

T. 14 S., R. 2 W.,
Lands withdrawn by War Department Orders dated December 18, 1909, and September 14, 1910, located adjacent to U.S. Survey No. 440, and further described as follows:
Beginning on line 22–23 of said Survey No. 440, at a point south forty-four degrees east seventy-one and forty-six hundredths chains from Corner No. 22; thence north forty-six degrees east two hundred thirty-six and seventy-three hundredths chains; thence south forty-two degrees, thirteen minutes, thirty seconds east seven and seventy-eight hundredths chains; thence south forty-six degrees west two hundred thirty-six and forty-nine hundredths chains; thence north forty-four degrees west seven and seventy-eight hundredths chains to the place of beginning.

T. 14 S., R. 3 W.,
Secs. 1 to 5, inclusive;
Secs. 9, 10, and 11.

T. 13 S., R. 5 W.,
Secs. 33, 34, and 35.

T. 14 S., R. 5 W.,
Secs. 3 and 4.

T. 11 S., R. 6 W.,
Secs. 1 to 24, inclusive;
Secs. 27 to 33, inclusive.

T. 12 S., R. 6 W.,
Secs. 4 to 7, inclusive;
Secs. 21 and 30 (fractional).

T. 14 S., R. 6 W.,
Sec. 1, E½SE¼;
Sec. 12, E½NE¼, SW¼NE¼, SE¼SW¼;
Secs. 13 and 24.

T. 28 S., R. 6 W.,
Secs. 5 to 8, inclusive (fractional);
Secs. 17, 18, 19, and 30 (fractional).

T. 10 S., R. 7 W.,
Secs. 29 to 34, inclusive.

T. 11 S., R. 7 W.,
Secs. 1 to 30, inclusive;
Secs. 32 to 36, inclusive.

T. 12 S., R. 7 W.,
Secs. 1 to 4, inclusive;
Sec. 9.

T. 13 S., R. 7 W.,
Secs. 20 and 29.

T. 28 S., R. 7 W.,
Secs. 13 and 23 (fractional);
Secs. 24, 25, 26, and 36 (fractional).

T. 10 S., R. 8 W.,
Secs. 25 to 28, inclusive;
Secs. 35 and 36.

T. 17 S., R. 8 W.,
Sec. 32, SE¼SE¼SE¼;
Sec. 33, S½;
Sec. 34, W½SW¼.

T. 18 S., R. 8 W.,
Sec. 4 (fractional);
Sec. 5, E½, E½E½SW¼;
Sec. 8, N½.

T. 11 S., R. 11 W.,
An island located northwest of Growler Bay and adjacent to Glacier Island in Prince William Sound, Alaska, having a latitude and longitude at its midpoint of 147°07′30″ W. and 60°54′15″ N. and further described as follows:
Sec. 14, that portion of the large island located in the SE¼;
Sec. 23, that portion of the large island located between Eagle Bay and Growler Bay east of Elder Point which lies primarily in the E½.

T. 2 S., R. 1 E.,
Secs. 1 and 2;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34, 35, and 36.

T. 3 S., R. 1 E.,
Secs. 2, 3, and 4;
Secs. 9 and 10;
Secs. 15, 16, 21, and 22;
Secs. 27, 28, 29, 32, and 33.

T. 14 S., R. 4 E.,
Sec. 7, SE¼NE¼SW¼, N½SE¼SW¼, W½SE¼, S½SE¼SE¼ (fractional);
Sec. 8, SW¼ (fractional);
Sec. 17, NW¼ (fractional);
Sec. 18, NE¼, S½NE¼NW¼, SE¼NW¼, E½SW¼ (fractional).

T. 19 S., R. 5 E.,
Secs. 10 and 11;
Sec. 13, SE¼NE¼, SE¼;
Secs. 15 and 21;
Secs. 24 and 25.

T. 19 S., R. 6 E.,
Secs. 5, 7, and 8;
Secs. 17 to 20, inclusive;
Secs. 29, 30, and 31.

T. 16 S., R. 7 E.,
Secs. 25 and 26;
Secs. 31 to 36, inclusive.

T. 17 S., R. 7 E.,
Secs. 1 to 4, inclusive;
Secs. 9 to 17, inclusive;
Secs. 20 to 23, inclusive;
Secs. 27, 28, and 29.

T 16 S., R. 8 E.,
Secs. 1, 12, 13, and 14;
Secs. 21 to 29, inclusive;
Secs. 31 to 36, inclusive.

T. 17 S., R. 8 E.,
Secs. 1 to 24, inclusive.

T. 16 S., R. 9 E.,
Secs. 6, 7, 18, 19, 30, and 31, lying west of the eastern boundary of the Chugach National Forest.

T. 17 S., R. 9 E.,
Secs. 6, 7, 18, 19, 30, and 31, lying west of the eastern boundary of the Chugach National Forest.

T. 22 S., R. 24 E.,
Secs. 1, 2, and 3;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34, 35, and 36.

T. 22 S., R. 25 E.,
Secs. 4 to 9, inclusive;
Sec. 18.

Seward Meridian

T. 2 N., R. 1 E.,
Sec. 6, E½;
Sec. 7, E½;
Sec. 18, E½;

T. 8 N., R. 5 E.,
Sec. 18 (fractional).

T. 3 N., R. 10 E.,
Secs. 1 to 5, inclusive (fractional);
Sec. 6, NE¼SE¼, S½S½;
Sec. 7, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 8, N½;
Sec. 9, N½, N½SW¼, E½SW¼SW¼, SE¼SW¼, SE¼;
Sec. 10 (fractional);
Sec. 11;
Secs. 12, 13, and 14 (fractional);
Sec. 15, N½N½, SW¼NW¼, W½SW¼;
Sec. 16, E½, E½E½W½;
Sec. 18, N½NW¼NE¼, N½NW¼, SW¼NW¼, N½SE¼NW¼, SW¼SE¼NW¼, W½NE¼SW¼, NW¼SW¼;
Sec. 21, E½, E½W½;
Sec. 22, S½S½;
Secs. 23, 24, 26, and 27 (fractional);
Sec. 28, N½NE¼, SE¼NE¼, NE¼NW¼;
Sec. 33, SE¼SW¼, S½SE¼;
Secs 34 and 35 (fractional).

T. 3 N., R. 10 E.,
The subsurface estate in the following described lands:
Sec. 16, W½E½SW¼, SW¼SW¼, S½NW¼SW¼;
Sec. 17, S½SE¼;
Sec. 20, E½, E½NW¼, NE¼SW¼;
Sec. 21, W½W½;
Sec. 28, SW¼NE¼, W½NW¼, SE¼NW¼, S½;

Secs. 29 to 32 inclusive (fractional);
Sec. 33, N½, N½S½, SW¼SW¼.
T. 4. N., R. 10 E.,
Sec. 34, SE¼;
Secs. 35 and 36 (fractional).
T. 3 N., R. 11 E.,
Secs. 6 and 7 (fractional).
T. 1 S., R. 1 W.,
U.S. Survey No. 1116, Block 9, W½, federal addition to Seward, Alaska, excluding A-023920.
T. 2 S., R. 8 E.,
Sec. 23, SE¼ (fractional), that portion on Latouche Island;
Secs. 24, 25, 26, 34, and 35 (fractional);
Sec. 36.
T. 3 S., R. 8 E.,
Secs. 1 and 2 (fractional);
Sec. 3, E½E½ (fractional);
T. 2 S., R. 9 E.,
Secs. 1 and 2 (fractional);
Sec. 3, E½, E½W½;
Sec. 7 (fractional);
Sec. 9, E½;
Sec. 10;
Secs. 11 and 14 (fractional);
Secs. 15, 16, and 17;
Secs. 18 and 19 (fractional);
Secs. 20 and 21;
Secs. 22, 23, 27, and 28 (fractional);
Secs. 29 and 30;
Secs. 31, 32, and 33 (fractional).
T. 2 S., R. 9 E.,
Subject to the provisions of Sec. 24 of the Federal Power Act (16 U.S.C. 818) for Power Project 1949, dated April 12, 1946;
Sec. 3, W½W½;
Sec. 4, N½, SE¼, including Power Project 1949; N½SW¼;
Sec. 8, S½, S½NW¼, S½SW¼NE¼;
Sec. 9, SW¼, SE¼NW¼.
T. 3 S., R. 9 E.,
Sec. 6 (fractional).
T. 3 S., R. 10 E.,
Sec. 15, S½SE¼;
Sec. 21, S½NE¼, S½ (fractional);
Sec. 22;
Sec. 28, NW¼NW¼ (fractional);
Secs. 29 and 30 (fractional).
T. 2 S., R. 11 E.,
Sec. 13, E½NE¼;
Sec. 25, E½SW¼, SW¼SW¼, SE¼;
Sec. 35, E½E½;
Sec. 36.
T. 3 S., R. 11 E.,
Sec. 1 (fractional);
Sec. 2, E½, SE¼NW¼, SW¼ (fractional);
Sec. 3, S½SW¼, SE¼;
Sec. 4, W½NE¼, W½, SE¼;
Sec. 5, E½E½;
Sec. 8, NE¼NE¼;
Sec. 9, NE¼, N½NW¼, SE¼NW¼, NE¼SE¼;
Sec. 10;
Sec. 11 (fractional);
Sec. 14, NW¼;
Sec. 15, N½, N½S½.
T. 1 S., R. 12 E.,
Sec. 34, S½S½ (fractional).
T. 2 S., R. 12 E.,
Sec. 3 (fractional);
Sec. 4, NE¼, NE¼NW¼, S½NW¼, S½;
Sec. 7, E½SW¼, SE¼;
Sec. 8;
Sec. 9, N½NE¼, SW¼NE¼, W½, W½SE¼, SE¼SE¼ (fractional);
Sec. 10, N½NW¼ (fractional);
Sec. 16, (fractional);
Secs. 17 and 18;
Sec. 19, N½N½, S½NW¼;
Sec. 20, E½NE¼, N½NW¼, NE¼SE¼, S½SE¼;
Sec. 21, 22, 27 and 28 (fractional);
Sec. 29, E½, E½NW¼, SW¼;
Sec. 30, S½S½;
Secs. 31 to 34, inclusive (fractional).
T. 3 S., R. 12 E.,
Sec. 3 (fractional).

The above described lands aggregate approximately 193,291 acres.

2. The following described lands are proposed for withdrawal from settlement, sale, location, or entry under the general public land laws, including location and entry under the general mining laws (30 U.S.C. Ch. 2), and from leasing under the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181 et seq.), to be reserved either for selection by the State of Alaska pursuant to Subsection 6(a) of the Alaska Statehood Act (72 Stat. 339, 340) or for exchange of lands or interests therein with Chugach Natives, Inc., pursuant to Subsection 22(f) of the ANCSA (43 U.S.C. 1601, 1621(f)) and Subsections 1302(h) and 1430(a) of the ANILCA (94 Stat. 2371, 2475, 2531) under the terms and conditions of the Settlement Agreement.

Seward Meridian

T. 8 N., R. 5 E.,
Sec. 10, S½;
Sec. 11, W½;
Sec. 14, NW¼NW¼;
Sec. 15, N½, N½SW¼, SW¼SW¼;
Sec. 16, NE¼NE¼, S½NE¼, SE¼.

The above described lands aggregate approximately 1,520 acres.

The lands described in paragraphs 1 and 2 aggregate approximately 194,811 acres.

The purpose of the proposed withdrawal is to segregate the lands until conveyance to Chugach Natives, Inc., purusant to the Chugach Settlement Agreement as authorized by Subsection 1430(a) of the ANILCA (94 Stat. 2371, 2531).

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the State Director, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Alaska State Director within 90 days from the date of publication of this notice. Upon determination by the State Director that a public meeting will be held, a notice of the time and place will be published in the *Cordova Times* and the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of 2 years from the date of publication of this notice, the lands will be segregated as specified above unless the application is denied or canceled, or the withdrawal is approved prior to that date.

Prior to any conveyance of lands or interest in lands described in paragraphs 1 and 2 above, the lands shall be subject to administration by the Secretary of the Interior, or by the Secretary of Agriculture in the case of national forest lands, under applicable laws and regulations, and their authorities to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by the proposed withdrawal; provided, however, that the prior consent of Chugach Natives, Inc., be obtained, as appropriate, pursuant to Subsection 1430(f)(3) of the ANILCA (94 Stat. 2371, 2532). Applications for leases under the Mineral Leasing Act, as amended, will be rejected until the lands are appropriately classified to permit mineral leasing.

The temporary segregation of the lands shall not affect the Secretary of the Interior's authority to convey lands or interests therein to Chugach Natives, Inc., pursuant to the provisions of the ANCSA and the ANILCA and as provided by the terms and conditions of the agreement to settle the land claims of Chugach Natives, Inc., entered into on January 10, 1983.

All communications in connection with this proposed withdrawal should be addressed to:

Beau McClure (202) 343-6511, Bureau of Land Management, 18th & C Streets, N.W., Washington, D.C. 20240; or
Robert W. Faithful IV (907) 271-5768, Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

James M. Parker,
Acting Director.
March 16, 1983.

[FR Doc. 83-7269 Filed 3-18-83; 8:45 am]
BILLING CODE 4310-84-M

Utah; Addition of Indian Springs Tract to the Preferred Alternative of the Green River-Hams Fork II Coal EIS

AGENCY: Bureau of Land Management (BLM), DOI.

ACTION: Notice.

SUMMARY: On January 11, 1983, the Green River-Hams Fork Regional Coal Team (RCT) met to rank tracts for the 1984 round of coal leasing and to establish alternatives for the EIS. This notice modifies the preferred alternative selected at that meeting and allows a public comment period of thirty (30) days.

FOR FURTHER INFORMATION CONTACT: Colorado State Office, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202, Attention: Kenneth Smith.

SUPPLEMENTARY INFORMATION: On January 11, 1983, the Green River-Hams Fork RCT met and selected the following EIS alternatives for analysis in the EIS. Each of the leasing alternatives is added to the prior alternative.

[In million tons]

	Recoverable tonnage	Subtotal	Total
A. No Action Alternative—			
B. Lease:			
Little Middle Creek	12.8		
Middle Creek	5.5		
Prairie Dog	44.0		
Deadman	.3		
Leucite Hills	17.7		
Point of Rocks	17.5		
Tract 98	3.4	101.2	101.2
C. Lease B and:			
Rattlesnake Mesa	36.0		
Signal Butte	79.9		
Atlantic Rim	178.1		
Byrne Creek	15.8		
Corral Canyon	72.2		
Wild Horse Draw	12.1	394.1	495.3
D. Preferred Alternative, Lease C and:			
Fish Creek	64.3		
Isles Mountain	33.5		
Peck Gulch	36.7		
Pio	11.1		
Winton	69.4	215.0	710.3
E. Lease D and:			
Bell Rock	39.1		
Horse Gulch	7.1		
Lay Creek	50.3		
Williams Fork Mountain	39.1		
Indian Springs	49.0		
N.E. Cow Creek	91.6	276.2	986.5

Alternative D, the preferred alternative, contained tracts totaling 710.3 million tons of recoverable resource. The leasing level set by the Assistant Secretary, Land and Water Resources, was 750–950 million tons of recoverable resource, **Federal Register**, page 6410, February 11, 1983. Pursuant to 43 CFR 3420.3–4, the members of the Regional Coal Team have consulted and added the Indian Springs tract to the preferred leasing alternative. The addition of this tract increases the recoverable tonnage in the preferred alternative to 759.3 million tons.

The tract delineation document and tract profile for the Indian Springs tract may be ordered from the above address. Public comments on the increase in the preferred alternative will be received at the above address for 30 days following publication of this notice.

Dated: March 11, 1983.

Roland G. Robison,

State Director.

[FR Doc. 83-6962 Filed 3-18-83; 8:45 am]

BILLING CODE 4310-84-M

Wyoming; Exxon Corporation's Road Hollow Project Draft Environmental Assessment (DEA) Lincoln County, Rock Springs District, Wyoming; Availability of Draft Environmental Assessment and Public Comment Period

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability of draft environmental assessment and public comment period.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management, U.S. Department of the Interior, has prepared a draft environmental assessment for a gas treatment plant and ancillary facilities for the Road Hollow Unit in Lincoln County, Wyoming and has made copies available for public review and comment.

Exxon Corporation plans to construct and operate a plant to process up to 80 million cubic feet per day of wellhead gas to pipeline quality. This will involve separation of liquid hydrocarbons and a small percentage (0.6%) of Hydrogen Sulfide, (H_2S) a toxic gas. Elemental Sulfur and gas condensate would be produced and transported from the plant site.

Ancillary facilities addressed in the DEA include an access road, above-ground powerline, 4 inch gathering lines, a 10 inch sales gas pipeline, a 4 inch condensate and a 4 inch natural gas liquids pipeline.

The DEA also analyzes the impacts of alternatives to the proposed action and no action.

DATES: Written comments on the proposal contained in the draft environmental assessment will be accepted up to and including May 10, 1983.

ADDRESSES: Written comments on the proposal in the document are to be addressed to: Steve Howard, Kemmerer Resource Area Manager, Bureau of Land Management, Box 632, Kemmerer, Wyoming 83101; (307) 877–3933.

A limited number of single copies of the DEA may be obtained from the above address. Copies are also available at the following location: Bureau of Land Management, Rock Springs District Office, P.O. Box 1869, Rock Springs, Wyoming 82901; (307) 382–5350.

Donald Sweep,

District Manager.

[FR Doc. 83-7263 Filed 3-18-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Report on Blowout and Fire, Eugene Island Block 361, Gulf of Mexico Outer Continental Shelf, Offshore the State of Louisiana

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of blowout report.

SUMMARY: Pursuant to the provisions of Section 22 of the Outer Continental Shelf (OCS) Lands Act, 33 U.S.C. 1348, an investigation was conducted into the blowout and fire that occurred on October 21, 1982, involving drilling operations on Well A–10, Lease OCS–G 2324, Eugene Island Block 361, Gulf of Mexico, off the Louisiana coast. A report has been prepared by the Investigative Panel, and copies are now available.

The Investigative Panel consisted of five Minerals Management Service (MMS) personnel: One from Reston, Virginia; two from Metairie, Louisiana; and two from Lafayette, Louisiana. Informal hearings were held in the MMS facility in Metairie, Louisiana, on October 26 and December 8, 1982. Both the operator, Chevron U.S.A., Inc., and the drilling contractor, Noble Drilling Company, had key witnesses present.

The investigative findings included in the report cover the following topics:

A. Preliminary Activities;

B. Loss of Well-Control;

C. Attempts at Restoring Well-Control;

D. Blowout and Fire;

E. Emergency Warning and Evacuation;

F. Damage.

Additionally, the Investigative Panel determined the proximate cause of the incident and provided several contributing causes associated with the incident. They concluded the report with

three recommendations concerning the revision of OCS Order No. 2.

ADDRESSES: Copies of the report may be obtained from the Offshore Rules and Operations Division, Minerals Management Service, Mail Stop 646, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: Price McDonald or Jill Breslin at (703) 860-7564.

Dated: March 4, 1983.

Robert L. Rioux,

Associate Director for Offshore Minerals Management.

[FR Doc. 83-7213 Filed 3-18-83; 8:45 am]

BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation and Enforcement

Availability of Draft Environmental Impact Statement on Western Energy Company's Comprehensive Plan for the Rosebud Mine, Rosebud County, Montana

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

ACTION: Notice of availability of draft environmental impact statement.

SUMMARY: Notice is hereby given that the Montana Department of State Lands (MDSL) and the Office of Surface Mining Reclamation and Enforcement (OSM), Western Technical Center, have jointly prepared a draft environmental impact statement (EIS) on the comprehensive plan submitted by Western Energy Company for the Rosebud Mine, Rosebud County, Montana. The EIS has been written to serve as a parent document for future site-specific environmental analyses that will be prepared as Western Energy carries out its proposed mining plan.

DATE: All written comments should be received by the Montana Department of State Lands at the location listed under "Addresses" no later than May 9, 1983.

Public hearing: Any person wishing a public hearing or meeting must contact one of the individuals listed under "**FOR FURTHER INFORMATION CONTACT**" before April 4, 1983.

ADDRESSES: Copies of the draft EIS may be obtained from, and comments should be addressed to, Kit Walther, EIS Team Leader, Department of State Lands, Capitol Station, Helena, MT 59620. A limited number of copies of the draft EIS are also available from, Charles Albrecht, Environmental Analysis Branch, Western Technical Center, Office of Surface Mining, Brooks Towers, 1020 15th Street, Denver, CO 80202.

FOR FURTHER INFORMATION CONTACT: Charles Albrecht (telephone: 303-837-5656) at the OSM location given under "**ADDRESSES,**" or Kit Walther (telephone: 406-449-2711) at the MDSL location given under "**ADDRESSES.**"

SUPPLEMENTARY INFORMATION: Western Energy submitted a comprehensive operations plan which proposes to expand and operate the mine through the year 2017. To carry out the plan, the company must, as the mine is developed, prepare detailed mine plans and obtain approvals from the Office of Surface Mining and the Montana Department of State Lands. The Department of the Interior and the Montana Department of State Lands have prepared numerous environmental impact statements on specific areas within the Rosebud mine. However, no comprehensive assessment of the environmental impacts of all mining operations at the Rosebud mine has been done. This comprehensive EIS will provide the Commissioner of State Lands and the Director of the Office of Surface Mining with a reference document for the entire Rosebud mine to serve as the framework for subsequent environmental documents prepared to analyze environmental impacts from site-specific activities related to the company's 5-year permit applications, thereby minimizing duplication and overlap. The comprehensive EIS does not serve as a decision document but provides the information necessary to facilitate and improve the decisionmaking process.

If substantial public interest is shown, a public hearing or meeting may be held (see "Dates") and notice of such a hearing or meeting will be published.

Dated: March 15, 1983.

J. Steven Griles,

Acting Director.

[FR Doc. 83-7276 Filed 3-18-83; 8:45 am]

BILLING CODE 4310-05-M

Rejection of Petition for Designation of Lands as Unsuitable for Surface Coal Mining Operations, Carbon County, Wyoming

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

ACTION: Notice of rejection of a petition for designation of lands as unsuitable for surface coal mining operations.

SUMMARY: Notice is given that, on March 2, 1983, the Office of Surface Mining Reclamation and Enforcement (OSM) rejected a petition from the Cheyenne High Plains Audubon Society (CHPAS) to designate certain Federal lands in the Medicine Bow, Wyoming, area as unsuitable for surface coal mining operations. A notice of complete petition and request for comments appeared in the January 19, 1983, Federal Register (Vol. 48, No. 13). Interested persons are referred to that notice for background information on the petition and for locations of public record files.

FOR FURTHER INFORMATION CONTACT: Charles Albrecht, Office of Surface Mining Reclamation and Enforcement, Western Technical Center, 1020 15th Street, Denver, CO 80202 (telephone: 303-837-5656 or FTS 327-5656).

SUPPLEMENTARY INFORMATION: As provided in 30 CFR 769.14(g), OSM received a recommendation letter on the petition from the Bureau of Land Management (BLM). This recommendation and other information led OSM to determine that: (1) No new evidence was presented in the petition that was not considered by BLM in their Carbon Basin Area environmental impact statement and in their usuitability review which considered all the criteria of 30 CFR Part 762; (2) stipulations included in coal lease W-50061 demonstrate that the deleterious mining impacts alleged in the petition can be sufficiently mitigated and the resource values protected; (3) the remaining CHPAS concerns for the balance of the petition area will be considered in the BLM Resource Management Plan process, scheduled to begin in October 1983, if coal development potential is identified for the area; and (4) CHPAS will have the opportunity to become fully involved in that BLM land use planning process.

Based upon these facts, in accordance with 30 CFR 769.14(d) and pursuant to Section 522 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1272), OSM rejected the CHPAS Medicine Bow unsuitability petition.

Dated: March 15, 1983.

J. Steven Griles,

Acting Director.

FR Doc. 83-7277 Filed 3-18-83 8:45 am]

BILLING CODE 4310-05-M

National Park Service

Appalachian National Scenic Trail Advisory Council; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Appalachian National Scenic Trail Advisory Council will be held in Harpers Ferry, West Virginia on April 22, from 9:00 a.m. to 4:00 p.m. The agenda of the meeting will include a review of Appalachian Trail

protection status and implementation of the cooperative management system.

The meeting will be open to the public, although space will be limited. Persons will be accommodated on a first-come, first-served basis. Any person may file with the Council a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who wish to submit written statements may contact David A. Richie, Project Manager, Appalachian Trail Project Office, Harpers Ferry Center, Harpers Ferry, West Virginia 25425, at Area Code (304) 535-2346.

Minutes of the meeting will be available for public inspection four weeks after the meeting at the above address. Copies of the minutes will also be available from Room 3120, Interior Building, 18th and C Streets, NW., Washington, D.C. 20240, and at the headquarters of the Appalachian Trail Conference, Washington Street, Harpers Ferry, West Virginia 25425.

Dated: March 15, 1983.

David A. Richie,

Project Manager.

[FR Doc. 83-7271 Filed 3-18-83; 8:45 am]

BILLING CODE 4310-70-M

Native American Relationships Policy; Management Policy

AGENCY: National Park Service, Interior.

ACTION: Extension of the comment period.

SUMMARY: On November 26, 1982 (47 FR 53688) the National Park Service published a proposed revised management policy on Native American Relationships. This notice extends the comment period on that proposed rule.

DATE: The National Park Service will consider all comments received on this proposed policy by April 1, 1983.

ADDRESS: Comments should be directed to: Chief, Office of Management Policy, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Geraldine Smith, Office of Management Policy, 343-7456; or Jackson W. Moore, Jr., Anthropology Division, 343-8155.

SUPPLEMENTARY INFORMATION: On November 26, 1982, the National Park Service published a proposed revised management policy on Native American Relationships which will replace Special Directive 78-1 *Policy Guidelines for Native American Cultural Resources Management*, with request for comments. Several individuals and tribal groups have requested an additional period of time in which to comment. Because of this interest and in an effort to ensure maximum public involvement, the Service is extending the comment period until April 1, 1983.

Russell E. Dickenson,

Director.

[FR Doc. 83-7270 Filed 3-18-83; 8:45 am]

BILLING CODE 4310-70-M

Statue of Liberty-Ellis Island Centennial Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), as amended, that a meeting of the Statue of Liberty-Ellis Island Centennial Commission will be held at 9:30 a.m. on Friday, April 8, 1983, at the Waldorf Astoria Hotel, New York, New York. The meeting is for the purpose of reviewing plans for rehabilitation of the Statue of Liberty and Ellis Island.

Further information concerning this meeting may be obtained from Garnet Chapin, National Park Service, Department of the Interior, 18th and C Sts. NW, Washington, D.C. 20240 (202-343-6781).

F. Ross Holland, Jr.,

Associate Director, Cultural Resources Management National Park Service.

[FR Doc. 83-7266 Filed 3-18-83; 8:45 am]

BILLING CODE 4310-70-M

Office of the Secretary

Cape Cod National Seashore Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770 (5 U.S.C. App. 1 § 10)), that a meeting of the Cape Cod National Seashore Advisory Commission will be held at 1:30 pm on Friday, April 8, 1983 at the Headquarters building, Cape Cod National Seashore.

The Commission was established pursuant to Pub. L. 91-383 to meet and consult with the Secretary of the Interior on general policies and specific matters relating to the development of Cape Cod National Seashore.

At the meeting at 1:30 pm the Commission will consider the following:

Old Business

(1) Proposed Economic Impact Study;
(2) Nauset Knoll and Salt Pond Motels;
(3) Dune Stabilization/Revegetation—Synthesis of Public Comments.

The meeting is open to the public. It is expected that 30 persons will be able to attend the session in addition to the Commission members.

Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the official listed below at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from Herbert Olsen, Superintendent, Cape Cod National Seashore, South Wellfleet, MA 02663, Telephone (617) 349-3785. Minutes of the meeting will be available for public information and copying four weeks after the meeting at the Office of the Superintendent, Cape Cod National Seashore, South Wellfleet, Massachusetts.

Herbert Olsen,

Superintendent, Cape Cod National Seashore.

March 11, 1983.

[FR Doc. 83-7265 Filed 3-18-83; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practices. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with

the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed), appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verfied 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.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 1, (202) 275-7992.

Volume No. OP1-89

Decided: March 7, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 1940 (Sub-46), filed February 22, 1983. Applicant: TRAILWAYS OF NEW ENGLAND, INC., 625 Eighth Ave., New York, NY 10018. Representative: George W. Hanthorn, 1500 Jackson St., Dallas, TX 75201; (214) 655-7937. Transporting (1) *passengers,* in charter and special operations, between points in the U.S. (except HI), and (2) *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).

Note.—Applicant seeks to provide privately-funded charter and special transportation in part (1).

MC 74761 (Sub-27), filed February 18, 1983. Applicant: TRAILWAYS TAMIAMA, INC., 200 Spring St., N.W., Atlanta, GA 30303. Representative: George W. Hanthorn, 1500 Jackson St., Dallas, TX 75201; (214)-655-7937. 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) *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—In (2) above applicant seeks to provide privately funded charter and special transportation.

MC 116661 (Sub-2), filed February 18, 1983. Applicant: BRIDAL VEIL TOURS, INC., 8470 Niagara Falls Blvd., Niagara Falls, NY 14304. Representative: Robert D. Gunderman, Can-Am Bldg., 101 Niagara St., Buffalo, NY 14202; (716) 854-5870. Transporting *passengers* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 149960 (Sub-1), filed February 22, 1983. Applicant: VIRGINIA TOURS, INC., 2101 Loumour Ave., Richmond, VA 23230. Representative: Harold B. Crafts, 2320 West Broad St., Richmond, VA 23220; (804)-257-7288. Transporting *passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 155080 (Sub-2), filed February 22, 1983. Applicant: PASTY ANN BREWER, d.b.a. BREWER CHARTER SERVICE, R. R. #1, Mapleton, IL 61547. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701; (217) 544-5468. Transporting *Passengers,* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166250, filed February 11, 1983. Applicant: BILL MILLER, 8600 S.W. Elligsen Rd., Wilsonville, OR 97070. Representative: David E. Wishney, P.O. Box 847, Boise, ID 83701; (208)-336-5955. As a *broker* of *general commodities* (except households goods), between points in the U.S..

MC 166251, filed February 14, 1983. Applicant: MAGNOLIA MIDWEST LINES, Route 4, Box N-180, Hattiesburg, MS 39401. Representative: Jerolyn Price, Route 3, Box 121-B, Tylertown, MS 39667; (601) 684-6310. 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 166341, filed February 22, 1983. Applicant: ARIES BUS COMPANY, P.O. Box 192, Fredericksburg, VA 22401. Representative: Calvin F. Major, 200 West Grace St., Suite 115, P.O. Box 5010, Richmond, VA 23220; (804) 649-7591. Transporting *passengers* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166371, filed February 23, 1983. Applicant: SAWYER'S BUS SERVICE CO., Route 1, Box 255 A, Murfreesboro, NC 27855. Representative: Thomas L. Jones, Drawer 247, Murfreesboro, NC 27855; (919)-398-4521. Transporting *passengers,* in charter and special operations, beginning and ending at points in Hertford County, NC, and extending to points in SC, GA, FL, VA, NJ, PA AND NY.

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 166381, filed February 18, 1983. Applicant: C W SERVICES, INC., 610 High St., Wisconsin Rapids, WI 54494. Representative: Carl L. Steiner, 135 South LaSalle St., Chicago, IL 60603; (312) 236-9375. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 166390, filed February 23, 1983. Applicant: APOLLO CHARTER BUS SERVICE, INC., 8700 SW 26th Ave., Suite O, Portland, OR 97219. Representative: David C. White, 2400 SW Fourth Ave., Portland, OR 97201; (503) 226-6491. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166391, filed February 23, 1983. Applicant: SHERIDAN TRUCKING, INC., 25 Paulson Drive, West Springfield, MA 01089. Representative: Donald Sheridan (same address as applicant), (413)-739-7445. As a *broker* of *general commodities* (except household goods), between points in MA, CT, RI, VT, NH, NY, NJ, ME and PA.

MC 166401, filed February 23, 1983. Applicant: ALPHA BUS LEASING, INC., 3473 Johnson Drive, Lithonia, GA 30058. Representative: Chester Royse, 6063 Arcade Drive, Fairfield, OH 45014; (513) 829-0465. Transporting *passengers*, in charter and special operations, beginning and ending at points in GA and OH, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166420 filed February 25, 1983. Applicant: AIR TRAVEL TRANSPORTATION, INC., 524 Whitehall St., SW., Atlanta, GA 30303. Representative: J. L. Fant, P.O. Box 577, Jonesboro, GA 30237; (404)-477-1525. Transporting *passengers*, in charter and special operations, beginning and ending at points in AL, FL, GA, NC, SC and TN, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166421, filed February 22, 1983. Applicant: GEORGE A. PRALL, d.b.a. BEELINE BROKERS, P.O. Box 11234, Phoenix, AZ 85061. Representative: George A. Prall, 4614 West Mission Lane, Glendale, AZ 85302; (602) 937-0302. As a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

Volume No. OP1-91

Decided: March 10, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 116670 (Sub-3), filed February 28, 1983. Applicant: TWO NATIONS TOURISM, INC., 1260 95th St., Niagara Falls, NY 14304. Representative: Joseph F. Principe (same address as applicant), (716) 297-5038. Transporting *passengers*, in charter and special operations, beginning and ending at points in Niagara, Erie, Genesee, Monroe, Orleans and Wyoming Counties, NY, and extending to points in the U.S. (except AK and HI).

Note.—Applicants seeks to provide privately-funded charter and special transportation.

MC 158590 (Sub-1), filed March 1, 1983. Applicant: CLARENCE E. COVERDALE, 233 Florida Avenue, NW., Washington, DC 20001. Representative: Clarence Coverdale (same address as applicant), (202) 462-5520. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166471, filed February 28, 1983. Applicant: BRIAN E. JUEDES, d.b.a. AMERICAN SHIPPERS ASSOCIATION, 1118 Cleghorn, Unit D, Diamond Bar, CA 91765. Representative: Brian E. Juedes (same address as applicant), (714) 595-2098. As a *broker* of *general commodities* (except household goods), between points in the U.S..

MC 166550, filed March 1, 1983. Applicant: WARRIOR SERVICES, INC., P.O. Box 54, Glen Ridge, NJ 07028. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 09804; (201) 572-5551. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166561, filed March 2, 1983. Applicant: CARAVAN COACH, INC., 1256 South Tamiami Trail, Osprey, FL 33559. Representative: David H. Baker, 600 Maryland Ave., S.W., Washington, DC 20024; (202) 484-9090. Transporting *passengers*, in charter and special operations, beginning and ending at points in FL and GA, and extending to points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 166570, filed February 25, 1983. Applicant: JAMES C. WEIRE, d.b.a. F & S TRANSPORTATION, R.D. #1, Mt. Wolf, PA 17347. Representative: J. Bruce Walter, 410 North Third Street, P.O. Box 1146, Harrisburg, PA 17108; (717) 233-5731. Transporting *passengers*, in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately-funded charter and special transportation.

For the following, please direct status calls to Team 2 at 202-275-7030.

Volume No. OP2-110

Decided: March 11, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 166122, filed February 7, 1983. Applicant: DELUXE TRAVEL, INC., P.O. Box 411, Gambrills. MD 21054. Representative: Edward N. Button, 635 Oak Hill Avenue, Hagerstown, MD 21740; (301) 739-4860. Transporting *passengers*, in charter and special operations between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

[FR Doc. 83-7225 Filed 3-18-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the **Federal Register** on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application,

including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property-that the service proposed will serve a useful public purpose, responsive to a pubic demand or need; water common carrier-that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker-that the transportation will be consistant with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly.

Please direct status inquiries to Team One at (202) 275-7992.

Volume No. OP1-90

Decided: March 7, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

FF-670, filed February 22, 1983. Applicant: XYQOR FORWARDING, INC., 8775 Dalewood Ave., San Diego, CA 92123. Representative: Terri L. Pellman (same address as applicant), (619) 268-0310. As a *freight forwarder*, in connection with the transportation of *household goods, unaccompanied baggage, and used automobiles*, between points in the U.S. (except VT).

MC 290 (Sub-12), filed February 8, 1983. Applicant: JACK RABBIT LINES, INCORPORATED, 301 North Dakota Ave., Sioux Falls, SD 57102. Representative: James R. Becker, 420 Western Surety Bldg., P.O. Box 1443, Sioux Falls, SD 57101; (605)-336-2565. Transporting over regular routes *passengers* (1) between Mankato, MN and Minneapolis-St. Paul, MN: from Mankato over U.S. Hwy 169 to junction MN Hwy 101, then over MN Hwy 101 to junction Interstate Hwy 35, then over Interstate Hwy 35 to Minneapolis-St. Paul, MN, and return over the same route, (2) between Mankato, MN and Winona, MN: from Mankato, over U.S. Hwy 14 to junction U.S. Hwy 52, then over U.S. Hwy 52 to junction Interstate Hwy 90, then over Interstate Hwy 90 to junction MN Hwy 43, then over MN Hwy 43 to Winona, MN, and return over the same route, (3) between Sioux City, IA and Omaha, NE: from Sioux City over Interstate Hwy 29 to junction Interstate Hwy 480, then over Interstate Hwy 480 to Omaha, NE, and return over the same route, serving all intermediate points in (1), (2) and (3) above and the off-route points of Onawa and Missouri Valley, IA in (3) above.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(b) over the same route.

MC 2900 (Sub-464), filed February 23, 1983. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408, Jacksonville, FL 32203. Representative: S. E. Somers, Jr., (same address as applicant), (904)-353-3111. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with The Quaker Oats Company, of Chicago, IL.

MC 19201 (Sub-147), filed February 22, 1983. Applicant: PENNSYLVANIA TRUCK LINES, INC., 308 E. Lancaster Avenue, Wynnewood, PA 19096. Representative: James V. Fleming, III (same address as applicant), (215)-645-1416. 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 Trans-Am Shippers Cooperative Association, Inc., of Chicago, IL.

MC 23441 (Sub-25), filed February 16, 1982. Applicant: LAY TRUCKING COMPANY, INC., 104 Hawthorne St., LaPorte, IN 46350. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240; (317) 846-6655. Transporting *machinery and transportation equipment*, between Moline, IL, on the one hand, and, on the other, points in MO and WI.

MC 27530 (Sub-19), filed January 10, 1983. Applicant: KERRVILLE BUS COMPANY, INC., P.O. Box 712, Kerrville, TX 78028. Representative: Jerry Prestridge, P.O. Box 1148, Austin, TX 78767; (512)-472-8800. Transporting over regular routes *passengers*, between Belton, TX and Austin, TX over Interstate Hwy 35, serving all intermediate points.

Note.— Applicant seeks to provide regular route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(b) over the same route.

Note.—Applicant intends to tack the authority herein with its presently authorized operations.

MC 74681 (Sub-21), filed February 23, 1983. Applicant: STEVENS VAN LINES, INC., 121 South Niagara St., Saginaw, MI 48602. Representative: Robert J. Gallagher, 1000 Connecticut Ave., N.W., Suite 1200, Washington, DC 20036; (202) 785-0024. Transporting *household goods*, between points in the U.S. (except AK

and HI), under continuing contract(s) with Volkswagen of America, Inc., of Warren, MI. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either: (1) State that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343(A), or (3) submit an affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority please submit a copy of this filing to Team 1, Room 2379.

MC 108531 (Sub-27), filed February 1, 1983. Applicant: BLUE BIRD COACH LINES, INC., 502–504 North Barry St., Olean, NY 14760. Representative: Ronald W. Malin, Bankers Trust Bldg., Jamestown, NY 14701; (716)–664–5210. Transporting over regular routes *passengers,* between Olean, NY and Syracuse, NY, serving all intermediate points: from Olean over NY Hwy 16 to Maplehurst, then over NY Hwy 17 to Cuba, then over NY Hwy 305 to junction NY Hwy 19, then over NY Hwy 19 to junction NY Hwy 19A, then over NY Hwy 19A to junction NY Hwy 39, then over NY Hwy 39 to junction U.S. Hwy 20A, then over U.S. Hwy 20A to junction Interstate Hwy 390, then over Interstate Hwy 390 to Rochester, then over NY Hwy 31 to junction NY Hwy 5, then over NY Hwy 5 to Syracuse, and return over the same route.

Note.— Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(b) over the same route.

MC 126931 (Sub-2), filed February 18, 1983. Applicant: LOMPOC VAN & STORAGE, INC., 333 North D Street, Lompoc, CA 93436. Representative: James Robert Evans, 145 W. Wisconsin Avenue, Neenah, WI 54956; (414) 722–2848. Transporting (1) *machinery and household goods,* between points in San Luis Obispo and Santa Barbara Counties, CA, on the one hand, and, on the other, points in the U.S. (except HI), and (2) *furniture and fixtures, machinery, printed matter, pulp, paper and related products, and road and street signs,* between points in Santa Barbara County, CA, on the one hand, and, on the other, points in the U.S. (except HI).

MC 139900 (Sub-4), filed February 22, 1983. Applicant: L. CAPONE TRUCKING, INC., New Freedom-New Brooklyn Rd., Berlin, NJ 08009. Representative: Raymond A. Thistle, Jr., Five Cottman Court, 426 Cottman St., Jenkintown, PA 19046; (215)–576–0131. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 141661 (Sub-1), filed February 24, 1983. Applicant: TANNAHILL TRANSPORT LTD/LTEE, Allan's Corners, Ormstown, Quebec, Canada JOS 1KO. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167; (313) 349–3980. Transporting *fertilizer and fertilizer ingredients,* between points on the international boundary line between the United States and Canada in NY and VT, on the one hand, and, on the other, points in NY and VT, under continuing contract(s) with Fertibec, Inc., of St. Martine, Quebec, Canada.

MC 142501 (Sub-6), filed February 18, 1983. Applicant: HERBERT O. KINDRICK d.b.a. KINDRICK TRUCKING COMPANY, Route #8, Box 342, Harriman, TN 37748. Representative: Jess D. Campbell, 205 Clinch Ave., Knoxville, TN 37902; (615) 546–2141. Transporting *ammonium nitrate,* between points in the U.S., under continuing contract(s) with Kentucky-Tennessee Powder Company, Inc., of Woodbine, KY.

MC 142730 (Sub-9), filed February 18, 1983. Applicant: T. McGINNIS TRUCKING CO., INC., Route 3, Box 329, Catlettsburg, KY 41129. Representative: John M. Friedman, 2930 Putnam Ave., P.O. Box 426, Hurricane, WV 25526; (304) 562–3460. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI). Condition: Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation at applicant's written request of the permits in MC–142730 Sub 2 issued September 21, 1977, MC–142730 Sub 4 issued July 5, 1978, MC–142730 Sub 6 issued May 29, 1980, MC–142730 Sub 7X issued August 27, 1981, and MC–142730 Sub 8 issued November 26, 1982.

Note.—The purpose of this application is to convert applicant's existing contract carrier authority in MC–142730 (Sub-Nos. 2, 4, 6, 7X, and 8) to common carrier authority.

MC–146121 (Sub-4), filed February 23, 1983. Applicant: BAY CARTAGE COMPANY, 1122 E. Barney Ave., Muskegon, MI 49444. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503; (616) 459–6121. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Meijer, Inc., of Grand Rapids, MI.

MC 153480 (Sub-3), filed February 8, 1983. Applicant: RICHARD P. WARD d.b.a. WARD DISTRIBUTING COMPANY, P.O. Box 713, Alamosa, CO 81101. Representative: Jean Paul Jones, P.O. Box 1034, Alamosa, CO 81101; (303) 589–4677. Transporting *malt beverages,* between Fort Worth, TX, on the one hand, and, on the other, points in CO.

MC 161210 (Sub-2), filed February 18, 1983. Applicant: J-R TRANSPORTATION SERVICES, INC., R.D. 6, Box 385, Hammonton, NJ 08037. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113; (215) 365–5141. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with Ron A. Verblauw, of East Rutherford, NJ, C–J Transportation Services, Inc., of Williamstown, NJ, Alexander Paper, of Bensalem, PA, M & S Conversion Co., Inc., of Montoursville, PA, and Godiva Chocolatier, Inc., of Reading, PA.

MC 161231, filed February 23, 1983. Applicant: PLATEAU EXPRESS, INC., Rt. 11, Box 226, McMinnville, TN 37110. Representative: Roland M. Lowell, Fifth Floor, 501 Union St., Nashville, TN 37219; (615) 255–0540. Transporting (1) *metal products,* (2) *lumber and wood products,* (3) *electric motors,* (4) *clay, concrete, glass or stone products,* (5) *waste or scrap materials not identified by industry producing* and (a) between points in IL, MS and PA, and (b) between points in IL, MS and PA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161410, filed February 24, 1983. Applicant: A. B. TIBBITS, P.O. Box 162, Teton, ID 83451. Representative: J. D. Hancock, 30 South 2nd West, P.O. Box 427, Rexburg, ID 83440; (208) 356–5493. Transporting (1) *coal and coal products,* (2) *fertilizer,* and (3) *rock and road salt,* between points in ID, UT, MT, WY, and WA.

MC 161730, filed February 22, 1983. Applicant: ROADEX TRANSPORT LTD., 24 Jellicoe Crescent, Bramption, Ontario, Canada L6S 3H8. Representative: William J. Hirsch, 64 Niagara Street, Buffalo, NY 14202, (716) 853–0200. Transporting *machinery, metal products, and rubber and plastic products,* between points in the U.S. (except AK and HI), under continuing contract(s) with A.P.B. Extrusion Tooling Ltd., Ondrus Enterprise, Ondrus Hydra Lenth & Roll Former Automation Ltd., Becz Machine Manufacturing Ltd., Baron Metal Industries, Inc., Rogal Plastics Limited, Yorkview Plastics Limited, Ultimate Plastics Ltd.,

Dominion Plastics Limited, Amcan Plastics Limited, and Pillar Plastics Limited, all of Ontario, Canada.

MC 161941, Filed February 11, 1983. Applicant: MICHAEL G. MORRIS d.b.a. MORRIS TRUCKING, P.O. Box 1034, Tupelo, MS 38801. Representative: Michael G. Morris (same address as applicant), (601)-844-2154. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in CO, and those points in the U.S. in and east of WI, IL, MO, OK and TX (except ME).

MC 164041 (Sub-1), Filed February 8, 1983. Applicant: ENGEL INTERNATIONAL, INC., 901 Julia St., Elizabeth, NJ 07201. Representative: Robert J. Gallagher, 1000 Connecticut Ave., Suite 1200, Washington, DC 20036; (202)-785-0024. Transporting *household goods,* between points in AL, AK, AZ, AR, CA, CO, CT, DE, FL, GA, ID, IN, IA, KS, KY, LA; ME, MD, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, NC, OH, OK, OR, PA, RI, SC, TN, TX, UT, VT, VA, WV, WA, WI, WY, and DC.

MC 165991, Filed January 31, 1983. Applicant: EL PASO ENVIRONMENTAL SYSTEMS OF ARIZONA, INC., d.b.a. WHY WASTEWATER?, 1161 North El Dorado Place #323, Tucson, AZ 85715. Representative: Jack M. Wheatley, P.O. Box 10751, El Paso, TX 79997; (915) 779-3937. Transporting *Hazardous materials, hazardous waste and waste or scrap materials not identified by producing industry,* between points in TX, NM, AZ, and CA, under continuing contract(s) with Industrial Fabrication Services, Inc., Allen-Bradley Company, Enviromining Company, Inc., and W. R. Weaver Company, all of El Paso, TX.

MC 166120, Filed February 22, 1983. Applicant: COMPASS CARRIERS, INC., 1517 East Aurora, Des Moines, IA 50313. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501; (402) 475-6761. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Load Locators Ltd., of Des Moines, IA.

MC 166260, Filed February 15, 1983. Applicant: RAINBOW EXPRESS INCORPORATED, P.O. Box 171, Sonora, KY 42776. Representative: Herbert D. Liebman, 403 West Main St., P.O. Box 478, Frankfort, KY 40602; (502) 875-3493. 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 166301, filed February 16, 1983. Applicant: LARRY THORNTON d.b.a. CAVANAL EXPRESS COMPANY, Route 1, Box 153, Shady Point, OK 74956. Representative: Royce G. Caskey, P.O. Box 321, Tulsa, OK 74112; (918) 561-3968. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in LeFlore, Latimer, Haskell, Sequoyah, Muskogee, Wagoner, Tulsa, Pittsburg, McIntosh, and Okmulgee Counties, OK and Sebastian, Crawford, Washington, Benton, Franklin, Logan, Johnson, Yell and Pope Counties, AR.

MC 166400, filed February 23, 1983. Applicant: THOMAS TRUCKING, INC., P.O. Box 57, Gainesville, GA 30503. Representative: Bruce E. Mitchell, Suite 520, 3390 Peachtree Rd., NE., Atlanta, GA 30326; (404) 262-7855. Transporting *floor coverings and building materials,* between points in GA, TN, and NJ, on the one hand, and, on the other, points in CA and AZ.

MC 166431, filed February 24, 1983. Applicant: DIAMOND HAULING, INC., 355 Mitchell Road, Norcross, GA 30071. Representative: James M. Horn, 3089 Dover Drive, Duluth, GA 30136; (404) 476-2082. Transporting *machinery,* between points in the U.S. (except AK and HI).

MC 166440, filed February 22, 1983. Applicant: A-1 AUTO MOVERS, 415 South 7th St., Renton, WA 98055. Representative: Donald H. Landis (same address as applicant), (206)-226-4290. Transporting *transportation equipment,* between points in the U.S.

MC 166441, filed February 22, 1983. Applicant: ARROW MOVING & STORAGE, INC., P.O. Box 416, 1121 N. Bluemond Dr., Appleton, WI 54912. Representative: Edward J. Gerrity, P.O. Box 914, Appleton, WI 54912; (1-414) 734-5608. Transporting *household goods,* between points in Waupaca, Outagamie, and Winnebago Counties, WI, and IL, IN, IA, MI, and MN.

Volume No. OP1-92

Decided; March 10, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 730 (Sub-533), filed February 28, 1983. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., P.O. Box 8004, Walnut Creek, CA 94596. Representative: Alfred G. Krebs (same address as applicant); (415) 944-7260. Transporting *general commodities* (except A and B explosives, household goods and commodities in bulk), between points in the U.S. (except classes AK and HI), under continuing contract(s) with Allied Corporation, of Morristown, NJ.

MC 41951 (Sub-56), filed March 3, 1983. Applicant: WHEATLEY TRUCKING INC., P.O. Box 458, Cambridge, MD 21613. Representative: Daniel B. Johnson, 4304 East-West Highway, Bethesda, MD 20814; (301) 654-2240. Transporting *textile mill products,* between points in NY, NJ, PA, DE, MD, VA, TN, MS, AL, NC, SC, GA, FL, KY, OH and WV.

MC 80730 (Sub-8), filed February 25, 1983. Applicant: MAGNOLIA TRANSPORTATION CO., INC., 5121 Oates Road, P.O. Box 24458, Houston, TX 77013. Representative: Lester R. Gutman, 1919 Pennsylvania Avenue, NW., Suite 500, Washington, DC 20006; (202) 828-5017. Transporting *Mercer commodities,* between points in the U.S. (except AK and HI).

MC 102150 (Sub-17), filed March 4, 1983. Applicant: JENSEN TRANSPORT, INC., P.O. Box 368, Albert Lea, MN 56007. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501; (515) 682-8154. Transporting *commodities in bulk,* between points in IA, KS, MN, NE, ND, SD and WI.

MC 119080 (Sub-2), filed March 2, 1983. Applicant: DUPLANTIS TRUCK LINE, INC., P.O. Box 127, Houma, LA 70361. Representative: Richard P. Kissinger, 50 S. Steele Street, Suite 330, Denver, CO 80209; (303) 320-6100. Transporting *Mercer commodities,* between in LA, MS, TX, FL, AL, AR and OK.

MC 128290 (Sub-24), filed February 24, 1983. Applicant: EARL HAINES, INC., P.O. Box 2557, Winchester, VA 22601. Representative: Bill R. Davis, Suite 101, Emerson Center, 2814 New Spring Rd., Atlanta, GA 30339; (404) 434-3381. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between those points in the U.S. in and east of MN, IA, MO, KS, OK, and TX.

MC 141571 (Sub-1), filed March 1, 1983. Applicant: BATTELINI'S GARAGE, INC., Harding Highway, P.O. Box 78, Landisville, NJ 08326. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934; (201) 234-0301. Transporting *transportation equipment,* between points in the U.S. (except AK and HI).

MC 141981 (Sub-3), filed March 1, 1983. Applicant: BATES TRUCK LINE, INC., 507 Slocum Street, Lancaster, OH 43130. Representative: John L. Alden, 1396 West Fifth Avenue, Columbus, OH 43212; (614) 481-8821. 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 144011 (Sub-12), filed February 24, 1983. Applicant: HALL SYSTEMS, INC., 214 South 10th St., Birmingham, AL 35233. Representative: George M. Boles, 629 Frank Nelson Bldg., Birmingham, AL 35203; (205) 251-6602. 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 145731 (Sub-5), filed February 25, 1983. Applicant: BREADNER TRANSPORT LTD., #26 Highway, Meaford, Ontario, Canada NOH 1YO. Representative: William J. Hirsch, 64 Niagara Street, Buffalo, NY 14202; (716) 853-0200. Transporting *general commodities* except classes A and B explosives, and household goods), between ports of entry on the international boundary line between the United States and Canada, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 150890 (Sub-3), filed February 28, 1983. Applicant: THIELE TRANSPORTATION, INC., 1338 Dugdale Road, Waukegan, IL 60085. Representative: Paul J. Maton, 27 East Monroe Street, Suite 1000, Chicago, IL 60603, (312) 332-0905. Transporting (1) *metal products,* between points in IL, IN, MI, WI and OH, and (2) *building materials* between points in Boone County, IL, on the one hand, and, on the other, points in OH.

MC 156800 (Sub-7), filed March 3, 1983. Applicant: SEABOARD EXPRESS, INC., 565 Plank Rd., Waterbury, CT 06705. Representative: Raymond Talipski, 121 S. Main St., Taylor PA 18517, (717) 344-8030. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in New Haven County, CT, on the one hand, and, on the other, points in the U.S. (except HI).

MC 157001 (Sub-1), filed March 3, 1983. Applicant: KERN FOODS, INC. 13000 E. Temple Ave., City of Industry, CA 91749. Representative: Pete Peterson (same address as applicant), (213) 962-5111. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AZ, CA, CO, ID, MT, NV, OR, UT, WA and WY.

MC 159781 (Sub-3), filed February 25, 1983. Applicant: WESTPOINT PEPPERELL TRANSPORTATION COMPANY, P.O. Box 71, WestPoint, GA 31833. Representative: Michael F. Morrone, 1150 17th St., N.W., Suite 1000, Washington, DC 20036, (202) 457-1100. 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 (1) Aubrey R. Wilson, d/b/a Regulated Freight Brokers, of Rock Hill, SC, and (2) Genco Transportation Services, Inc., of West Mifflin, PA.

MC 165971, filed February 25, 1983. Applicant: V. B. MOTOR SERVICE, INC., 9870 Franklin Avenue, Franklin Park, IL 60131. Representative: Donald B. Levine, 180 North LaSalle Street, Chicago, IL 60601, (312) 368-0100. Transporting *metal products and machinery,* between Chicago, IL, on the one hand, and, on the other, points in WI.

MC 166020, filed January 31, 1983. Applicant: RIVER CITY TRANSPORT, DIVISION OF ALLIED BLACKTOP CORPORATION, Box 356, 915 Short St., Eau Claire, WI 54702. Representative: Wayne W. Wilson, 150 East Gilman St., Madison, WI 53703, (608)-256-7444. Transporting *clay, concrete, glass or stone products,* and *ores and minerals,* between points in WI, on and north of U.S. Hwy 10, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 166511, filed March 2, 1983. Applicant: O.S.T. TRUCKING COMPANY, INC., 320 North Point Road, Baltimore, MD 21224. Representative: Joseph Schwartz (same address as applicant), (301) 633-2471. Transporting *metal products, containers, and trailers,* between points in MD, DE, PA, OH, KY, NJ, VA, WV, NY, and DC.

For the following, please direct status calls to Team 2 at 202-275-7030.

Volume No. OP2-111

Decided: March 11, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 129702 (Sub-13), filed February 7, 1983. Applicant: CARPET TRANSPORT, INC., Rte 5, Lovers Lane Road, Calhoun, GA 30701. Representative: Archie B. Culbreth, 2200 Century Parkway, Suite 570, Atlanta, GA 30345, (404)321-1765. Transporting *textiles and textile products, floor coverings, chemicals and related products, and plastic and plastic products,* between points in CA and CO, and those points in U.S., in and east of IL, KY, TN, AR, LA and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 145783 (Sub-3), filed February 11, 1983. Applicant: ALPINE TRANSPORTATION CO., INC., P.O. Box 740, Tenafly, NJ 07670. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10123, (212) 239-4610. 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 Right On Freight Forwarding Inc., of Jersey City, NJ.

MC 166572, filed February 24, 1983. Applicant: ALDRIDGE MOBILE HOME SERVICE, INC., P.O. Box 153, Cottondale, AL 35453. Representative: Gerald D. Colvin, Jr., 601-09 Frank Nelson Bldg., Birmingham, AL 35203, 205-251-2881. Transporting *mobile homes and portable buildings,* between points in AL, FL, MS, LA, GA, and TN.

For the following, please direct status calls to Team 4 at 202-275-7669.

Volume No. OP4-156

Decided: March 15, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 164686, filed February 18, 1983. Applicant: DANNIE GILDER, INC., Route 1, Whitewater, MO 63785. Representative: Georgia Helderman, Route 1, Box 152, Whitewater, MO 63785, (314) 243-8268. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AR, IN, IL, KS, KY, MI, MO, NC, OH, TN, and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 5 (202) 275-7289.

Volume No. OP5-118

Decided: March 14, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 25399 (Sub-22), filed March 1, 1983. Applicant: A-P-A TRANSPORT CORP., 2100 88th St., North Bergen, NJ 07047. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234-0301. 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 Lennox Industries, Inc., of Dallas, TX, Community Playthings, of Rifton, NY, Contonex Corp., of Westbury, NY, J.I. Holcomb, of Dayton, NJ, and Vandenburgh Bulb, of Chester, NY.

MC 25798 (Sub-402), filed February 28, 1983. Applicant: CLAY HYDER

TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (Same address as applicant), 813-967-1101. 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 Kraft, Inc., of Glenview, IL.

MC 34099 (Sub-5), filed March 2, 1983. Applicant: SILCON TRUCKING CO., INC., 411 West Street, West Bridgewater, MA 02379. Representative: Ester A. Winslow (same address as applicant), (617) 961-1180. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI).

MC 41098 (Sub-97), filed March 2, 1983. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, D.C. 20006, (202) 833-8884. Transporting *household goods*, between points in the U.S., under continuing contract(s) with TRW, Inc., of Redondo Beach, CA.

MC 41098 (Sub-98), filed March 2, 1983. Applicant: GLOBAL VAN LINES, INC., One Global Way, Anaheim, CA 92803. Representative: Alan F. Wohlstetter, 1700 K St., NW., Washington, DC 20006, (202) 833-8884. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S.

MC 41359 (Sub-2), filed February 22, 1983. Applicant: EDMONDS-ALDERWOOD AUTO FREIGHT COMPANY, 6203 215th S.W., Mountlake Terrace, WA 98043. Representative: Michael A. Johnson, 300 Central Building, Seattle, WA 98104, (206) 624-2521. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in WA, OR, ID and MT.

MC 58549 (Sub-38), filed February 28, 1983. Applicant: GENERAL MOTOR LINES, INC., 1634 Granby St., NE., P.O. Box 13727, Roanoke, VA 24036-3727. Representative: Jerry D. Beard (same address as applicant), (703) 982-2120. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in GA, KY, MD, NC, SC, TN, VA, WV, and DC.

MC 79658 (Sub-60), filed February 28, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Road, P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills, (same address as applicant), 812-424-2222. Transporting *household goods* between points in the U.S. (except AK and HI), under continuing contract(s) with Monsanto Company, of St. Louis, MO.

MC 79658 (Sub-61), filed February 28, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Road, P.O. Box 509 Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), 812-424-2222. Transporting *household goods* between points in the U.S. (except AK and HI), under continuing contract(s) with Sky Chefs, a division of Flagship International, Incorporated, of Arlington, TX.

MC 117699 (Sub-5), filed March 1, 1983. Applicant: MILLER BROS, CO., INC., P.O. Box EA, Hyrum, UT 84319. Representative: Bruce W. Shand, Suite 280, 311 S. State St., Salt Lake City, UT 84111, (801) 531-1300. Transporting *such commodities* as are dealt in by grocery and food business houses, department stores, and variety stores, between those points in the U.S. in and west of MN, WI, IL, MO, AR, and LA (except AK and HI).

MC 141168 (Sub-1), filed March 1, 1983. Applicant: LESLIE EUGENE ALSTON, 2715 Central Avenue, N.E., Washington, DC 20018. Representative: (Same address as applicant), (202) 635-7598. Transporting *building materials, clay, concrete, glass, or stone products*, and *construction equipment* and *machinery*, between those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 144888 (Sub-21), filed March 1, 1983. Applicant: BIL-RIC TRANSPORT SYSTEMS, INC., 130 Somerset St., Somerville, NJ 08876. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934, (201) 234-0301. 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 146709 (Sub-5), filed February 28, 1983. Applicant: EDMONDSON SWIFT MEAT TRANSPORT, INC., P.O. Box 86, Georgetown, GA 31754. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101, 703-893-4924. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. in and east of MN, IA, NE, CO and NM.

MC 147198 (Sub-14), filed March 1, 1983. Applicant: P. & E.I. TRUCK LINES, INC., P.O. Box 175, Rossville, IL 60963. Representative: Paul J. Maton, 27 E. Monroe St., Suite 1000, Chicago, IL 60603, (312) 332-0905. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI).

MC 150179 (Sub-5), filed March 1, 1983. Applicant: LOGISTICS, INC., 214 So., Perry St., Dayton, OH 45402. Representative: Stephen J. Habash, 100 E. Board St., Columbus, OH 43215, (614) 228-1541. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Boone County, KY, Randolph and Wayne Counties, IN, and points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343(A), or (3) submit an affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority please submit a copy of this filing to Team 5, Room 2414.

MC 150589 (Sub-10), filed March 1, 1983. Applicant: J & K TRANSPORTATION CO., INC., 1600 Industrial, Dearborn, MI 48120. Representative: Michael F. Morrone, 1150 17th St., N.W. Suite 1000, Washington, DC 20036, 202-457-1124. 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 152368 (Sub-5), filed March 1, 1983. Applicant: D.L. WILLIAMS TRUCKING, INC., P.O. Drawer 719, Hillsboro, TX 76645. Representative: James W. Hightower, Suite 301, 5801 Marvin D. Love Freeway, Dallas, TX 75237-2385, 214-339-4108. Transporting *pipe*, between points in AL, AR, AZ, CA, CO, FL, GA, IL, IN, IA, ID, KS, KY, LA, MI, MO, MT, MS, NE, NC, NJ, NM, NY, NV, OH, OK, OR, SC, TN, TX, UT, VA, WA, WY and WV.

MC 152848 (Sub-1), filed February 28, 1983. Applicant: TIGER TRANSPORTATION, INC., 301 Crescent Street, Scottdale, PA 15683. Representative: John A. Vuono, 2310 Grant Building, Pittsburgh, PA 15219, (412) 471-1800. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in

LA and TX and those points in the U.S. in and east of WI, IL, KY, TN, and MS.

MC 158288 (Sub-9), filed March 1, 1983. Applicant: TOMAHAWK TRANSPORTATION, A DIVISION OF TOMAHAWK SERVICES, INC., 5400 Laurel Rd., Billings, MT 59101. Representative: William E. Seliski, 2 Commerce St. P.O.B. 8255, Missoula, MT 59807, 406-543-8369. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in the U.S.

MC 160378, filed February 28, 1983. Applicant: KEN-MAC TRAILER TOWING LTD., 11147 Bridge St. Surrey, B.C. Canada V3V 3V1. Representative: James W. McGaw, 11402 87 A Ave., Delta, B.C. Canada V4C 3A6, 604-596-6858. Transporting *mobile homes* and *mobile machinery,* between points in WA and OR.

MC 160958 (Sub-1), filed February 28, 1983. Applicant: SUNBELT TRANSPORT, INC., P.O. Box 29303, Greensboro, NC 27408. Representative: Archie W. Andrews, P.O. Box 1166, Eden, NC 27288, 919-635-4711. Transporting *general commodities* (except class A and B explosives, household goods, and commodities in bulk), between points in NC. on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, NE, KS, OK, and TX.

MC 161569 (Sub-4), filed March 1, 1983. Applicant: TRANSPORT CONRACTORS, INC., 2206 Frankfort Avenue, Louisville, KY 40206. Representative: Taylor O. Cowan III, 6408 Clinton Highway, Knoxville, TN 37912 (615) 938-5001. 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 Devoe & Raynolds Co., Division of Grow Group, Inc., of Louisville, KY.

MC 164559, filed February 28, 1983. Applicant: CHICAGO STEEL SERVICE, INC., 4344 West 45th St., Chicago, IL 60632. Representative: James A. Spiegel, Olde Towne Office Park, 6333 Odana Rd., Madison, WI 53719 (608) 273-1003. Transporting *metal and metal products,* products, between points in the U.S. (except AK and HI), under continuing contract(s) with House of Stainless, Inc., of Chicago, IL, Metal Source, Inc., Great Western Division, of Chicago, IL, and Triumph Industries, Division of Metal Source, Inc., of Bridgeview, IL.

MC 166458, filed February 28, 1983. Applicant: WALKER WRECKER SERVICE, INC., Route 2, Piggott, AR 72454. Representative: Thomas B. Staley, 1550 Tower Bldg., Little Rock, AR 72201 (501) 375-9151. Transporting *wrecked or disabled motor vehicles,* between points in AR and those in MO on and south of Interstate Hwy 70, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 166468, filed February 28, 1983. Applicant: R & R TRUCKING, INC., 2701 Broening Highway, Baltimore, MD 21222. Representative: Walter T. Evans, 4304 East-West Highway, Bethesda, MD 20814, 301-657-2636. Transporting *general commodities* (except classes A and B explosives and household goods), between points in MD, on the one hand, and, on the other, point in DE, MD, PA, VA, WV, and DC.

MC 166508, filed February 28, 1983. Applicant: MERLIN C. POOLE, d.b.a. POOLE TRUCKING CO.,7624 Drew Ave., Burr Ridge, IL 60521. Representative: Donald S. Mullins, 1033 Graceland Ave., Des Plaines, IL 60016 (312) 298-1094. Transporting *food and related products,* and *rubber and plastic products,* (a) between Chicago, IL, on the one hand, and, on the other, points in AL, AR, AZ, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, MA, MI, MN, MS, MO, MT, NE, NJ, NY, NC, OH, OK, OR, PA, SC, TN, TX, UT, VA, WA, WV, and WI, and (b) between points in Cumberland County, NJ, on the one hand, and on the other, points in FL, GA, IL, MA, NY, NC, PA, SC, TN, VA, and DC.

MC 166529, filed February 23, 1983. Applicant: DeFILIPPIS HAULAGE, INC., 15-10 130th St., College Point, NY 11356. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528 (914) 835-4411. Transporting *commodities* which because of their size or weight require the use of special handling or special equipment, between points in CT, NJ, and NY, on the one hand, and, on the other, points in CT, DE, IL, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC.

MC 166569, filed February 24, 1983. Applicant: L & H TRANSIT, INC., 170 Amaral Street, East Providence, RI 02914. Representative: Charles R. Reilly, 391 Davisville Road, North Kingstown, RI 02852 (401) 884-0969. Transporting *general commodities* (except classes A and B explosives and household goods), between points in CT, MA, ME, NH, NJ, NY, RI, and VT.

[FR Doc. 83-7226 Filed 3-18-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier; Temporary Authority Application

The following are notices of filing of applications for temporary authority under section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register.** One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. F-246

The following applications were filed in Region I: Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC-56344 (Sub-1-2TA), filed March 7, 1983. Applicant: ALERT MOTOR FREIGHT, INC., Moorestown-Bridgeboro Road, P.O. Box 1045 Delran, NJ 08075. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Metal products,* between the Commercial Zones of Baltimore, MD, Chicago, IL, New York, NY and Philadelphia, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper(s): There are seven

statements in support of this application which may be examined at the Regional Office of the ICC in Boston, MA.

MC-166616 (Sub-1-1TA), filed March 7, 1983. Applicant: COMBS, INC., 712 Route 1 North, P.O. Box 806, Edison, NJ 08817. Representative: Harold L. Reckson, 33-28 Halsey Road, Fair Lawn, NJ 07410. *Food and related products,* between New York, NY, and its commercial zone, on the one hand, and, on the other, points in PA, WV, MD, VA, NC, SC, GA, FL, AL, MS, LA, TX, KY, AR, TN and DC. Supporting shipper(s): Major Products Co. Inc., 66 Industrial Ave., Little Ferry, NJ 07643; Colonial Spice & Extract Co., Inc., 210 Kent Ave., Brooklyn, NY 11211; Van Besta Co., Inc., 611 Bergen St., Brooklyn, NY 11238.

MC 124905 (Sub-1-7TA), filed March 8, 1983. Applicant: GARY W. GRAY TRUCKING, INC., P.O. Box 48, Delaware, NJ 07833. Representative: Raymond Talipski, 121 S. Main Street, Taylor, PA 18517. *Cement,* between York, Lehigh and Northampton Counties, PA, on the one hand, and, on the other, NY, NJ, and CT. Supporting shipper(s): Best Block Co., Inc., 1025 U.S. Route 1, Metuchen, NJ 08840; Smithtown Concrete Products Corp., P.O. Box 612, Jericho Turnpike and Arthur Drive, Smithtown, Long Island, NY 11787.

MC 164100 (Sub-1-3TA), filed March 4, 1983. Applicant: HANNAFORD TRUCKING COMPANY, 54 Hannaford Street, South Portland, ME 04106. Representative: Beth Dobson, P.O. Box 586, Portland, ME 04112. *Contract carrier:* irregular routes: *General commodities (except Class A and B explosives)* between points in the U.S. under continuing contract(s) with Hannaford Bros. Co. of South Portland, ME. Supporting shipper: Hannaford Bros. Co., 54 Hannaford Street, South Portland, ME 04106.

MC 164100 (Sub-1-4TA), filed March 4, 1983. Applicant: HANNAFORD TRUCKING COMPANY, 54 Hannaford Street, South Portland, ME 04106. Representative: Beth Dobson, P.O. Box 586, Portland, ME 04112. *General commodities (except Class A and B explosives)* between points in the U.S. Supporting shipper(s): Hannaford Bros. Co., P.O. Box 1000, Portland, ME 04104; Exide Corp., 185A New Boston Street, Woburn, MA 01801; Solon Manufacturing Co., P.O. Box 285, Solon, ME 04979-0285; The Emery Waterhouse Co., P.O. Box 659, Rand Road, Portland, ME; Saco Defense Systems Div., Maremont, 291 North Street, Saco, ME 04072.

MC 66567 (Sub-1-1TA), filed March 8, 1983. Applicant: BOB KILPATRICK MOVING & STORAGE INC., 147 Walnut Street, Northvale, NJ 07647. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract carrier:* irregular routes: *Machinery and electrical machinery, or equipment and associated supplies STCC 35 and 36,* between Northvale, NJ on the one hand, and, on the other, points in ID, IL, KY, LA, MA, NY and TX, under continuing contract(s) with Austin Associates, Northvale, NJ. Supporting shipper: Austin Associates, 152 Veterans Drive, Northvale, NJ 07647.

MC 106207 (Sub-1-3TA), filed March 7, 1983. Applicant: NEW YORK-KEANSBURG-LONG BRANCH BUS CO. INC., 50 Highway 36, Leonardo, NJ 07737. Representative: Sidney J. Leshin, 3 East 54th Street, New York, NY 10022. *Common carrier:* regular routes: *Passengers and their baggage* between Lakewood, NJ and New York, NY serving all intermediate points: Commencing in Lakewood, NJ over local streets to Route 9, north on Route 9 to junction of Garden State Parkway, north on Garden State Parkway to junction New Jersey Turnpike, north on New Jersey Turnpike to I-495, west on I-495 to Port Authority Terminal, New York, NY, return in reverse direction. Supporting shipper(s): There are twenty statements in support attached to this application which may be examined at the I.C.C. Regional Office in Boston, MA.

MC 149576 (Sub-1-1TA), filed March 4, 1983. Applicant: TRANS-AMERICAN TRUCKING SERVICE, INC., 130 Meadows Road, P.O. Box 1247, Nixon Station, Edison, NJ 08818. Representative: Morton E. Kiel, Suite 1832, Two World Trade Center, New York, NY 10048. *Contract carrier:* irregular routes: *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 contract(s) with Ecodyne Corp. of Union, NJ. Supporting shipper: Ecodyne Corp., 2720 Route 22, Union, NJ 07083.

MC 165689 (Sub-1-1TA), (republication) filed January 14, 1983. Applicant: TRANSPORT I. BIJEAU LTD, 237 7th Avenue, Deux Montagnes, Quebec, CD. Representative: Issac Bijeau, C.P. 531, St. Eustache, Quebec, CD J7R 3H7. *Building material, lumber, fencing and plate glass* between points of entry on the U.S./CD International Boundary at Champlain, NY. and Highgate Springs, VT, and points in CT, DC, DE, MA, MD, NH, NJ, NY, PA, RI, TN, VA, WV and VT. Supporting shipper(s): There are six statements of support with this application which may be examined at the Regional Office of the I.C.C. in Boston, MA. Sole purpose of this republication is to add DE which was not shown in the publication of January 31, 1983.

MC 166084 (Sub-1-1TA), filed March 4, 1983. Applicant: JAMES E. WHALEN, d.b.a. WHALEN SERVICE, 11403 Tomarsue Drive, Marilla, NY 14102. Representative: John L. Trigilio, Esq., Gunderman & Associates, Can-Am Building, 101 Niagara Street, Buffalo, NY 14202. *Contract carrier:* irregular routes: *Exposed, processed, and unprocessed photographic film, prints, slides, and related photographic products and supplies, business records, inter-office communications, and related documents, cameras, parts, and attachments, binoculars and related equipment, and calculators and miscellaneous electronic equipment,* between points in NY, OH, and PA, under continuing contract(s) with Carhart Photo, Inc. of Rochester, NY. Supporting shipper: Carhart Photo, Inc., 3333 West Henrietta Road, Rochester, NY 14603.

The following applications were filed in Region 2. Send protests to: ICC, Fed. Res. Bank Bldg., 101 North 7th St., Rm. 620, Philadelphia, PA 19106.

MC 150511 (Sub-2-14TA), filed March 1, 1983. Applicant: BETTER HOME DELIVERIES, INC., 3700 Park East Dr., Cleveland, OH 44122. Representative: Thomas B. Hill, 1101 31st St., Downers Grove, Il 60515. *Contract Irregular: Furniture and fixtures,* from Baltimore, Md to points in Va and Washington, D.C., under continuing contract(s) with Sealy of Maryland and Virginia, Inc. An underlying ETA seeks 120 days authority. Supporting shipper: Sealy of Maryland and Virginia, Inc., Baltimore Beltway Exit 10, Baltimore, Md 21227.

MC 166451 (Sub-II-1TA), filed February 28, 1983. Applicant: C & S TRANSPORT, Rd. 2, Parkesburg, PA 19365. Representative: John W. Metzger, 49 N. Duke St., Lancaster, PA 17602. *Agricultural pulverized limestone,* (a) between points in Lancaster County, PA, on the one hand, and, on the other, points in NY, NJ, DE, MD, and VA, and (b) between Viola and Laurel, DE, on the one hand, and, on the other, points in MD and VA. An underlying ETA seeks 120 days authority. Supporting shipper(s): Martin Limestone, Inc., Box 155, Blue Ball, PA 17506.

MC 158860 (Sub-II-3TA), filed March 1, 1983. Applicant: CAVALIER FREIGHT, INC., 5741 Bayside Rd., Suite 106, Virginia Beach, VA 23455. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229. *General commodities (except classes A and B explosives, household goods and*

commodities in bulk), between Norfolk, VA (and points in its commercial zone), on the one hand, and, on the other, points in the U.S. (except AK and HI). An underlying ERA seeks 120 days authority. Supporting shipper(s): Gambro, Inc., 401 Rotary St., Hampton, VA 23661; The Hipage Co., Inc., 227 E. Plume St., Norfolk, VA 23510.

MC 166450 (Sub-2-1TA), filed February 28, 1983. Applicant: D.W.L. TRUCKING, INC., 635 West Poplar St., Grove City, PA 16127. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. Contract: Irregular: *Coal* between points in Venango, Mercer, Butler, Lawrence, Beaver and Allegheny Counties, PA, on the one hand, and, on the other, points in OH, under continuing contract(s) with D.W.L. Coal Company and Kerry Coal Company, for 270 days. Supporting shippers: D.W.L. Coal Company, 635 West Poplar St., Grove City, PA 16127 and Kerry Coal Company, Rd. 2, Box 19, Portersville, PA 16051.

MC 163825 (Sub-II-1TA), filed March 1, 1983. Applicant: G & B ANDERSON, INC., 11574 Franchester R, West Salem, OH 44287. Representative: Joseph A. Mamone, #520—75 Public Square, Cleveland, OH 44113. *Steel, aluminum, and alloyed steel products in the form of sheets, plates, structurals and bars; and aluminum, steel, and alloyed steel products* between points in OH, MI, and PA for 270 days. An underlying eta seeks 120 days authority. Supporting shipper: Wayne Steel, Inc., 1070 W. Liberty Street, Wooster, OH 44691.

MC 150817 (Sub-II-3TA), filed March 1, 1983. Applicant: Hoffman Transport Inc., Route 6, Box 89, Hagerstown, MD 21740. Applicant's Representative: Edward N. Button, 635 Oak Hill Avenue, Hagerstown, MD 21740. *Vending machines, materials, equipment, and supplies, used in the manufacture and sale thereof,* between Ranson, WV on the one hand, and, on the other, points in the U.S., restricted to traffic originating at or destined to the facilities of Dixie Narco, for 270 days. An underlying eta seeks 120 days authority. Supporting shipper: Dixie Narco, P.O. Box 460, Ranson, WV 25438.

MC 166380 (Sub-II-1TA), filed February 23, 1983. Applicant: RICHARD K. KING, INC., Rt. 1, Box 72B, Wytheville, Va. 24382. Representative: Richard K. King (same address as applicant). *Metal Products and Machinery* between Bland and Wythe Counties, VA, on the one hand, and, on the other, points in OH, PA and NY. Supporting shipper(s): Brown Boveri Electric Co., Bland, VA, Amsco Products, Wytheville, VA.

MC 166112 (Sub-II-1TA) filed March 1, 1983. Applicant: FRED LANTINGA, P.O. Box 629, Culpeper, VA 22701. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. *Lumber and wood products,* between all points in and east of WI, KY, TN and MS, under continuing contract with Culpeper Wood Preservers of Culpeper, VA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Culpeper Wood Preservers, P.O. Box 819, Culpeper, VA 22701.

MC 36531 (Sub-II-1TA), filed March 2, 1983. Applicant: MAIN TRUCKING COMPANY, 52 Rainbow Avenue, Sunbury, OH 43074. Representative: James R. Stiverson, 1396 W. Fifth Ave., Columbus, OH 43212. *Lime, burnt lime, limestone and limestone products,* from Wayne and Monroe Counties, MI, to Franklin County, OH for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: City of Columbus, Division of Water, 90 W. Broad St., Columbus, OH 43215.

MC 147465 (Sub-II-3TA), filed March 3, 1983. Applicant: MOORE & SON CO., 1101 Cable Ave., Columbus, OH 43222. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215. Contract, irregular: *beverages, containers, and related products* between Columbus, OH, including points in its Commercial Zone, and points in MI under continuing contract(s) with Coca-Cola Bottling Company of Michigan, Lansing, MI, for 270 days.

MC 155143 (Sub-II-4TA), filed February 22, 1983. Applicant: NEW DIXIE TRANSPORTATION CORP., P.O. Box 112, Providence Forge, VA 23140. Representative: Carroll B. Jackson, 1810 Vincennes Rd., Richmond, VA 23229. *Aggregates, charcoal cooking grills, building materials, clay, concrete, glass or stone products, lumber and wood products and materials, equipment and supplies used in the manufacture, distribution and sales of the above commodities* between points in CT, DE, GA, KY, MA, MD, NC, NJ, NY, OH, PA, RI, SC, TN, VA, WV and DC. An underlying ETA seeks 120 days authority. Supporting shipper(s): Betco Block & Products, Inc., 5400 Butler Rd., Bethesda, MD 20816.

MC 163508 (Sub-II-3TA), filed February 28, 1983. Applicant: NORRIS TRANSPORT, INC., White Horse Road, Devault, PA 19432. Representative: James H. Sweeney, P.O. Box 9023, Lester, PA 19113. *Food and related products, materials, equipment and supplies used in the manufacture and distribution of food and related products,* between points in the US in and east of ND, SD, NE, KS, OK, TX. Supporting shippers: There are 7 statements in support attached to this application which may be examined at the Phila. Regional Office.

MC 107012 (Sub-II-271TA), filed March 1, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Contract irregular: *household goods* between points in the United States, under continuing contract(s) with Crown Life Insurance Co., Toronto, Ontario, Canada, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Crown Life Insurance Co., 120 Bloor Street, E., Toronto, Ontario M4W 1B8.

MC 107012 (Sub-II-272TA), filed March 1, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Contract irregular: *household goods* between points in the United States, under continuing contract(s) with Pacific Southwest Airlines of San Diego, California, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Pacific Southwest Airlines, 3225 Harbor Drive, San Diego, CA 92101.

MC 107012 (Sub-II-273TA), filed March 1, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). Contract irregular: *household goods* between points in the United States, under continuing contract(s) with Texas Instruments, Inc., Dallas, Texas, for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Texas Instruments, Inc., P.O. Box 266015, Dallas, TX 75265.

MC 152640 (Sub-II-15TA), filed February 22, 1983. Applicant: RAPID DISTRIBUTION SERVICE, INC., 2392 North Dupont Highway, Dover, DE 19901. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., NW., Washington, DC 20005. *Machinery and lawn and garden supplies and equipment,* between Randolph County, IN, on the one hand, and, on the other, points in the U.S. located in and east of ND, SD, NE, CO and NM, for 270 days. Supporting

shipper: Lazy Boy Parmi Tool Company, Inc., P.O. Box 326, Lynn, IN 47355.

MC 146807 (Sub-II-35TA), filed March 1, 1983. Applicant: S n W ENTERPRISES, INC. P.O. Box 1131, Wilkes Barre, PA 18702. Representative: Peter Wolff, 722 Pittston Avenue, Scranton, PA 18505. *School, Art and Hobby Supplies* between Winfield, KS, on the one hand, and, on the other, points in AR, CA, GA, IL, IN, IA, MN, MO, NE, NV, TN and WA for 270 days. An underlying ETA seeks 120 days. Supporting shipper(s): Binney & Smith, Inc., P.O. Box 431, 1100 Church Lane, Easton, PA 18042.

MC 165700 (Sub-II-1TA) Filed February 28, 1983. Applicant: HARVEY SALT COMPANY, 1325 Mohrs La., Baltimore, MD 21220. Representative: Steven T. Blomberg, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877. Contract: Irregular, *salt and salt products* between points in MD, PA, DE, DC, NJ, NY, OH, WV, VA, NC, and SC, under continuing contract(s) with International Salt Co., of Clarks Summit, PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): International Salt Co., Abington Executive Park, Clarks Summit, PA 18411.

MC 147258 (Sub-II-2TA), filed February 28, 1983. Applicant: F. T. SILFIES, INC., 751 Pt. Phillips Rd., Bath, PA 18014. Representative: Francis W. Doyle, 323 Maple Ave., Southampton, PA 18966. *(1) Carbon, (2) Ferro-Silicon and (3) Firebrick,* in dump vehicles, (1) from Lancaster, PA to Harleyville, SC, (2) from Lancaster, PA to Birmingham, AL and Zanesville, OH to Lancaster, PA, and (3) from Baltimore, MD and Lancaster, PA to Columbiana, OH. An underlying ETA seeks 120-day authority. Supporting shipper: E & H Recycling Co., Inc., P.O. Box 291, York, PA 17405.

MC 166449 (Sub-II-1TA), filed February 28, 1983. Applicant: SOUTHSIDE MOBILE HOME SERVICE, INC., 1321 West Danville St., South Hill, VA 23970. Representative: Archie W. Andrews, P.O. Box 1166, Eden, NC 27288. *Mobile homes, modulars and specially designed trailers* between Emporia and South Hill, VA; Henderson, NC; and Baltimore, MD, on the one hand, and, on the other points in DE, MD, VA, NC And DC. An underlying ETA seeks 120 days authority. Supporting shippers: Farmstead Industries of VA, Inc., Star Route, Box 4-C, Emporia, VA 23847; Watkins Manufacturing Co., Inc., 854 Grazier St. (P.O. Box 370) South Hill, VA 23970; Williams Mobile Offices, Inc., 8656 Pulaski Hwy., Baltimore, MD 21237.

MC 165932 (Sub-II-1TA), filed February 23, 1983. Applicant: TARA TRUCKING, INC., 514 W. Main St., Monongahela, PA 15063. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. *Machinery and machinery parts,* between points in PA, on the one hand, and, on the other, points in WV, VA, OH and KY. An underlying ETA seeks 120 days authority. Supporting shipper(s): Lee-Norse Co., P.O. Box 2863, 6600 Steubenville Pike, Pittsburgh, PA 15230.

MC 61334 (Sub-II-2TA), filed February 28, 1983. Applicant: TRANS-BRIDGE LINES, INC., 2012 Industrial Dr. Bethlehem, PA 18017. Representative: W. C. Mitchell, 370 Lexington Ave., New York, NY 10017. Common, regular: *Passengers,* between Bethlehem, PA, over US Hwy 22 to junction INT Hwy 78 at Still Valley, NJ, then over INT Hwy 78 to junction INT Hwy 287 at Pluckemin, NJ, then over INT Hwy 287 to junction INT Hwy 95 near Fords, NJ, then over INT Hwy 95 and through the Lincoln Tunnel to New York, NY, and return over the same route, serving all intermediate points in PA and those in NJ between Phillipsburg and Clinton, both inclusive, for 270 days. An underlying ETA seeks 120 days authority. There are 21 supporting statements attached to this application which may be examined at the Philadelphia Regional Office.

MC 157866 (Sub-II-1TA), filed February 22, 1983. Applicant: TULTEX TRANSPORTATION, INC., Franklin St., P.O. Box 5191-A, Martinsville, VA. 24115. Representative: Ernest W. Sams (same address as applicant). Contract, irregular: *Industrial chemicals (except in bulk, and Classes A & B explosives),* between points in CT, DE, GA, MD, MA, NJ, NY, NC, PA, RI, SC, TN and VA, under a continuing contract(s) with Prillaman Chemical Corp. An underlying ETA seeks 120 days authority. Supporting shipper(s): Prillaman Chemical Corp., P.O. Box 4024, Martinsville, VA 24115.

MC 158923 (Sub-II-4TA), filed February 22, 1983. Applicant: JOHN R. VALENTINO TRUCKING, R.D. No. 2, Box 9B, Cochranville, PA 19330. Representative: John R. Valentino (same address as applicant). *General commodities (except household goods as defined by the Commission, Classes A & B explosives, secret and sensitive weapons and munitions),* between points in NJ, NY, DE, PA, MD, DC, VA, CT, RI and MA, for 270 days. Restricted to U.S. Government traffic. An underlying ETA seeks 120 days authority. Supporting shipper(s): Veterans Administration Supply Depot, VASD Route 206, Somerville, NJ 08876.

MC 166479 (Sub-II-1TA), filed March 1, 1983. Applicant: JIM WRIGHT d.b.a. WRIGHT EXPRESS, 159 Greenfield Ave., Rear., Pittsburgh, PA 15207. Representative: Jim Wright (same address as applicant). *Metal products* between points in PA, on the one hand, and, on the other, points in DE, IL, IN, KY, MD, MI, MO, NJ, NY, NC, OH, SC, VA and WV. Supporting shipper(s): Lockhart Iron & Steel, McKees Rocks, PA, Hussmann Refrigeration Inc., Monroeville, PA, Schultheis Bros., Bessemer, PA, Pittsburgh Smeltering Refinery Co., Pittsburgh, PA, Brennan Trucking & Prefabricated, Dravosburg, PA.

MC 158196 (Sub-II-4TA), filed February 23, 1983. Applicant: BANKS WRIGHT d.b.a. WRIGHT MOTOR LINES, Box 177, Armagh, PA 15920. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. Contract, irregular: *Steel and steel products, including materials, equipment and supplies used in the manufacture, sale and distribution thereof,* between the facilities of or used by Deitrich Industries, Inc. located at Blairsville, PA; Baltimore, MD; Hicksville, OH; Hammond, IN; Aurora, OH and Ashville, AL, on the one hand, and, on the other, points in the U.S. (except AK & HI), under continuing contract(s) with Deitrich Industries, Inc. An underlying ETA seeks 120 days authority. Supporting shipper(s): Deitrich Industries, Inc., R.D. 1, Blairsville, PA 15715.

The following applications were filed in Region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 159333 (Sub-3-6TA), filed March 10, 1983. Applicant: McINVALE FREIGHT LINES, INC., 5965 Highway 18 S, Jackson, MS 39209. Representative: W. M. McInvale (same as applicant). *Cleaning compounds, and related articles thereto,* between the facilities of Blue Cross Laboratories, Inc., Saugus, CA on the one hand, and, on the other, all points in the U.S. (except Alaska and Hawaii). Supporting shipper: Blue Cross Laboratories, Inc., 26411 Golden Valley Road, Saugus, CA 91350.

MC 162239 (Sub-3-2TA), Applicant: SALEM CARRIERS, INC., 245 Charlois Blvd., Winston Salem, NC 27103. Representative: Steven J. Kalish, 1750 Pennsylvania Ave., NW., Washington, D.C. 20006. *Contract carrier:* Irregular: *textile mill products and materials used*

in the manufacture, distribution, and sale of textile mill products, under continuing contract(s) with Unifi, Inc. between the facilities of Unifi, Inc. at Yadkinville, NC and the facilities of Unifi's customers in the Los Angeles, CA commercial zone. Supporting shipper: Unifi, Inc., 7201 West Friendly Ave., Greensboro, NC 27410.

MC 166603 (Sub-3-1TA), filed March 7, 1983. Applicant: MMT TRUCKING COMPANY, 1283 Murfreesboro Road, Nashville, TN 37217. Representative: Carl L. Steiner, 135 South LaSalle Street, Chicago, IL 60603. *Contract Carrier*—Irregular Routes—*Such commodities as are dealt in by manufacturers and distributors of automotive parts and accessories* between Chickasha, OK and points in TN, on the one hand, and, on the other, points in the U.S. in and east of MN, IA, KS, OK and TX under continuing contract(s) with Maremont Corporation of Chicago, IL, and its subsidiaries, to wit, Maremont Marketing, Inc. of Chicago, IL; C & C Manufacturing, Inc. of Rockford, IL; Maremont International Corporation of Chicago, IL; Maremont Overseas Corporation of Chicago, IL; Gabriel of Canada, Ltd. of Toronto, Ontario, Canada; Gabriel Europe, Inc. of Chicago, IL; Marwil Products Company of Fort Loramie, OH; and MMT Transportation Services Company of Nashville, TN. Supporting shipper: Maremont Corporation, 1283 Murfreesboror Road, Nashville, TN 37217.

MC 166604 (Sub-3-1TA), filed March 7, 1983. Applicant: DNURE TOURS, INC., 1515 South Atlantic Avenue, Daytona Beach, FL 32018. Representative: Jeremy Kahn, Suite 733 Investment Bldg., 1511 K Street, NW., Washington, DC 20005. *Passengers and their baggage in special operations,* between Chicago, IL, Indianapolis, IN, Louisville, KY, and Nashville, TN, on the one hand, and on the other, Daytona Beach and Daytona Beach Shores, FL. Supporting shipper: Treasure Island Inn, 2025 South Atlantic Avenue, Daytona Beach Shores, FL 32018.

MC 163706 (Sub-3-2TA), filed March 7, 1983. Applicant: BIG WHEEL TRANSPORT, INC., 711 S. Jackson Street, Hawkinsville, GA 31036. Representative: F. Lee Champion, III, Champion & Champion, P.O. Box 2525, Columbus, GA 31902. *Meats and meat products* between points in AL, AR, CO, DC, DE, FL, GA, IA, ID, IL, KS, KY, LA, MD, MI, MN, MO, MS, NB, NC, ND, NJ, NY, OH, OK, PA, SC, SD,TN, TX, VA, WI and WV. Supporting shipper: Codi Wholesale Meats, Jackson Street, Hawkinsville, GA 31036.

MC 146993 (Sub-3-3 TA), filed March 7, 1983. Applicant: VAUGHAN CARTAGE COMPANY, INC., 116 Cooley Industrial Park, LaGrange, GA 30241. Representative: W. H. Tomlinson, 1601 13th St., Suite B, Columbus, GA 31901. *Contract Carrier,* irregular, *carpet, carpet tile, carpet roll goods and yarn* between LaGrange, GA on the one hand, and on the other, points at the United States-Canadian Border in the States of MI and NY for continuing to and return from the Province of Ontario, Canada, under continuing contract with Interface Flooring Systems, Inc. of LaGrange, GA and Interface Flooring Systems (Canada), Inc. of Belleville, Ontario.

MC 166132, (Sub-3-1 TA), filed February 25, 1983. Applicant: CAROLINA TAXI & INDUSTRIAL TRANSPORTATION, INC., 537 Fitzsimmons Street, Hendersonville, NC 28739. Representative: Edwin R. Groce, 112 South Main Street, Hendersonville, NC 28739. *Contract carrier,* irregular routes; *electrical equipment parts, materials and supplies used in the manufacture and distribution of electric equipment and parts (except commodities in bulk, those which require special equipment, and aerospace craft and aerospace craft parts),* between the facilities of the General Electric Company at or near East Flat Rock, NC, on the one hand, and, on the other, points and places in the states of AL, GA, KY, SC, MS, PA, TN and VA, under continuing constract(s) with General Electric Company. Supporting shipper(s): General Electric Company, P.O. Box 2650, Hendersonville, NC 28739.

The following applications were filed in Region 4: Send protests to: ICC, Complaint and Authority Branch, P.O. Box 2980, Chicago, IL 60604.

MC 6992 (Sub-4-10 TA), filed March 7, 1983. Applicant: AMERICAN RED BALL TRANSIT CO., INC., 1335 Sadlier Circle, East Drive, Indianapolis, IN 46239. Representative: John F. Spickelmier (Same address as applicant). Contract irregular, transporting *household goods,* between points in the U.S. (expect AK and HI), under continuing contract(s) with Eads Moving Brokers for 270 days. Supporting shippers: Eads Moving Brokers, 2730 S. Harbor Blvd., Suite J, Santa Ana, CA 9270.

MC 15735 (Sub-4-61 TA), filed March 7, 1983. Applicant: ALLIED VAN LINES, INC., 2120 S. 25th Avenue, Broadview, IL 60153. Representative: Richard V. Merrill, P.O. Box 4403, Chicago, IL 60680. *Contract* irregular: *General commodities* (except commodities in bulk and classes A and B explosives) between points in the U.S. (except AK and HI) under a continuing contract with Quadrex Corp. and its subsidiaries of Campbell, CA.

MC 69833 (Sub-4-15TA), filed March 7, 1983. Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Avenue, N.W., Grand Rapids, MI 49503. Representative: Bruce A. Bullock, One Woodward Ave., 26th Floor, Detroit, MI 48226. Transporting *General Commodities* (except Classes A and B explosives, commodities in bulk and those requiring special equipment, and household goods as defined by the Commission), between points in the U.S. (except AK and HI), under continuing contract with Montgomery Ward & Co. Supporting shipper: Montgomery Ward & Co., Montgomery Ward Plaza, Chicago, IL 60671.

MC 114227 (Sub-4-1TA), filed March 7, 1983. Applicant: A & C CARRIERS, INC., 2909 E. Laketon Ave., Muskegon, MI 49442. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933 (517) 482-2400. Transporting *ethanol alcohol* between Cedar Rapids, IA and its commercial zone, and various points in MI. An underlying ETA seeks 120-day authority. Supporting shipper: Archer Daniels Midland Company, Box 1470, Decatur, IL 62525.

MC 123765 (Sub-4-7TA), filed March 7, 1983. Applicant: BARRY TRANSFER & STORAGE CO., INC., 120 East National Avenue, Milwaukee, WI 53204. Representative: William P. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Contract,* irregular; *containers,* between points in WI on the one hand, and on the other, points in the Chicago, IL Commercial Zone and points in the Minneapolis-St. Paul, MN Commercial Zone under continuing contract(s) with Continental Can Company, U.S.A., a member of the Continental Group, Inc. Supporting shipper: Continental Can Company, U.S.A., 10050 Regency Circle, Omaha, NE 68114.

MC 126111 (Sub-4-5TA), filed March 7, 1983. Applicant: SCHAETZEL TRUCKING COMPANY, INC., 520 Sullivan Drive, P.O. Box 1579, Fond du Lac, WI 54935. Representative: Daniel R. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Liquid Calcium Chloride* from Chicago, IL, Ludington and Midland, MI, and Sheboygan, WI, to points in WI under continuing contract(s) with Sicalco, Ltd., of Oak Brook, IL. Supporting shipper: Sicalco, Ltd., 2122 York Road—Suite 100, Oak Brook, IL 60521.

MC 138492 (Sub-4-1TA), filed March 7, 1983. Applicant: RICHARD E.

GREGORY d.b.a. GREGORY GRAIN CO., Rt. 1, Moweaqua, IL 62550. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Cattle hides, cured and salted,* from Mason City, IL to points in the U.S. East of MT, WY, CO and NM. An underlying E/T/A seeks 120 days authority. Supporting shipper: National By-Products, Inc., P.O. Box 192, Mason City, IL 62664.

MC 146846 (Sub-4-6 TA), filed March 7, 1983. Applicant: LOUIS LANE, INC. 1025 South 3rd Avenue, Wausau, 54401. Representative: Richard A. Westley, Attorney. 4506 Regent Street, Suite 100 P.O. Box 5086, Madison, WI 53705-0086, 608-238-3119. Paper and paper products from the facilities of Ward Paper Comapny, a division of Arvey Corporation at or near Merrill, WI to points in CA and OR. An underlying ETA seeks 120 days authority. Supporting shipper: conservatree Paper Company, 2107 Van Ness Avenue, Suite 104, San Francisco, CA 94109.

MC 150404 (Sub-4-2 TA), filed March 7, 1983. Applicant: ROBERT POWELL, R.R. #1 Chrisman, IL 61924. Representatives: Edward D. McNamara, Jr., Leslieann G. Maxey, 907 South Fourth St. P.O. Box 5039, Springfield, IL 62706. *Fertilizer* between points in the States of IN, IL, MI, OH, & IA. An underlying ETA seeks 120 days' authority. Supporting shipper: Sohio Chemical Company, A Wholly Owned Subsidiary of Standard Oil of Ohio, 1540 Rockefeller Building, 614 Superior Ave., Cleveland, OH 44113.

MC 156908 (Sub-4-4TA), filed March 7, 1983. Applicant: AMTRANS, INC. P.O. Box 04704 Milwaukee, WI, 53204. Representative: William P. Dineen, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Contract,* irregular; *containers,* between points in WI, on the one hand, and, on the other, points in the Chicago, IL Commercial Zone and points in the Minneapolis-St. Paul, MN, Commercial Zone under continuing contract(s) with Continental Can Company, U.S.A., a member of the Continental Group, Inc. Supporting shipper: Continental Can Company, U.S.A., 10050 Regency Circle, Omaha, NE 68114.

MC 165669 (Sub No. 4-1 TA), filed March 7, 1983. Applicant: PAMELA KUHL and PENNY KRUGER, d.b.a. KUHL HORSE TRANSPORTATION, 5820 Capulina Street, Morton Grove, IL 60053. Representative: Martin J. Kennedy, 120 West Madison Street, Suite 1306, Chicago, IL 60602. *Horses, horses' tack and equipment* between Chicago, IL and points in its commercial zone and points in FL, IN, KY, OH, NJ, and NY. An underlying ETA seeks 120 days authority. Supporting shippers: Jim Ferguson Stables, 815 S. Thurlow, Hinsdale, IL; Sandy Silver Stables, 880 N. Lake Shore Dr., Chicago, IL and Tom Lynch Racing Stable, Maywood Park Raceway, Maywood Park, Il.

MC 166625 (Sub-4-1TA), filed March 7, 1983. Applicant: GALAXY TRANSPORT, INC., 8200 South 85th Court, Justice, IL 60458. Representative: Gary E. Harper (same address as applicant). *Transportation Equipment* Between points in the states of—AL, AR, GA, IL, IN, IA, KY, LA, MI, MN, MS, MO, NC, OH, OK, PA, SC, TN, TX, VA, WV, and WI. Supporting shipper: Chrome Crankshaft of Illinois, 6010 South New England Avenue, Chicago, IL 60638.

MC 166626 (Sub-4-1TA), filed March 7, 1983. Applicant: MANISTIQUE PAPERS, INC., South Mackinac Ave., P.O. Box 111, Manistique, MI 49854. Representative: Herbert & Wood (John R. Wood), Attorneys at Law, 127 South Cedar Street, Manistique, MI 49854. *Contract carrier:* irregular routes: *Corrugated waste papers,* from Detroit, MI to Milwaukee, WI, under continuing contract with Milwaukee Recycling Services of Milwaukee, WI. Supporting shipper: Milwaukee Recycling Services, 4875 North 32nd Street, P.O. Box 90462, Milwaukee, WI 53209.

The following applications were filed in Region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 53965 (Sub-5-13TA), filed March 7, 1983. Applicant: GRAVES TRUCK LINE, INC., 8717 W. 110th St., Suite 700, Overland Park, KS 66210. Representative: Bruce A. Bullock, One Woodward Ave., 26th Floor, Detroit, MI 48226. Contract, irregular; *General Commodities* (except Classes A and B explosives, commodities in bulk and those requiring special equipment, and household goods as defined by the Commission), between points in the U.S. (except AK and HI), under continuing contract with Montgomery Ward & Co. Supporting shipper: Montgomery Ward & Co., Chicago, IL.

MC 121293 (Sub-5-3TA), filed March 8, 1983. Applicant: PHILIP E. REEDY, d.b.a. VALLEY TRANSFER, Elkhorn, NE 68022. Representative: James F. Crosby & Associates, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. (a) Such commodities as are used or dealt in by manufacturers and distributors of (1) irrigation systems, (2) light poles, (3) heating and cooling systems, (4) sewage and waste treatment systems, (5) steel pipe or tubing, and (6) iron or steel articles, between the facilities of Valmont Industries, Inc. of Valley, NE and points in the U.S. (except AK and HI), and (b) Such commodities as are used or dealt in by manufacturers and distributors of iron and steel articles, between the facilities of Gate City Steel of Omaha, NE, and points in the U.S. (except AK & HI).

MC 143051 (Sub-5-1TA), filed March 7, 1983. Applicant: SANDAU CORPORATION, 3066 Sir Christopher, Florissant, MO 63033. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1300, St. Louis, MO 63102. Contract, irr.; such commodities as are dealt in by retail department stores between points in Franklin, Jefferson, St. Charles, St. Francois, Ste. Genevieve, St. Louis, Warren and Washington Counties and St. Louis, MO, under continuing contract(s) with J. C. Penney Company, Inc. Shipper: J. C. Penney Company, Inc., Earth City, MO.

MC 154621 (Sub-5-4TA), filed March 7, 1983. Applicant: MONROE WAREHOUSE COMPANY, INC., P.O. Box 2525, Monroe, Louisiana 71207. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Contract, irr.; *Insulation and materials and supplies* used in the manufacture and distribution of insulation; and *waste paper* between points in TX on the one hand, and, on the other, points in AR, LA, MS and OK under continuing contract(s) with Manville Service Corporation of West Monroe, LA. Supporting shipper: Manville Service Corporation, West Monroe, LA.

MC 166630 (Sub-5-1TA) filed March 8, 1983. Applicant: RBJ TRANSPORTATION, INC., P.O. Box 46491, Houston, TX 77234. Representative: Willian P. Parker, P.O. Box 54657, Oklahoma City, OK 73154. (1) *Bananas* from Galveston, TX and Gulfport, MS to points in IA, IL, MN and WI; (2) *non-exempt grain and vegetables* from Omaha, NE, Union Grove, WI and points in IA to Chicago, IL, Kansas City, MO, Oklahoma City, OK and points in LA and TX. Supporting shippers: Castle & Cooke, Inc., Metairie, LA; Ackley Food Processors, Inc., West Ackley, IA; National Oats Co., Inc., Cedar Rapids, IA.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-7224 Filed 3-18-83 8:45 am]

BILLING CODE 7035-01-M

[No. MC-F-15004]

Motor Carriers; Atlas Van Lines, Inc., et al.—Pooling Application

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Pooling Application.

SUMMARY: Atlas Van Lines, Inc. (Atlas) is applying for approval of a new pooling arrangement under 49 U.S.C. 11342 between itself and 30 carrier agents (AAA Van & Storage Co., of El Cajon, CA, Ace Transfer & Storage Co. of Oklahoma City, OK, Acme Movers & Storage Co., Inc., of Morehead City, NC, Action Van Service, Inc., of Jackson, MS, Admiral Storage & Van, Inc., of El Paso, TX, Ainsworth Van Lines, Inc., of Bethany, OK, Alaska Seavan Inc., doing business as Mitchell Moving & Storage Co., Seattle, WA, Banks Moving & Storage Company, of Marshall, MO, Cardinal Van & Storage, of Twenty-Nine Palms, CA, Central Valley Moving and Storage, of Turlock, CA, Champion Van & Storage, of Buellton, CA, Chevalley Moving & Storage of Altus, Inc., Altus, OK, Columbine Moving & Storage Co., of Aurora, CO, El Camino of Monterey, Inc., of Seaside, CA, Florida Moving & Storage, Inc., of Jacksonville, FL, International Movers, Inc., of Lemon Grove, CA, Law's Moving & Storage, Inc., of Vero Beach, FL, Loh International Movers, Inc., of Oakland, CA, Louisiana Transfer Co., of Leesville, LA, Mallory Transfer & Storage, of Moberly, MO, Manitou Express Co., Inc., of Colorado Springs, CO, Morris Moving & Storage of Wichita Falls, TX, Nationwide Moving & Storage Corp., of Shreveport, LA, W. W. Owens & Sons Transfer & Storage of Elizabeth City, NC, Southern Nevada Movers, Inc., of North Las Vegas, NV, Sunvan Washington, Inc., of Seattle, WA, Timm Moving & Storage Co., of Minot, ND, Valdez Transfer, Inc., of Yuma, AZ, Van's Moving & Storage Company, of Gulfport, MS, and Vetzel Moving & Storage, Inc., of Tampa, FL are the carrier agents participating in the proposed pooling agreement), for the express purpose of transporting pack-and-crate articles and government traffic as defined in No. MC-C-4455, *Kingpak, Inc., Investigation of Operations,* 103 M.C.C. 318 (1966) and *Transportation of Government Traffic,* 131 M.C.C. 845 (1979).

In No. MC-F-14784, *Atlas Van Lines, Inc.—Pooling*; and No. 29972, *Declaratory Order—The Applicability of 49 U.S.C. 11342 to Agreements Between Household Goods Carriers and Noncarrier Agents,—I.C.C*—(February 17, 1983), the Commission determined that agreements between Atlas and *bona fide* noncarrier agents do not fall within the purview of section 11342 and that the affiliation of such agents with carriers does not impart carrier status for purposes of pooling. Accordingly, the Commission determined that it lacked jurisdiction over such agreements. However, because agents will be permitted to hold government traffic and *Kingpak* authority under the proposed pooling arrangement, the prior approval of the Commission is necessary.

The proposed pooling agreement is intended to supersede an existing pooling agreement initially approved by the Commission in *Atlas Van Lines, Inc.—Control and Merger,* 70 M.C.C. 629 (1957), *aff'd* 75 M.C.C. 175 (1958). By letter filed February 25, 1983, Atlas has agreed to extend the existing pooling agreement until April 30, 1983.

Under the proposed pooling arrangement, Atlas will no longer pool with agents holding and operating under authority broader than that specified in the agreement. The agreement also provides that Atlas and its agents will pool facilities, equipment, or personnel for the solicitiation, booking, and hauling of government or military traffic. All traffic handled by any agent under its authority will be transported on separate shipping documents and the name of Atlas will not appear thereon. If the shipper (government or military) tenders any shipments to an agent and intends to secure the services of Atlas, the shipment must be booked with Atlas, regardless of whether it moves within the territory which the agent may serve under its own authority. All terms and conditions binding upon Atlas and any agent may from time to time be amended on notice to the agent. Compensation to any agent will be governed by Rule 19 of the *Atlas Rules and Regulations—Compensation to Agents.* Compensation may be varied on notice to the agent. Petitioner also seeks authority to update the pooling plan periodically by submitting information concerning new participants and changes in the pooling arrangement among the carrier and carrier agents.

The scope of the involved operations (if an Atlas agent elects to transport the shipment on Atlas' bills of lading) will be conducted under: (1) No. MC-79658 (Sub-No. 13)X, which authorizes the transportation of household goods as defined by the Commission and furniture and fixtures, between points in the United States, and (2) No. GT-702-80 which provides for the transportation of general commodities (except classes A and B explosives, radioactive materials, etiologic agents, shipments of secret materials, and weapons and ammunition which are designated sensitive by the U.S. Government), between points in the United States, restricted to the transportation of traffic handled for the United States Government, or on behalf of the United States Government where the government contractor (consignee or consignor) is directly reimbursed by the government for the transportation costs.

Comments are solicited from prospective parties as to whether the proposed pooling agreement will be in the interest of better service to the public or of economy of operation and whether the pooling agreement will unduly restrain competition. In addition, parties may address other pertinent issues raised by this proceeding.

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

ADDRESSES: Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423

and

(2) Petitioner's representatives:

Michael L. Harvey, Esq., 1212 St. George Road, Post Office Box 509, Evansville, IN 47703

Herbert Burstein, Esq., Zelby & Burstein, 387 Park Avenue South, New York, NY 10016

Comments should refer to No. MC-F-15004.

FOR FURTHER INFORMATION CONTACT: Warren C. Wood (202) 275-7977.

SUPPLEMENTARY INFORMATION: Please refer to the pooling application, which may be obtained free of charge by contacting petitioner's representatives. In the alternative, the pooling application may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: March 15, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-7220 Filed 3-18-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Decision Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 (formerly section 5) of the

Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action signifcantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsiderations; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1132.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will indicate that consummation of the transfer will be presumed to occur on the 20th day following service of the notice, unless either applicant has advised the Commission that the transfer will not be consummated or that an extension of time for consummation is needed. The notice will also recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 30 days after publication, or within any approved extension period. Otherwise the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-80124. By decision of February 28, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3, approved the transfer to Intercontinental Express, Inc., of Lenexa, KS, of a portion of Certificate No. MC-78400 (Sub-Nos. 28 and 104X) issued September 19, 1973, and December 3, 1982, respectively, to Beaufort Transfer Company of Gerald, MO, authorizing transportation of: In Certificate No. MC-78400 (Sub-No. 104X) *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between St. Louis, MO and junction Missouri Highway 100 and US Highway 50, over Missouri Highway 100. Between junction US Highway 50 and Missouri Highway 100 and Hermann, MO, over Missouri Highway 100. In Certificate No. MC-78400 (Sub-No. 28) *general commodities* (except those of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment), between St. Louis, MO and junction Missouri Highway 100 and US Highway 50, over Missouri Highway 100. Between junction US Highway 50 and Missouri Highway 100 and Hermann, MO, over Missouri Highway 100. Applicant's Representative: Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-7222 Filed 3-18-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Decision Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,

Secretary.

For status, please call Team 1 at 202-275-7992.

Volume No. OP1-FC-88

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-81216. By decision of March 11, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 3 approved the transfer to CENTRAL EXPRESS, INC., Des Moines, IA, of Permit No. MC-142431 (Sub-No. 11), issued May 27, 1981, and Certificates No. MC-142431 (Sub-Nos. 13, 14, and 15), issued February 2, 1982, May 27, 1982, and January 14, 1983, respectively, to WAYMAR TRANSPORT CORP., Des Moines, IA, authorizing the transportation over irregular routes of (1) *food and related products,* between points in the U.S., under continuing contract(s) with Swift Independent Packing Company, of Chicago, IL, (2) *paper products,* between points in IA and MI, on the one hand, and, on the other, points in IL, MN, MO, NE, MA, NY, OH, WI, IA, and MI, (3) *food and related products,* between points in IA, NE, RI, MN, and WI, on the one hand, and, on the other, those points in Polk County, IA, on the one hand, and, on the other, points in the U.S. in and east of MN, NE, MO, OK, and TX, (4) *floor covering,* between points in AR, IL, NY, and PA, on the one hand, and, on the other, points in IA, NE, and MO, (5) *feed supplements,* between points in the U.S.(except AK and HI), (6) *chemicals* (except in bulk), between Minneapolis, MN, Appleton, WI, Florence, MA, and points in Cook County, IL, on the one hand, and, on the other, points in CA, MS, MI, NH, GA, TX, IL, IN, and MO, (7) *materials equipment and supplies* used in the printing business, between Babylon, NY, Fairfield, NJ, Chicago, IL, McIntyre, GA, and points in Los Angeles County, CA, Barrien, St. Clair and Kalamazoo Counties, MI, and Berkshire County, MA, on the one hand, and, on the other, points in Polk County, IA, (8) *ceramics,* between points in IA, on the one hand, and, on the other, points in TN, and NY, and (9) *food and related products, chemicals and related products, and plastic products,* between points in MN and WI, on the one hand,

and, on the other, points in the U.S. (except AK and HI). Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. (515) 244-2329

MC-FC-81238. By decision of March 11, 1983 issued under 49 U.S.C. 10924, 10926 and the transfer rules at 49 CFR 1181.32, and 1045.11 Review Board Number 3 approved the transfer to Holmdel Distributing and Warehousing, Inc., of Rahway, NJ, of Permits No. MC-145120, issued February 22, Sub 1, issued July 24, Sub 2, issued July 24, and Sub 3, issued July 24, 1980, respectively. License No. MC-145120 Sub 10, issued August 10, 1981, and Certificates No. MC-145120 Sub 11, issued January 11, and Sub 12, issued December 8, 1982, respectively to Holmdel Trucking Corp., of Rahway, NJ, authorizing the transportation of (1) wine, in containers, from Hawthorne, NJ, to points in the U.S. (except AK and HI), under continuing contract(s) with Wine Importers of America, of Hawthorne, NJ, (2) chemicals, metals, oils, catalyst, dust, machinery parts, filtration tanks, filtration tank parts (except commodities in bulk), between Newark and Union, NJ, and New York, NY, on the one hand, and, on the other, points in IA, MS, TX, CA, LA, OH, WV and PA, under continuing contract(s) with England Industries, Inc., of Newark, NJ, (3) such commodities as are dealt in or used by department stores (except foodstuffs and commodities in bulk), (a) between the facilities of Gaylords National Corporation, at or near New York, NY, on the one hand, and, on the other, points in AL, DE, FL, GA, IL, LA, MD, MS, NC, OH, PA, SC and VA, under continuing contract(s) with Gaylords National Corporation, of Secaucus, NJ, and (b) between the facilities of Lady Rose Division, at or near New York, NY, on the one hand, and, on the other, points in MI, IN, OH, TX, MN, PA, NJ and NY, under continuing contract(s) with Lady Rose Division, (4) as a broker of general commodities (except household goods), between points in the U.S., (5) general commodities (except used household goods, hazardous or secret materials, and sensitive weapons and munitions), between points in the U.S., and (6) general commodities (except classes A and B explosives, household goods and commodities in bulk), between New York, NY, New Orleans, LA, Chicago, IL, Los Angeles, CA, Boston, MA, Houston and Dallas, TX, and points in Middlesex and Union Counties, NJ, and Broward County, FL, on the one hand, and, on the other, points in the U.S. (except AK and HI). Applicant's representative: Edward J. Kiley, Suite 501, 1730 M St., N.W., Washington, DC 20036.

MC-FC-81252. By decision of March 11, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181. Review Board Number 3 approved the transfer to TRANSCONTINENTAL TRANSPORTATION, INC., Ontario, CA, of Certificates No. MC-158930 and Sub Nos. 1, 2, 5, 6, and 9, issued December 6, 1983, November 17, 1982, May 25, 1982, and January 25, 1983, respectively, and of Permit No. MC-158930 Sub 7, issued September 27, 1982, to U.S. TRANSPORTATION, INC., Bloomington, CA, authorizing the transportation of fabricated metal products, between points in Allegheny County, PA, on the one hand, and, on the other, those points in the U.S. in and west of CO, MT, NM, TX and WY (except AK and HI); cedar fencing, between points in Fresno County, CA, on the one hand, and, on the other, those points in the U.S. in and west of OH, WV, KY, TN and AL (except AK and HI); chemicals, between points in Cuyahoga County, OH, on the one hand, and, on the other, points in CA, adhesives & specified commodities, between points in Allegheny County, PA and Knox County, KY, on the one hand, and, on the other, those points in the U.S. in and west of MT, WY, CO, NM and TX (except AK and HI), and metal products & other commodities between points in San Joaquin County, CA, on the one hand, and, on the other, points in AZ, CO, ID, MT, NM, NV, OR, UT, WA, and WY; and general commodities (except classes A and B explosives and household goods), between points in Los Angeles, Orange and Alameda Counties, CA, Cook County, IL, Hudson County, NJ, Baltimore County, MD, DeKalb, Cobb and Fulton Counties, GA, Platte, Clay and Jackson Counties, MO, King County, WA, Shelby and Davison Counties, TN, Harris, Dallas and Tarrant Counties, TX, and Philadelphia County, PA, on the one hand, and, on the other, points in the U.S. (except AK and HI); and general commodities, with the usual exceptions, between points in the U.S. (except AK and HI), under continuing contract(s) with Standard Brands Paint Co., Inc., of Torrance, CA. An application for temporary authority has been filed. Applicants representative: Frederick J. Coffman, 4045 E. Guasti Rd., Suite 204, Ontario, CA 91761.

MC-FC-81260. By decision of March 9, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to Wilson Lines, Inc., of River Falls, WI, of Certificate No. MC-152441, issued October 26, 1981, to Wilson Leasing, Inc., authorizing the transportation of such commodities as are dealt in or used by grocery stores and food business houses, between points in AR, CA, FL, GA, IA, IL, IN, KS, MI, MN, MO, ND, NE, NJ, NY, OH, PA, SC, SD, TN, TX, VA and WI, on the one hand, and, on the other, points in the U.S. Applicant's representative: James M. Christenson, 4444 IDS Center, Minneapolis, MN 55402. Temporary authority has been filed.

For status, please call Team 2 at 202-275-7251.

Volume No. OP2-FC-81128

MC-FC-81128. By decision of March 7, 1983, issued under 49 U.S.C. 10926 and the transfer rules of 49 CFR Part 1181; Review Board Number 2 approved the transfer to All AMERICA TRUCK SALES, INC., Omaha, NE, of Certificates No. MC-2052 (Sub-Nos. 25 and 26X [including Sub-Nos. 6, 9, 10, 11, 14F, 15F, 17F, 20F, 21F, 23F, 24F which underlie and were superseded by Sub 26X]), to BLAIR TRANSFER, INC, (Merle J. Nicola, Trustee in Bankruptcy), Blair, NE, authorizing the transportation of (1) food and related products, between Milwaukee, WI, ST. Paul, MN, and points in Peoria and St. Clair Counties, IL, on the one hand, and, on the other, points in NE, (2) food and related products, between points in Colfax County, NE, on the one hand, and, on the other, points, IL, IA, and WI; between points in Potawattamie County, IA, on the one hand, and, on the other, points in MD, NY, OH, PA, WV, and DC; between points in Colfax County, NE, on the one hand, and, on the other, point in GA, NE, SC, and points in FL on and north of FL Hwy 50; between points in Dodge and Colfax Counties, NE, on the one hand, and, on the other, points in IN and OH, (3) such commodities as are dealt in by food and drug stores and food businesshouses, between Chicago, IL, on the one hand, and, on the other, points in CO, IA, KS, MN, MO, NE, SD, and WI, (4) machinery, metal products, transportation equipment, and related products, between points in Washington County, NE, on the one hand, and, on the other, points in the U.S. (5) rubber and plastic products, between points in Portage County, OH, on the one hand, and on the other, points in AR, CO, IL, IA, KS, LA, MN, MO, NE, OK, TX, and WI, (6) such commodities as are dealt in by manufacturers or distributors of art, craft or hobby materials, equipment and supplies, between points in Allen County, OH, and Washington County, NE; between points in Lexington County, SC, and Allen County, OH. An

application for temporary authority has been filed. Representative: James F. Crosby, Oak Park Office Bldg., Ste. 210B, 7363 Pacific St., Omaha, NE 68114.

MC-FC-81162, By the decision of March 7, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to Cavaluzzi & Sons, Inc., of Bronx, NY, of authority issued to Delphi Overseas Moving & Shipping Co., Inc., of Brooklyn, NY, in MC-22562 Sub 5, authorizing the transportation of (a) household goods, (1) between points in NY, on the one hand, and, on the other, points in RI, MD, MA, NJ, CT, DE, PA, VA, NY, and DC, and (2) between points in NY, on the one hand, and, on the other, points in CT, NJ, and NY within 80 miles of Columbus Circle, New York, NY, and (b) theatrical production equipment and materials used therefor, muscial instruments, trunks and wardrobes, between points, in NY, NJ, and CT within 75 miles of New York, NY, including New York, NY. Transferee is a carrier holding authority under MC-95030 and subs thereto. Representative: Alvin Altman, 888 Seventh Ave., New York, NY.

MC-FC-81170. By decision of March 7, 1983, issued under 49 U.S.C. 10926, and the transfer rules at 49 CFR Part 1181, Review Board Number 2, approved the transfer to Carter Express, Inc., Anderson, IN, of Certificate No. MC-158033, issued May 4, 1982, to Carter Industrial Services, Inc., Anderson, IN, authorizing the transportation of general commodities, with the usual exceptions, between those points in the U.S., in and east of ND, SD, NE, KS, OK, and TX. An application for temporary authority has been filed. Representative: E.H. van Deusen, 2455 North Star Rd., Columbus, OH 43221.

MC-FC-81197. By decision of March 7, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1045.11, Review Board Number 2, approved the transfer to The Agile Group Ltd., of Milwaukee, WI, of authority issued to M.E. Dey & Co., Inc., of Milwaukee, WI, in MC-130713, authorizing, as a broker, the transportation of general commodities (except household goods), between points in the U.S. Representative: The Company Corporation, 725 Market St., Wilmington, DE 19801.

MC-FC-81250. By the decision of March 11, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the transfer to BILLY D. McCRAW & S. JEAN McCRAW, d.b.a. B & J McCRAW TRUCKING, Lubbock, TX, of Certificate No. MC-147013 Sub-Nos. 5X [including the underlying authority in Subs 2 and 4 which were superseded by Sub 5X], 6, 7, 8, and 9, issued August 21, 1981, December 9, 1980, March 17, 1981, September 9, 1981, September 17, 1981, October 8, 1981, and July 29, 1982, respectively, to RDL, Inc., Gambrils, MD, authorizing the transportation of (1) food and related products, between points in Seward County, KS, on the one hand, and, on the other, points in the U.S.; between points in PA and Berkeley County, WV, on the one hand, and, on the other, points in AR, LA, OK, and TX; between points in Hale, Potter, and Randall Counties, TX, on the one hand, and, on the other, points in CT, MD, MA, NJ, NY, NC, PA, RI, VA, and DC; between Winchester, VA, and points in Rockingham County, VA, Berkeley County, WV, and Lincoln County, NC on the one hand, and, on the other, points in TX, LA, AL, AR, GA, OK, TN, MS, and FL; and between Chicago, IL, and points in Warren County, NJ, Baltimore County, MD, Lancaster County, PA, and McLennan County, TX, on the one hand, and, on the other, points in NJ, IL, PA, LA, OK, AR, AZ, TX, CA, OR, MO, CO, OH, and GA; and (2) general commodities, between the facilities of Armstrong World Industries, Inc., at points in the U.S., on the one hand, and, on the other, points in the U.S. A temporary authority application has been filed. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St., NW, Washington, DC 20005.

[FR Doc. 83-7223 Filed 3-18-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions

Correction

In FR Doc. 83-4348 beginning on page 7513 in the issue of Tuesday, February 22, 1983, make the following correction:

On page 7517, middle column, MC 142553 (Sub-2), Osborne Trucking Company, in the last line of the paragraph, "TA" should have read "TN".

BILLING CODE 1505-01-M

[Ex Parte No. 388 (Sub-4)]

Rail Carriers; Intrastate Rail Rate Authority—Florida

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed certification.

SUMMARY: The Commission tentatively certifies the Florida Public Service Commission under 49 U.S.C. 11501(b), to regulate intrastate rail transportation, subject to modification of its standards and procedures as noted in the full decision.

DATES: Comments are due by April 12, 1983. A statement of the modifications in Florida's standards and procedures is due on May 12, 1983.

ADDRESS: Send an original and, if possible, 15 copies of all comments to: Rail Section, Room 5340, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Chairman Taylor dissented in part with a separate expression. Commissioner Andre was absent and did not participate.

Agatha L. Mergenovich,

Secretary.

Chairman Taylor, dissenting in part:

I support the decision to certify the State of Florida to exercise jurisdiction over intrastate rail transportation. Florida has endeavored to conform its standards to those established in the Staggers Act for the regulation of interstate transportation. However, I must again dissent from the majority's views regarding exemptions. What was stated in Commissioner Simmons' and my dissent in the Illinois proceeding, *State Intrastate Rail Authority—Pub. L. 96-448*, 367 ICC 149 (1983) is no less true here. I see no justification for compelling Florida to have exemptions identical to those developed for interstate transportation. The majority's decision in this respect only frustrates Florida's efforts to have a meaningful role in regulating intrastate transportation.

[FR Doc. 83-7218 Filed 3-18-83; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 290 (Sub-2)]

Railroad Cost Recovery Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of approval of railroad cost index and rail cost adjustment factor.

SUMMARY: The Commission has decided to approve the cost index filed by the Association of American Railroads (AAR) under the procedures of Docket Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovery Procedures.* The application of the index provides for a Rail Cost Adjustment Factor (RCAF) of .979. This RCAF, when compared to the first quarter 1983 RCAF of 1.010, shows a decrease of 3.1 percent in railroad input prices. No rate actions will be ordered.

EFFECTIVE DATE: March 21, 1983.

FOR FURTHER INFORMATION CONTACT: Robert C. Hasek (202) 275-0938; or Douglas Galloway (202) 275-7278.

SUPPLEMENTARY INFORMATION: By decision served April 17, 1981 (46 FR 22594, April 20, 1981) we outlined procedures for the calculation of the interim Mid-Quarter Index of railroad costs and the methodology for computation of the RCAF. AAR was required to calculate and submit the Mid-Quarter Index to the Commission no later than 20 days before the end of each quarter.

INTERIM MID-QUARTER INDEX

Line No. and category	1980 weights (percent)	Fourth quarter 1982 actual	First quarter 1983 forecast	Second quarter 1983 forecast
1 Salaries, wages and supplements	47.2	128.5	134.4	134.3
2 Fuel	12.3	116.2	114.9	91.6
3 Materials and supplies	12.2	107.9	105.5	104.7
4 Other expenses	28.3	111.7	111.8	109.3
5 1980 = 100		119.7	122.1	118.4
6 10/1/80 = 100 [1]		116.6	118.9	115.3
7 10/1/82 = 100 (rail cost adjustment factor)		[2]100.0	101.0	97.9

[1] Weighted Average 10/1/80 = 102.7.
[2] Based on 10/1/82 = 120.9 Denominator rebased to an October 1, 1982 level in accordance with the requirements of the Staggers Rail Act of 1980.

We have reviewed AAR's calculations of the Mid-Quarter Index for the second quarter of 1983 and find that these calculations comply with the guidelines contained in our decision served April 17, 1981.

Based upon the above table we conclude that the first quarter 1983 RCAF remains at 1.010 and that the RCAF for the second quarter 1983 is .979. Because the RCAF for the second quarter of 1983 is below the level of the first quarter 1983 RCAF no rate actions will be ordered.

This decision will not significantly affect the quality of the human environment or conservation of energy resources. Although this proceeding is not subject to Pub. L. 96-354, it is our opinion that it will not have a significant adverse impact on a substantial number of small entities.

(49 U.S.C. 10321, 10707a, 5 U.S.C. 553)

Dated: March 15, 1983.

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

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-7219 Filed 3-18-83; 8:45 am]

BILLING CODE 7035-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 19600; File No. SR-OCC-82-25]

Filing of an Amendment To a Proposed Rule Change by the Options Clearing Corporation ("OCC")

March 14, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 7, 1983, OCC filed with the Securities and Exchange Commission an amendment ("Amendment No. One"), described herein, to the above-captioned proposed rule change filed with the Commission on November 9, 1982. That proposed rule change was published for comment in the **Federal Register** on December 20, 1982. *See* Securities Exchange Act Release No. 19323 (December 10, 1982), 47 FR 56760 (December 20, 1982). The Commission is publishing this notice to solicit from interested persons comments on Amendment No. One.

The overall purpose of the proposed rule change is to facilitate the ability of OCC's clearing members to finance their positions by pledging their unexercised excess long market-maker or specialist option positions as collateral for loans from banks or other clearing members. OCC states that the Amendment is designed to reduce the burden of participation for clearing members and pledgees in the Options Pledge Program, without altering the overall purpose of the proposed rule change. The Amendment accomplishes this, in OCC's view, by reducing the amount of the clearing member's required margin deposits and by eliminating the pledgee's obligation to make a demand for any "Overpledged Value Amount" that may occur as a result of the sale or exercise of pledged options.

More specifically, Amendment No. One provides that a clearing member shall deposit with OCC, by 9:00 a.m. on the business day following the exercise or sale of a pledged option ("Report Day"), the "Overpledged Value Amount," which is equal to the product of: (a) The unit of trading for the series of options of the pledged option multiplied by (b) the current highest asked per unit premium quotation for options of that series on Options Exchanges at or about the close of trading on the preceding business day; provided, however, that OCC may fix the Overpledged Value Amount to be equal to the daily options marking price pursuant OCC Rule 601. The Overpledged Value Amount is then paid by OCC to the pledgee. Under the proposed rule change, as originally filed, clearing members were required to deposit margin to the extent of 130 percent of the daily options marking price of the pledged option that was exercised or sold. This margin requirement has been eliminated.

In addition, Amendment No. One eliminates the pledgee's demand notice obligation and provides, instead, that clearing members with Overpledged Positions have an obligation to deposit at OCC the Overpledged Value Amount by 9:00 a.m. on Report Day, as discussed above. If a pledgor clearing member fails to deposit the Overpledged Value Amount by the end of Report Day, OCC, under the Amendment, may suspend the clearing member from membership in OCC and take appropriate action under the Amendment, *e.g.,* take possession of the proceeds from the sale of a pledged option and deposit the proceeds in the pledgee's bank account. If a suspended clearing member's overpledged position resulted from the exercise of a pledged option, the Amendment provides that the assigned clearing member shall be notified by OCC to buy-in or sell-out in accordance with OCC Rules 910 and

911. Any excess funds from the buy-in or sell-out will be credited by OCC to the pledgee's bank account. If, however, a deficiency results because, in the case of a call, the price paid for securities sold out is less than the exercise settlement price or, in the case of a put, the exercise settlement price is less than the price of the securities bought in, that deficiency will be paid to the assigned clearing member from funds obtained by OCC from liquidating the suspended clearing member's pledge account and then from the pledgee. Under the original proposed rule change, OCC Rule 614(i) required the pledgee to issue a series of demand notices as a prerequisite to receipt of any payment in respect of a pledged option that was exercised or sold.

OCC believes that the proposed rule change, as amended, is consistent with the purposes and requirements of Section 17A of the Securities Exchange Act of 1934 because: (i) It promotes the prompt and accurate clearance and settlement of options transactions and (ii) it reduces the borrowing costs of clearing members participating in the Options Pledge Program.

In order to assist the Commission in determining whether to approve the proposed rule change, as amended, or to institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-OCC-82-25.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-7279 Filed 3-18-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-19596; File No. SR-OCC-83-4]

Self-Regulatory Organizations; Proposed Rule Change by Options Clearing Corp.; Relating to the Liquidation of Open Long Positions of Suspended Clearing Members

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 24, 1983, the Options Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Proposed Rule Change

The proposed rule change would amend OCC Rule 1106 to require that segregated long positions carried by a suspended Clearing Member (*i.e.*, long options positions on which OCC claims no lien) be closed out, rather than maintained subject to the instructions of the suspended Clearing Member or its representative.

II. Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

The proposed rule change is the outgrowth of discussions between OCC and the staff of the Securities Investor Protection Corporation ("SIPC"). Its Purpose is to provide greater protection for customers of insolvent Clearing Members, while at the same time reducing OCC's exposure to loss in liquidating Clearing Members, simplifying the liquidation process, and reducing the associated costs.

In the past, SIPC has sought to protect customers of insolvent Clearing Members primarily by arranging to have their long options positions transferred to other brokers. OCC's policy of maintaining segregated long positions in existence, instead of liquidating them, was consistent with that approach.

In practice, however, SIPC has experienced substantial delays in arranging such transfers, and in a number of instances, was unable to arrange a transfer at all, with the result that the SIPC trustee found it necessary to close out the positions involved. When that happens, SIPC becomes liable to the customers whose positions were closed out for the full value of those positions as of the date when SIPC first intervened, regardless of the price received by the trustee on liquidation.

Whether SIPC is successful in arranging a transfer or not, customers typically have little or no control over their positions during the interim between the SIPC filing and the date when the positions are either transferred or closed out. If the positions are ultimately transferred, customers are required to accept them at their then-current market value and have no recourse for the inevitable loss of time value in the interim. If the positions are instead closed out, SIPC is required to bear any loss in value since the filing date. In either case, customers are likely to experience substantial delays before their claims are satisfied.

Moreover, the present policy of preserving customer long positions makes it impossible for OCC to net them against the insolvent Clearing Member's uncovered short positions. This means that the latter positions must be liquidated primarily through market transactions, which can artificially influence the market and increase OCC's liquidation costs. If SIPC is ultimately unable to arrange a transfer of the long positions and the trustee finds it necessary to close them out, the opposite effect can occur, with sales by the trustee tending to depress the market and reduce the amount realized by the trustee.

The proposed rule change would address these problems by abandoning the effort to preserve customer long positions for a possible future transfer. Instead, the positions would automatically be closed out. That would avoid the inevitable loss of time value on frozen positions, eliminate the

market risk (whether to customers or to SIPC) associated with preserving such positions pending transfer, and permit OCC to maximize the use of netting in liquidating the suspended Clearing Member's positions, and thereby minimize adverse market effects.

The proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934, as amended, because it protects investors and the public interest by improving OCC's liquidation procedures.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received. OCC has informally discussed the proposed rule change with the staff of SIPC and understands that SIPC supports the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 14, 1983.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-7280 Filed 3-18-83; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular on Composite Aircraft Structure

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed advisory circular (AC) 20-107A, comments invited.

SUMMARY: Proposed AC 20-107A is a complete revision of AC 20-107 reflecting composite material technology advances. It provides guidance material for composite material structures that are considered acceptable to the FAA for showing compliance with certification requirements of civil composite aircraft. This AC cancels AC 20-107 "Composite Aircraft Structure," dated July 10, 1978.

Availability of proposed AC: Copies of the proposed AC 20-107A are available at the address listed below.

Comments invited: Comments are invited on all aspects of the proposed AC. Commenters must identify file number AC 20-107A, and comments must be received on or before April 20, 1983.

ADDRESS: Send all comments and requests for copies of the proposed AC to: Federal Aviation Administration; Office of Airworthiness; Aircraft Engineering Division (Attention: AWS-103); 800 Independence Avenue, SW.; Washington, D.C. 20591. Comments may be inspected at Room 336, FAA Headquarters Building (FOB-10A), between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Joseph R. Soderquist, Aircraft Engineering Division, (Attention: AWS-103); Office of Airworthiness; Federal Aviation Administration; 800 Independence Avenue, SW.; Washington, D.C. 20591; telephone: (202) 426-8198.

Issued in Washington, D.C., on March 2, 1983.

M. C. Beard,

Director of Airworthiness.

[FR Doc. 83-7010 Filed 3-18-83; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

National Highway Safety Advisory Committee; Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., App. I), notice is hereby given of a meeting of the Executive Subcommittee of the National Highway Safety Advisory Committee to be held April 7, 1983.

The Chairmen and Vice Chairmen of each Subcommittee will update the Executive Subcommittee on all activities in each of their areas. The Executive Subcommittee will also plan the agenda for the June Full Committee Meeting. Following is a list of each subcommittee and the topics they are reviewing.

Alcohol Subcommittee. This subcommittee is working to ensure the wide dissemination of educational training packages developed by the agency, for enforcement, prosecutorial, judicial, and total system delivery in the alcohol-related traffic safety area.

Safety Belt Subcommittee. This subcommittee is tracking the effectiveness of networking operations of NHTSA's Safety Belt Program (is the safety belt message getting down to the local level).

Highway Environment/55 MPH Subcommittee. This subcommittee is studying the safety implications of FHWA's 3R/4R Program, and assisting in the congressionally mandated study on 55 MPH.

402 Government-Public-Private-Relationship Subcommittee. This subcommittee is planning a National Conference on Highway Safety.

Accident Investigation & Records Subcommittee. This subcommittee is studying ways to upgrade data collection procedures and also ways to upgrade accident investigation training.

The Executive Subcommittee will meet from 2:00 p.m.—6:00 p.m. on Thursday, April 7 at the Denver Marriott Hotel Southeast, Interstate 25 at Hampden Avenue, Denver, Colorado 80222.

Attendance is open to the interested public but limited to the space available. Members of the public may present a written statement to the Committee at any time.

This meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretariat, Room 5221, 400 Seventh Street, SW., Washington, D.C. 20590, telephone 202-426-2870.

Issued in Washington, D.C. on: March 16, 1983.

Robert E. Doherty,

Executive Secretary.

[FR Doc. 83-7250 Filed 3-18-83; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

[Department Circular Public Dept Series No. 8-83]

Treasury Notes of March 31, 1987; Series H-1987

March 16, 1983.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $5,500,000,000 of United States securities, designated Treasury Notes of March 31, 1987, Series H-1987 (CUSIP No. 912827 PH 9). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1 The securities will be dated March 31, 1983, and will bear interest from that date, payable on a semiannual basis on September 30, 1983, and each subsequent 6 months on March 31 and September 30 until the principal becomes payable. They will mature March 31, 1987, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Tuesday, March 22, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, March 21, 1983, and received no later than Thursday, March 31, 1983.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash, maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ on one percent increment, which results in an equivalent average accepted price close to 100.000 and lowest accepted price above the original issue discount limit of 99.000. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent

to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Thrusday, March 31, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturint on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Tuesday, March 29, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identitfying number as required on tax returns and on other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities alloted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for alloted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested from of registration has been validated, the registered interest account has been established and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-7444 Filed 3-18-83; 10:46 am]

BILLING CODE 4810-40-M

[Department Circular Public Debt Series No. 9-83]

Treasury Notes of April 15, 1990; Series D-1990

March 16, 1983.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $4,750,000,000 of United States securities, designated Treasury Notes of April 15, 1990, Series D-1990 (CUSIP No. 912827 PJ 5). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated April 4, 1983, and will bear interest from that date, payable on a semiannual basis on October 15, 1983, and each subsequent 6 months on April 15 and October 15 until the principal becomes payable. They will mature April 15, 1990, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available,

and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m, Eastern Standard time, Wednesday, March 23, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, March 22, 1983, and received no later than Monday, April 4, 1983.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are premitted to submit tenders only for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash), maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.250. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Monday, April 4, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, March 31, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and

delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-7445 Filed 3-18-83; 10:46 am]

BILLING CODE 4810-40-M

[Department Circular Public Debt Series No. 10-83]

Treasury Bonds of 2003

March 16, 1983.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $3,250,000,000 of United States securities, designated Treasury Bonds of 2003 (CUSIP No. 912810 DD 7). The securities will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The securities will be dated April 4, 1983, and will bear interest from that date, payable on a semiannual basis on November 15, 1983, and each subsequent 6 months on May 15 and November 15 until the principal becomes payable. They will mature May 15, 2003, and will not be subject to call for redemption prior to maturity. In the event an interest payment date or the maturity date is a Saturday, Sunday, or other nonbusiness day, the interest or principal is payable on the next-succeeding business day.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift, or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be accpetable in payment of taxes.

2.4. Securities registered as to principal and interest will be issued in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of registered and book-entry securities, and the transfer of registered securities will be permitted. Bearer securities will not be available, and the interchange of registered or book-entry securities for bearer securities will not be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Standard time, Thursday, March 24, 1983. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, March 23, 1983, and received no later than Monday, April 4, 1983.

3.2. The face amount of securities bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender, and the amount may not exceed $1,000,000.

3.3. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.4. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by full payment for the amount of securities applied for (in the form of cash), maturing Treasury securities, or readily collectible checks), or by a payment guarantee of 5 percent of the face amount applied for, from a commercial bank or a primary dealer.

3.5. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 95.000. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to

the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.6. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on securities allotted to institutional investors and to others whose tenders are accompanied by a payment guarantee as provided in Section 3.4., must be made or completed on or before Monday, April 4, 1983. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, March 31, 1983. When payment has been submitted with the tender and the purchase price of allotted securities is over par, settlement for the premium must be completed timely, as specified in the preceding sentence. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered in payment for alloted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifying number)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be dilvered at the expense and risk of the holder.

5.4. Deliverey of securities in registered form will be made after the requested form of registration has been validated, the registred interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, and to receive payment for and make delivery of securities on full-paid allotments.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-7446 Filed 3-18-83; 10:47 am]

BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

Advisory Committee on Health-Related Effects of Herbicides; Meeting

The Veterans Administration gives notice under the provisions of Pub. L. 92-463 that a meeting of the Advisory Committee on Health-Related Effects of Herbicides will be held in Room 119 of the Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, D.C., on May 20, 1983, at 8:30 a.m. The purpose of the meeting will be to assemble and analyze information concerning toxicological issues which the Veterans Administration needs to formulate appropriate medical policy and procedures in the interest of veterans who may have encountered herbicidal chemicals used during the Vietnam Conflict.

The meeting will be open to the public up to the seating capacity of the room. Members of the public may direct questions, in writing only, to the Chairman, Barclay M. Shepard, M.D., and submit prepared statements for review by the Committee. Such members of the public may be asked to clarify submitted material prior to consideration by the Committee.

Transcripts of the proceedings and rosters of the Committee members may be obtained from Mr. Donald Rosenblum, Agent Orange Projects Office (10A7), Room 848, Department of Medicine and Surgery, Veterans Administration Central Office, Washington, D.C. 20420 (Telephone: (202) 389-5411).

Dated: March 14, 1983.

By direction of the Administator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-7254 Filed 3-18-83; 8:45 am]

BILLING CODE 8320-01-M

Agency Forms Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists an

extended form. This entry contains the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(H) of Pub. L. 96–511 applies.

Addresses: Copies of the proposed form and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Ave. NW., Washington, DC, 20420; (202) 389–2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Joe Lackey, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503; (202) 395–6880.

Dates: Comments on the form should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: March 15, 1983.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

Extensions

1. Department of Veterans Benefits.
2. Annual Farm and Home Plan for Instutional On-Farm Course of Training (Chapter 31).
3. VA Form 28–1905p.
4. Annually.
5. Veteran farm trainees.
6. 50 responses.
7. 150 hours.
8. Not applicable under 3504(H).

[FR Doc. 83–7256 Filed 3–18–83; 8:45 am]

BILLING CODE 8320–01–M

Career Development Committee; Meeting

The Veterans Administration gives notice under the provisions of Pub. L. 92–463 that a meeting of the Career Development Committee, authorized by 38 U.S.C. 4101, will be held in the Assembly Room of the Hotel Washington, 15th Street and Pennsylvania Avenue, NW., Washington, D.C. 20004, April 18, 19 and 20, 1983 at 8:30 a.m. The meeting will be for the purpose of scientific review of applications for appointment to the Career Development Program in the Veterans Administration. The committee advises the Director, Medical Research Service on selection and appointment of Associate Investigators, Research Associates, Clinical Investigators, Medical Investigators, Senior Medical Investigators and William S. Middleton Award Nominees.

The meeting will be open to the public up to the seating capacity of the room from 8:30 a.m. to 9 a.m. to discuss the general status of the program. Because of the limited seating capacity of the room, those who plan to attend should contact Mr. David D. Thomas, Executive Secretary of the Career Development Committee (151J), Veterans Administration Central Office, Washington, D.C. 20420 (Phone 202–389–2317) prior to April 5, 1983.

The meeting will be closed from 9 a.m. to 5 p.m. on April 18, 19 and 20 for consideration of individual applications for positions in the Career Development Program. This necessarily requires examination of personnel files and discussion and evaluation of the qualifications, competence, and potential of the several candidates, disclosure of which would constitute a clearly unwarranted invasion of personel privacy. In addition, decisions recommended by the committee are strictly advisory in nature; other factors are considered in final decisions. Premature disclosure of committee recommendations as well as the disclosure of research information would be likely to significantly frustrate implementation of final proposed agency actions. Accordingly, closure of this portion of the meeting is permitted by section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463 as amended, in accordance with subsections (c)(6) and (c)9(B), 5 U.S.C. 552b.

Minutes of the meeting and rosters of the committee members may be obtained from Mr. David D. Thomas, Chief, Career Development Program, Medical Research Service (151J), Veterans Administration, Washington, D.C. 20420 (Phone 202–389–2317).

Dated: March 14, 1983.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83–7253 Filed 3–18–83; 8:45 a.m.]

5BILLING CODE 8320–01–M

Veterans Administration Wage Committee; Renewal

This is to give notice in accordance with the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Veterans Administration Wage Committee has been renewed by the Administrator of Veterans Affairs for a two year period beginning March 7, 1983 through March 7, 1985.

Dated: March 14, 1983.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc 83–7255 Filed 3–18–83; 8:45 a.m.]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 55
Monday, March 21, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Equal Employment Opportunity Commission	1
Federal Home Loan Bank Board	2, 3
Federal Mine Safety and Health Review Commission	4
Federal Reserve System	5

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, March 22, 1983, 9:30 a.m. (eastern time).

PLACE: Commission Conference Room No. 200, Second floor, Columbia Plaza Office Building, 2401 E Street N.W., Washington, D.C. 20506.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Ratification of Notation Vote/s.
2. Report on Commission Operations (Optional).
3. Freedom of Information Act Appeal No. 83-1-FOIA-2-CL, concerning a request for documents in a closed ADEA charge file.
4. Freedom of Information Act Appeal No. 83-01-FOIA-01-CH, concerning a request for portions of a charge file.
5. Freedom of Information Act Appeal No. 82-12-FOIA-148-PA, concerning a request for documents from a closed ADEA investigative file.
6. Freedom of Information Act Appeal No. 83-1-FOIA-3-ME, concerning a request for materials from a closed age/equal pay discrimination file.
7. Freedom of Information Act Appeal No. 82-12-FOIA-250, concerning a request for denied materials: intra-management memo and interagency documents.
8. Limited Scope Commissioner Charges.
9. Federal Register Notice Limiting the Department of Education's (ED's) Participation in the "Procedures for Complaints of Discrimination Filed Against Recipients of Federal Financial Assistance" (Title VI-Title VII Rule).

Closed:

1. Litigation Authorization; General Counsel Recommendations.
2. Consideration for Withdrawal of Certain Charges.
3. OFCCP's Proposed Final Affirmative Action Rules.
4. Approval of Funding for Second Option Year for Expert Services Contract.

(In addition to publishing notices on EEOC Commission Meetings in the **Federal Register**, the Commission also provides recorded announcements a full week in advance on future Commission sessions.

Please telephone (202) 634-6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Treva McCall, Executive Secretary to the Commission at (202) 634-6748.

This notice Issued March 15, 1983.

[S-384-83 Filed 3-16-83; 5:12 pm]

BILLING CODE 6750-06-M

2

FEDERAL HOME LOAN BANK BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. No. 48, Page No. None at this time. Date published—None at this time.

PLACE: Board room, sixth floor, 1700 G Street, NW., Wahington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202-377-6679).

CHANGES IN THE MEETING: THE FOLLOWING ITEM HAS BEEN WITHDRAWN FROM THE OPEN PORTION OF THE BANK BOARD MEETING SCHEDULED THURSDAY, MARCH 17, 1983, AT 11 A.M.:

Charters and Bylaws Available to Federal Associations and Savings Banks

[S-385-83 Filed 3-17-83; 10:29 am]

BILLING CODE 6720-01-M

3

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 1:30 p.m., Thursday, March 24, 1983.

PLACE: Board room, Sixth floor, 1700 G Street, NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Lockwood (202-377-6679).

MATTERS TO BE CONSIDERED: Concurrent Branch Applications—(1) Coast Federal Savings and Loan Association, Los Angeles, California and (2) Great Western Savings, a Federal Savings and Loan Association, Beverly Hills, California.

[S-388-83 Filed 3-17-83; 3:21 pm]

BILLING CODE 6720-01-M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

March 15, 1983

TIME AND DATE: 10 a.m. Wednesday, March 23, 1983.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. MSHA v. Roy Glenn, Docket No. WEST 80-158-M. (Issues include whether the judge properly concluded that a corporate agent had "knowingly authorized", within the meaning of section 110(c) of the Mine Act, a violation of a mandatory safety standard.)

* * * * *

TIME AND DATE: Following Oral Argument, March 23, 1983.

STATUS: Closed (Pursuant to 5 U.S.C. 552(c)(10)).

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the above listed case.

It was determined by a majority vote of Commissioners that the meeting be closed.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5632.

[S-386-83 Filed 3-17-83; 11:39 am]

BILLING CODE 6735-01-M

5

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10 a.m., Friday, March 25, 1983.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20556.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments,

promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: March 17, 1983.

James McAfee,

Associate Secretary of the Board.

[S-387-83 Filed 3-17-83; 3:04 pm]

BILLING CODE 6210-01-M

federal register

Monday
March 21, 1983

Part II

Environmental Protection Agency

Organic Chemicals and Plastics and Synthetic Fibers Category Effluent Limitations Guidelines, Pretreatment Standards; and New Source Performance Standards; Proposed Regulation

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 414 and 416

[WH-FRL 2305-7]

Organic Chemicals and Plastics and Synethic Fibers Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency.

ACTION: Proposed regulation.

SUMMARY: The Environmental Protection Agency (EPA), is proposing effluent limitations guidelines for "best practicable technology", "best conventional technology" and "best available technology", new source performance standards and pretreatment standards for the Organic Chemicals and Plastics and Synthetic Fibers (OCPSF) Category as required under Sections 301, 304, 306, 307, and 501 of the Clean Water Act. These proposed regulations will limit the discharge of effluents into waters of the United States or into publicly owned treatment works from facilities that produce organic chemicals, plastics and synthetic fibers. After considering comments received in response to this proposal, EPA will promulgate a final rule.

DATE: Comments on this proposal must be received by June 19, 1983. However, the Agency solicits earlier comments on the additional data collection activities (Section XV of the preamble) for immediate use in program planning.

ADDRESSES: Send comments to or obtain technical information from E. H. Forsht, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Attention EGD Docket Clerk, Organic Chemicals, Plastic and Synthetic Fibers Industry (WH-552). The supporting information and all comments on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (EPA Library Rear) PM-213. Copies of technical documents may be obtained from Denise Beverly, Distribution Officer at the above address or by calling (202) 382-7115. A copy of the economic analysis may be obtained from Harold Lester, Economic Analysis Staff (WH-586), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, or by calling (202) 382-5380. A copy of the preliminary regulatory impact analysis may be obtained from Alec McBride, Monitoring and Data Support Division (WH-553) Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, or by calling (202) 382-7046.

FOR FURTHER INFORMATION CONTACT: E. H. Forsht, Senior Project Officer, Organic Chemicals Branch, Environmental Protection Agency by calling (202) 382-7135.

SUPPLEMENTARY INFORMATION: *Overview:* This preamble describes the scope, purpose, legal authority and background of this proposal, the technical and economic bases and the methodology used by the Agency to develop proposed effluent limitations guidelines and standards for the Organic Chemicals and Plastics and Synthetic Fibers (OCPSF) industrial category, and the procedures which will be utilized to implement the regulations upon promulgation. It also presents a summary of public comments on the draft contractor's engineering reports which were circulated in December, 1981 and April, 1982 to the industry and other interested parties, and solicits comments on specific areas of interest.

These proposed regulations are supported by EPA's technical conclusions which are detailed in the Development Document for Best Practicable Technology, Best Conventional Technology and New Source Performance Technology in the Organic Chemicals and Plastics and Synthetic Fibers Industry, and in the Development Document for Best Available Technology, Pretreatment Technology, and New Source Performance Technology in the Organic Chemicals, Plastics and Synthetic Fibers Industry. (These documents are referred to in this preamble as the BPT Development Document and BAT Development Document, respectively). The Agency's economic analysis is presented in the Economic Impact Analysis of Effluent Limitations and Standards for the OCPSF Industry.

Abbreviations, acronyms, and other terms used in the Supplementary Information section are defined in Appendix A to this notice.

Organization of Supplementary Information

I. Legal Authority
II. Background
  A. The Clean Water Act
  B. Prior EPA Regulations
  C. Scope of this Rulemaking
III. Overview of the Industry
IV. Available Wastewater Control and Treatment Technology
V. Best Practicable Technology Effluent Limitations
  A. Legal Criteria for Developing BPT
  B. Technical Data Gathering Efforts for BPT
  C. BPT Technology Selection Criteria
  D. Subcategorization and Calculation of BPT Limitations
  E. Concentration-Based Limitations
  F. BPT Pollutant Reductions, Cost and Economic Impacts
VI. Best Conventional Technology Effluent Limitations
VII. Best Available Technology Effluent Limitations
  A. Legal Criteria for Developing BAT
  B. Technical Data Gathering Efforts for BAT
  C. Need for BAT Regulation
  D. BAT Technology Selection
  E. Calculation of BAT Limitations
  F. Applicability of BAT Limitations
  G. BAT Removals of Priority Pollutants, Costs and Economic Impacts
VIII. New Source Performance Standards
IX. Pretreatment Standards for Existing Sources
  A. Legal Criteria in Developing Pretreatment Standards
  B. Need for Pretreatment Standards
  C. Technology Selection and Establishment of Limits
  D. Removal Credits
  E. Compliance Date
  F. PSES Priority Pollutant Removals Cost and Economic Impacts
X. Pretreatment Standards for New Sources
XI. Monitoring Requirements
XII. Best Management Practices
XIII. Regulatory Status of Pollutants
  A Priority Pollutants Regulated
  B. Priority Pollutants Not Regulated
  C. Nonconventional and Non-Priority Pollutants Excluded
  D. Conventional Pollutants Excluded
XIV. Costs, Economic Impacts, Cost Effectiveness, Regulatory Flexibility, Executive Order 12291, and Science Advisory Board
  A. Cost and Economic Impacts
  B. Cost Effectiveness
  C. Regulatory Flexibility Analysis
  D. Executive Order 12291
  E. Science Advisory Board
XV. Collection of Additional Data
XVI. Non-Water Quality Environmental Impacts
XVII. Regulatory Implementation
  A. Upset and Bypass Provisions
  B. Variances and Modifications
  C. Relationship to NPDES Permits
  D. Relationship of the Proposed Technology-Based Regulations to the Water Quality and Hazardous Waste Enforcement Actions
XVIII. Summary of Public Participation
XIX. Solicitation of Technical and Economic Data and Comments on Other Aspects of This Regulation
  Appendices:
  A—Abbreviations, Acronyms, and Other Terms Used in this Notice
  B—Toxic Pollutants Regulated
  C—Toxic Pollutants Excluded Under Paragraph 8
  D—Pollutants Not Regulated by PSES or PSNS
  E—Toxic Pollutants Not Regulated
  F—Public Comment Summary and Responses to Comments

I. Legal Authority

The regulations described in this notice are proposed under authority of Sections 301, 304, 306, 307, 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 (the "Act")). These regulations are also proposed 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), and modified again by order of the Court dated October 26, 1982.

II. Background

A. The Clean Water Act

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)).

Section 301(b)(1)(A) set a deadline of July 1, 1977, for existing industrial direct dischargers to achieve "effluent limitations requiring the application of the best practicable control technology currently available" ("BPT").

Section 301(b)(2)(A) set a deadline of July 1, 1983, for these dischargers to achieve "effluent limitations requiring the application of the best available technology economically achievable which will result in reasonable further progress toward the national goal of eliminating the discharge of all pollutants" ("BAT").

Section 306 required that new industrial direct dischargers comply with new source performance standards ("NSPS"), based on best available demonstrated technology.

Sections 307 (b) and (c) required the Administrator to set pretreatment standards for new and existing dischargers to publicly owned treatment works ("POTWs"). While the requirements for direct dischargers were to be incorporated into National Pollutant Discharge Elimination System (NPDES) permits issued under Section 402, the Act made pretreatment standards enforceable directly against dischargers to POTWs (indirect dischargers).

Sections 402(a)(1) of the 1972 Act does allow requirements for direct dischargers to be set on a case-by-case basis. However, Congress intended control requirements to be based for the most part on regulations promulgated by the Administrator of EPA.

Section 304(b) required regulations that establish effluent limitations reflecting the ability of BPT and BAT to reduce effluent discharges.

Sections 304(c) and 306 of the Act required regulations for NSPS.

Sections 304(g), 307(b), and 307(c) required regulations for pretreatment standards.

In addition to these regulations for designated industry categories, Section 307(a) required the Administrator to promulgate effluent standards applicable to all dischargers of toxic pollutants.

Finally, Section 501(a) authorized the Administrator to prescribe any additional regulations "necessary to carry out his functions" under the Act.

The EPA was unable to promulgate many of these regulations by the deadlines contained in the Act, and, as a result, EPA was sued in 1976 by several environmental groups. In settling this lawsuit, EPA and the plaintiffs executed a "Settlement Agreement" which was approved by the Court. This agreement required EPA to develop a program and meet a schedule for controlling 65 "priority" pollutants and classes of pollutants in 21 major industries. See *Natural Resources Defense Council, Inc.* v. *Train, supra.*

Several of the basic elements of the Settlement Agreement program were incorporated into the Clean Water Act of 1977. This law also made several important changes in the Federal water pollution control program.

Sections 301(b)(2)(A) and 301(b)(2)(C) of the Act now set July 1, 1984, as the deadline for industries to achieve effluent limitations requiring the application of BAT for "toxic" pollutants. "Toxic" pollutants here includes the 65 pollutants and classes of pollutants which Congress declared "toxic" under Section 307(a) of the Act.

Likewise, EPA's programs for new source performance standards and pretreatment standards are now aimed principally at controlling toxic pollutants.

To strengthen the toxics control program, Section 304(e) of the Act authorizes the Administrator to prescribe certain "best management practices" (BMPs"). These BMPs are to prevent the release of toxic and hazardous pollutants from: (1) Plant site runoff, (2) spillage or leaks, (3) sludge or waste disposal, and (4) drainage from raw material storage if any of those events as associated with, or ancillary to, the manufacturing or treatment process.

In keeping with its emphasis on toxic pollutants, the Clean Water Act of 1977 also revised the control program for non-toxic pollutants.

For "conventional" pollutants identified under Section 304(a)(4) (including biochemical oxygen demand, suspended solids, oil and grease, fecal coliform and pH), the new Section 301(b)(2)(E) requires "effluent limitations requiring the application of the best conventional pollutant control technology" ("BCT"), instead of BAT, to be achieved by July 1, 1984. The factors considered in assessing BCT for an industry include the relationship between the cost of attaining a reduction in effluents and the effluent reduction benefits attained, and a comparison of the cost and level of reduction of such pollutants by publicly owned treatment works and industrial sources. For nontoxic, nonconventional pollutants, Sections 301 (b)(2)(A) and (b)(2)(F) require achievement of BAT effluent limitations within three years after their establishment or by July 1, 1984, whichever is later, but not later than July 1, 1987.

B. Prior EPA Regulations

EPA promulgated effluent limitation guidelines and standards for the Organic Chemicals Manufacturing Industry in two phases in 40 CFR Part 414. Phase I, covering 40 product/processes (a product that is manufactured by the use of a particular process—some products may be produced by any of several processes), was promulgated on April 25, 1974 (39 FR 12076). Phase II, covering 27 additional product/processes, was promulgated on January 5, 1976 (41 FR 902).

EPA also promulgated effluent limitation guidelines and standards for the Pastics and Synthetics Industry in two phases in 40 CFR Part 416. Phase I, covering 31 product/processes, was promulgated on April 5, 1974 (39 FR 12502). Phase II, covering 8 additional product/processes, was promulgated on January 23, 1975 (40 FR 3718).

Several industry members challenged the above regulations. On February 10, 1976, the Court in *Union Carbide* v. *Train*, 541 F.2d 1171 (4th Cir. 1976), granted the parties' motion to remand the Phase I Organic Chemicals regulations. The Court also directed EPA to withdraw the Phase II Organic Chemical regulations, which EPA did on April 1, 1976 (41 FR 13936). Pursuant to an agreement with the industry petitioners, however, the regulations for butadiene manufacture were left in place. The Court in *FMC Corp.* v. *Train*, 539 F.2d 973 (4th Cir. 1976), remanded the Phase I Plastics and Snythetics regulations. In response EPA withdrew both the Phase I and Phase II regulations on August 4, 1976 (41 FR 32587) except

for the pH limitations, which had not been addressed in the lawsuit.

Today, there are no promulgated regulations for the Organic Chemicals and Plastics and Synthetic Fibers industries except for the butadiene and pH regulations mentioned above.

C. Scope of This Rulemaking

EPA is today proposing effluent limitations guidelines based on the application of the best practicable technology (BPT), best conventional technology (BCT), best available technology (BAT), new source performance standards (NSPS), and pretreatment standards for existing and new sources (PSES and PSNS).

These proposed regulations apply to wastewater discharges resulting from the manufacture of organic chemicals, plastics and synthetic fibers. The organic chemicals industry is generally included within the U.S. Department of Commerce, Bureau of the Census Standard Industrial Classification (SIC) Major Groups 2865 and 2869. The plastic and synthetic fibers industry is generally included in SIC Groups 2821, 2823, 2824. Due to the interdependence of these two industries, EPA studied them in combination and is today including both of them in a single set of proposed regulations.

When finally promulgated, these regulations will supersede the existing regulations for butadiene manufacture and the pH limitation for the manufacture of plastics and synthetic fibers.

Some plants have OCPSF operations that are a minor portion of and ancillary to their primary production. In some such cases, effluent guidelines for the primary production category (*e.g.*, the guidelines for the petroleum refining, pesticides, and pharmaceuticals industries) include subcategories for the discharge of combined wastewaters from the primary production and the OCPSF processes. In such cases, to avoid duplication and potential inconsistencies, these OCPSF discharges are exluded from coverage by today's proposed OCPSF regulations and remain subject to the other applicable regulations.

The proposed regulations also do not apply to discharges from the extraction of organic chemical compounds from natural materials. Natural materials used to make organic chemical compounds include a variety of parts of plants (e.g., trees and seaweed) and animals. Today's proposal addresses the manufacture of organic chemicals via chemical synthesis. Readers should note that extraction of chemical compounds from natural materials is included in many other industrial categories—*e.g.*, Adhesives and Sealants, Pharmaceuticals and Gum and Wood Chemicals. Readers should also note that discharges from the synthesis of organic chemical compounds that have been extracted from natural materials are covered by today's proposed regulation.

III. Overview of the Industry

The OCPSF industry is large and diverse, and many plants in the industry are highly complex. The industry includes approximately 1,200 facilities which manufacture their principal or primary product or group of products under the OCPSF SIC Groups. Some plants are secondary producers, with OCPSF products ancillary to their primary manufacture. Various sources studied by EPA indicate that the number of secondary OCPSF plants is in the range of 320 to approximately 900 plants. Thus the total number of plants in the OCPSF industry may be as high as 2,100. This range is attributed to the difficulties inherent in segregating the OCPSF industry from other chemical producing industries such as petroleum refining, inorganic chemicals, pharmaceuticals and pesticides as well as chemical formulation industries such as adhesives and sealants, paint and ink, and plastics molding and formulating. Even though over 25,000 different organic chemicals, plastics and synthetic fibers are manufactured, only 1,200 products are produced in excess of 1,000 pounds per year. As mentioned above, except for certain specified exceptions, all discharges from OCPSF operations at these plants are covered by today's proposed regulations.

Some plants produce chemicals in large volumes, while others produce only small volumes of "specialty" chemicals. Large-volume production tends toward continuous processes, while small-volume production tends toward batch processes. Continuous processes are generally more efficient than batch processes in minimizing water use and optimizing the consumption of raw materials in the process.

Different products are made by varying the raw materials, chemical reaction conditions, and the chemical engineering unit processes. The products being manufactured at a single large chemical plant can vary on a weekly or even daily basis. Thus, a single plant may simultaneously produce many different products in a variety of continuous and batch operations, and the product mix may change frequently.

Total production of organic chemicals in 1980 was 291 billion pounds with sales of $54 billion. Production of plastics and synthetic fibers in 1980 was 60 billion pounds with sales of $26 billion.

For the 1,200 facilities whose principal production relates to the OCPSF industry, approximately 40 percent are direct dischargers, approximately 36 percent are indirect dischargers (plants that discharge to publicly owned treatment works) and the remaining facilities use zero or alternative discharge methods. The estimated average daily flow per plant is 2.31 MGD (millions of gallons per day) for direct dischargers and 0.80 MGD for indirect dischargers. The remainder use dry processes, reuse their wastewater, or dispose of their wastewater by deep well injection, incineration, contract hauling, or evaporation or percolation ponds.

As a result of the wide variety and complexity of raw materials and processes used and of products manufactured in the OCPSF industry, an exceptionally wide variety of pollutants are found in the wastewaters of this industry. This includes conventional pollutants (pH, BOD, TSS and oil and grease); toxic pollutants (both metals and organic compounds); and a large number of nonconventional pollutants (including the organic compounds produced by the industry for sale). EPA focused its attention in today's rulemaking on the conventional pollutants and on the 65 toxic pollutants and classes of pollutants required to be addressed in accordance with the Settlement Agreement.

IV. Available Wastewater Control and Treatment Technology

To control the wide variety of pollutants discharged by the OCPSF industry, OCPSF plants use a broad range of in-plant controls, process modifications and end-of-pipe treatment techniques. Most plants have implemented programs that combine elements of both inplant control and end-of-pipe wastewater treatment. The configuration of controls and technologies differs from plant to plant, corresponding to the differing mixes of products manufactured by different facilities. In general, direct dischargers treat their waste more extensively than indirect dischargers.

The predominant end-of-pipe control technology for direct dischargers in the OCPSF industry is biological treatment. The chief forms of biological treatment are activated sludge and aerated lagoons. Other systems, such as extended aeration and trickling filters, are also used, but less extensively. All

of these systems reduce BOD and TSS loadings, and, in many instances, incidentally remove toxic and nonconventional pollutants. Biological systems biodegrade some of the organic pollutants; remove bio-refractory organics and metals by sorption into the sludge; and strip some volatile organic compounds into the air.

Other end-of-pipe treatment technologies used in the OCPSF industry include neutralization, equalization, polishing ponds, filtration and carbon adsorption. While most direct dischargers use these physical/chemical technologies in conjunction with end-of-pipe biological treatment, at least 39 direct dischargers use only physical/chemical treatment.

In-plant control measures employed at OCPSF plants include water reduction and reuse techniques, chemical substitution and process changes. Techniques to reduce water use include the elimination of water use where practicable and the reuse and recycling of certain streams, such as reactor and floor washwater, surface runoff, scrubber effluent and vacuum seal discharges. Chemical substitution is utilized to replace process chemicals possessing highly toxic or refractory properties by others that are less toxic or more amenable to treatment. Process changes include various measures that reduce water use, waste discharges, and/or waste loadings while improving process efficiency. Replacement of barometric condensers with surface condensers; replacement of steam jet ejectors with vacuum pumps; recovery of product or by-product by steam stripping, distillation, solvent extraction or recycle, oil-water separation and carbon adsorption; and the addition of spill control systems are examples of process changes that have been successfully employed in the OCPSF industry to reduce pollutant loadings while improving process efficiencies.

Another type of control widely used in the OCPSF industry is physical/chemical in-plant control. This treatment technology is generally used selectively on certain process wastewaters to recover products or process solvents, to reduce loadings that may impair the operation of the biological system or to remove certain pollutants that are not removed sufficiently by the biological system. In-plant technologies widely used in the OCPSF industry include sedimentation/clarification, coagulation, flocculation, equalization, neutralization, oil/water separation, steam stripping, distillation, and dissolved air flotation.

Many OCPSF plants also use physical/chemical treatment after biological treatment. Such treatment is used in the majority of situations to reduce solids loadings that are discharged from biological treatment systems. The most common post-biological treatment systems are polishing ponds and multimedia filtration.

At approximately 5 percent of the direct discharging plants surveyed, no treatment is provided. At another 20 percent, only physical/chemical treatment is provided. The remaining 75 percent utilize biological treatment. Approximately 36 percent of biologically treated effluents are further treated by polishing ponds, filtration or other forms of physical/chemical control.

At approximately 52 percent of the indirect discharging plants surveyed, no treatment is provided. At another 39 percent, some physical/chemical treatment is provided. Nine percent have biological treatment.

V. Best Practicable Technology Effluent Limitations

A. Legal Criteria for Developing BPT

The factors considered in defining the best practicable control technology currently available (BPT) include: (1) The total cost of applying the technology relative to the effluent reductions that result, (2) the age of equipment and facilities involved, (3) the processes used, (4) engineering aspects of the control technology, (5) process changes, (6) non-water quality environmental impacts (including energy requirements), (7) and other factors, as the EPA Administrator considers appropriate. In general, the BPT level represents the average of the best existing performances of plants within the industry of various ages, sizes, processes, or other common characteristics. When existing performance is uniformly inadequate, BPT may be transferred from a different subcategory or category. BPT focuses on end-of-process treatment rather than process changes or internal controls, except when these technologies are common industry practice.

The cost/benefit inquiry for BPT is a limited balancing, committed to EPA's discretion, that does not require the Agency to quantify benefits in monetary terms. See e.g., *American Iron and Steel Institute* v. *EPA*, 526 F. 2d 1027 (3rd Cir, 1975). In balancing costs against the benefits of effluent reduction, EPA considers the volume and nature of existing discharges, the volume and nature of discharges expected after application of BPT, the general environmental effects of the pollutants, and the cost and economic impacts of the required level of pollution control. The Act does not require or permit consideration of water quality problems attributable to particular point sources, or water quality improvements in particular bodies of water. Therefore, EPA has not considered these factors. See *Weyerhaeuser Company* v. *Costle, 590 F. 2d 1011 (D.C. Cir. 1978).*

B. Technical Data Gathering Efforts for BPT

The technical data gathering efforts for BPT (described in detail in Section III of the BPT Development Document) were conducted by reviewing existing literature relating to the OCPSF industry and by procuring additional information (through written surveys of the industry and contacts with representatives of governmental agencies and private research facilities).

Under the authority of Section 308 of the Act, EPA sent two sets of data collection questionnaires to 556 reported operating OCPSF plants seeking information on the age and size of facilities, raw material usage, production processes employed, wastewater characteristics and methods of wastewater control treatment and disposal. In particular, we requested end-of-pipe data covering periods of at least 18 months. Followup letters with computer transcriptions of the questionnaires were sent to all plants to validate and update their data.

In addition, EPA considered, where relevant, the information collected as part of the BAT technical data gathering efforts (discused below in Section VII of this preamble).

C. BPT Technology Selection Criteria

In selecting appropriate BPT technologies, EPA focused on the primary end-of-pipe technologies used in the industry. These technologies are widely used in the industry to control conventional pollutants. To varying extents, these technologies also remove toxic and nonconventional pollutants. However, it is not possible to calculate consistent removals of specific toxic and nonconventional pollutants across the industry without carefully considering a variety of process controls and in-plant treatment technologies that are more appropriately considered to be BAT controls and technologies. Therefore, the selected BPT technologies are end-of-pipe technologies that address the conventional pollutants BOD and TSS, supplemented by those in-plant controls and technologies that are commonly used to assure the proper and efficient operation of the end-of-pipe technologies.

The proposed BPT regulations do not require the installation of any particular technology. Rather, they require plants to achieve effluent limitations that are based upon the proper operation of the recommended technologies or equivalent technologies. The proposed limitations are based on the average of the best performance of plants that use the recommended technologies.

EPA has based the proposed BPT limitations on two technologies. The predominant technology used in the OCPSF industry, and thus the primary technology used as a basis for the limitations, is biological treatment preceded by the necessary controls to protect the biota and otherwise assure that the biological system functions effectively and consistently. Activated sludge and aerated lagoons are the primary examples of such biological treatment. Other biological systems, such as aerobic lagoons, rotating biological contractors, and trickling filters, are also used effectively at a few plants and data from such plants was also used to develop BPT limitations.

The second BPT technology used in the OCPSF industry is a biological system followed by a polishing pond or filter. This biological/polishing combination demonstrates effective treatment of BOD and TSS. In some cases, plants originally installed biological systems that had inadequate retention times or were otherwise not designed and operated to optimally treat conventional pollutants. When these plants were required in the late 1970s to upgrade to meet BPT permit limits (established by permit writers in the absence of guidelines on a case-by-case basis, using their best engineering judgment), some chose to add polishing ponds or filters rather than to enlarge or otherwise improve their existing biological systems. The biological/polishing combination thus constitutes an alternative method to meet BPT.

As indicated previously, some plants rely exclusively upon end-of-pipe physical/chemical treatment. Some of these plants have low BOD and thus find physical/chemical treatment more effective in reducing TSS loadings. (Biological systems cannot function unless influent BOD is high enough to sustain their biota). Other plants have determined, based on an analysis of the types and volumes of pollutants that they discharge, that physical/chemical treatment is more economical, easier to operate, or otherwise more appropriate. Many of these plants can control conventional pollutants effectively without using the two recommended technologies discussed above. Some plants do not have any treatment in place at all; many of these have low BOD and TSS concentrations in their raw wastewaters.

Of the 16 plants in the data base that have no treatment at all and that have submitted TSS data, 11 already comply with the proposed TSS limitations. Of the 13 of these plants submitting BOD data, 8 already comply with proposed BOD limits. Of the 21 plants that use only physical/chemical treatment and that have submitted TSS data, 13 already comply. For BOD, 10 out of 21 comply. For plants that haven't already achieved the proposed BOD and/or TSS limits, compliance can be achieved by the installation of the recommended end-of-pipe BPT technologies. In some cases, especially where only TSS noncompliance exists, solids control by physical/chemical means may suffice. EPA has assumed for purposes of estimating BPT costs that plants that presently do not comply with the BOD limits alone or with both the BOD and TSS limits would install (the generally more expensive) biological treatment. For plants that comply with BOD but not with TSS, and presently have no biological treatment in place, EPA costed only additional, physical/chemical solids control. EPA invites comment on the suitability of its regulatory and costing approach for these plants.

After selecting the BPT technologies, EPA developed a statistical criterion to segregate the better designed and operated plants from the poorer performers. This was done to assure that the plant data relied upon to develop BPT limitations reflected the average of the best existing performers. The criterion selected was to include in the data base any plant with a biological treatment system that, on the average, (1) discharged 50 mg/l or less BOD after treatment, or (2) removed 95% or more of the BOD that entered the end-of-pipe treatment system. This criterion reflects the performance level that is generally achieved by well-operated plants in the OCPSF industry that use the recommended BPT technologies. A detailed explanation of the development of this statistical criterion is contained in Section VII of the Development Document.

Of the 139 plants that use the recommended technologies and submitted BOD data to EPA, 114 (82 percent) achieve 50 mg/l or less BOD after treatment or 95 percent or more BOD removal. Thus, only a small group of the relatively worst performers, 18 percent of the treatment systems, were deleted from the data base used to derive the long-term averages to develop effluent limitations.

EPA is giving serious consideration to recommending, and using as a basis for final TSS limitations, an additional technology for controlling solids. Approximately one-third of the plants in the BPT data base use post-biological treatment such as polishing ponds or multimedia filtration to further reduce solids. Thus, it may be appropriate to define "average-of-the-best" TSS control as biological treatment followed by effective solids control. If EPA decides to use this technology as the basis for final TSS limitations, it would do so by deleting from the BPT data base, for TSS purposes, those biological systems that are not followed by adequate physical/chemical solids control systems. Based upon the present data base on the performance of such biological/tertiary solids control systems, this approach would result in the following TSS limitations.

Subcategory (described below)	Daily maximum	30-day average
Plastics only	111	39
Oxidation:		
a. High water use	166	62
b. Low water use	166	62
Type I	106	40
Other discharges	103	38

A comparison of these values with the TSS limitations proposed today shows that the requirement of additional solids control would reduce TSS discharges substantially for the Oxidation subcategory and reduce them slightly for the other three BPT subcategories. (Subcategories are discussed immediately below). EPA invites comments on this approach and solicits data on the use and effectiveness of polishing ponds and filters in reducing TSS.

D. Subcategorization and Calculation of BPT Limitations

EPA determined whether different effluent limitations were appropriate for different segments of the OCPSF industry. The factors considered included: raw materials used, products manufactured, production processes employed, wastewater characteristics and treatability, plant size, location and age, and treatment costs. Detailed information on the basis for this subcategorization scheme is presented in Section IV of the BPT Development Document.

EPA has established four subcategories for the proposed BPT regulations. The subcategories are based upon the types of product/processes

contributing to the discharge. The subcategories apply to discharges (i.e., single outfalls). Plants with more than one outfall could have their separate discharges assigned to different subcategories.

To establish subcategories, EPA examined the 41 major generic processes used in the OCPSF industry for their potential to generate BOD loadings. For example, the oxidation process generally produces a relatively high BOD loading; some plastics-producing processes produce relatively low BOD loadings. Since the BOD of the raw waste load influences the practicably achievable effluent BOD concentration, this factor was deemed appropriate for subcategorization. (TSS loadings could not be related in a similar manner to particular processes.) Information on the generic processes and product/processes is contained in Section III and Appendix A of the BPT Development Document. The subcategories are as follows:

1. *Subcategory 1—Plastics Only:* Discharge resulting from the manufacture of plastics and synthetic fibers only.

2. *Subcategory 2—Oxidation:* Discharges resulting from the manufacture of organic chemicals only, or both organic chemicals and plastics and synthetic fibers, that include wastewater from the oxidation process.

This subcategory is further divided into two groups based upon the factor of flow: a high-water-usage group (greater than or equal to 0.2 gallon per pound of total daily production) and a low-water-usage group.

3. *Subcategory 3—Type I:* Discharges resulting from the manufacture of organic chemicals only or, both organic chemicals and plastics and synthetic fibers, that include wastewater from any of the following generic processes (referred to in the BPT Development document as "Type I" processes) but not from the oxidation process:

Peroxidation
Acid Cleavage
Condensation
Isomerization (e.g., m-xylene to o- or p-xylene)
Esterification
Hydroacetylation
Hydration
Alkoxylation
Hydrolysis
Carbonylation
Hydrogenation (e.g., butyraldehyde to n-butanol)
Neutralization

4. *Subcategory 4—Other Discharges:* All OCPSF discharges not included in Subcategories 1–3.

Plant size, location and age were all examined and found not to be factors in subcategorization. Flow was also considered and used to subdivide Subcategory 2, as discussed above.

For each subcategory, EPA calculated the long-term average concentrations for BOD and TSS, using the data from those plants that had been selected under the criteria discussed above and that were included in the subcategory. Then, based on 12 months of daily data from 17 plants, EPA developed variability factors for all plants. The variability factors were applied to the long-term averages to calculate daily maximum concentrations and monthly maximum values for BOD and TSS for each subcategory.

The subcategorization scheme allows discharges that are somewhat different from each other to be included in a single subcategory. This occurs because the entire flow from an outfall will often be assigned to a subcategory based upon only part of the production processes contributing to the discharge. For example, a discharge that has both Type I and oxidation process effluents will be in the Oxidation subcategory regardless of the relative wastewater contributions of each process. As a result, for example, the data base for the Oxidation subcategory includes discharges that have only oxidation effluents (which tend to have higher BOD), discharges that have both oxidation and Type I effluents, and discharges that have both oxidation and non-Type I effluents (which tend to have lower BOD). The long-term average calculated for the subcategory reflects the effluent levels for all of these discharges in the subcategory.

For each subcategory, EPA has grouped for analysis those plants performing better than the subcategory medians and those performing worse. For each subcategory, EPA has found that both groups have similar mixes and numbers of generic processes, similar ranges in the number of specific product processes, similar raw waste concentration distributions, and similar contributions from secondary production of non-OCPSF products. Thus, it does not appear that different types of plants were improperly combined in a single subcategory. EPA welcomes comments on this conclusion.

Another effect of the subcategorization scheme that is related to the one discussed above is that the subcategory assignment of an entire plant's discharge can be shifted if a particular product/process contributing to the outfall is added to or deleted from its operations. For example, a plant's discharge in the Type I subcategory would be moved to the Oxidation subcategory (and be subject to less stringent limitations) if it added an oxidation process effluent to its outfall. If the same plant later closed its oxidation process, the discharge once again would become subject to the lower and more stringent Type I limitations.

Of course, if a plant adds or drops a production line that substantially changes the nature of its raw waste load, a change in its subcategory designation and hence its effluent limitations may well be appropriate. However, it would be somewhat anomalous to substantially change a plant's subcategory and limitations as the result of the addition or deletion of a process that contributed only a small portion of the plant's total process flow. EPA is uncertain whether, as a practical matter, such anomalies are likely to occur. We solicit comments on this matter.

EPA considered the option of designing each subcategory discretely to include only plastics, oxidation, Type I, and other operations, respectively. A discharge with more than one type of process effluent could then have its flow apportioned among the subcategories as appropriate. Since the end-of-pipe effluent data for each plant reflects combined treatment of different process waste streams fed to single outfalls, it is not practicable to separately determine the treatability of the various individual processes or groups of processes entering the end-of-pipe treatment system.

Another option, suggested by an industry trade association, is to subcategorize based upon the TSS and/or BOD levels in the influent to the end-of-pipe treatment system. It was further suggested that, for each subcategory, EPA set percent-reduction limits (around the end-of-pipe system) rather than concentration-based limitations. EPA has rejected this approval because it creates serious inequities and discourages good treatment. Subcategorization based on a raw-waste-load/percent-removal approach requires a determination of a sampling point for raw waste load. Raw waste loads are created by individual product/processes and are affected by process controls and in-plant treatment.

The industry's suggested approach would give no credit to plants practicing in-plant controls; on the contrary, it would actively discourage such highly desirable wastewater control practices. For example, a plant that significantly reduces BOD and TSS loads prior to end-of-pipe treatment would be required under the suggested approach to further reduce its BOD and TSS by the same

percentage as a plant not using such controls. Indeed, no matter how effective a plant's internal controls or how clean its initial product/process discharges are, it would be required under that approach to obtain significant additional percent reduction.

EPA believes its proposed approach is more equitable than the suggested approach. First, it bases the subcategories on the product/processes that contribute raw waste loads of TSS and BOD, rather than looking at raw wastes prior to end-of-pipe treatment. Second, by setting concentration limitations at the end of the pipe, it gives full credit for any treatment or control taking place in the plant, regardless of where that treatment or control occurs. EPA welcomes comments on its adopted approach and on the suggested approach.

EPA is also considering simplifying its subcategorization scheme by combining certain subcategories. For example, it may be reasonable to combine subcategories 3 and 4 based on the similarities of treated effluents for discharges in these subcategories. EPA invites comment on this and other similar approaches.

Finally, in addition to continuing to consider various options for final subcategorization, EPA intends to collect more data on the performance of BPT technology. EPA believes that several of the proposed BPT limitations may be higher than warranted for the types of influent waste loads entering the BPT treatment systems. In particular, the proposed daily maximum limitations for TSS in the Oxidation subcategory are quite high. EPA solicits additional information on the performance of BPT systems, especially those used in the Oxidation subcategory, with respect to TSS.

E. Concentration-Based Limitations

The proposed BPT limitations (as well as other limitations and standards proposed today for the OCPSF industry) are expressed in terms of concentration rather than mass. In general, EPA has in the past preferred mass limitations, where feasible, to encourage flow reduction and to prevent the substitution of dilution for treatment. However, concentration-based limitations have been used where production and achievable wastewater flow could not be correlated (e.g., for the various mining industries). In the OCPSF industry, such correlations do not exist, as explained below, and accordingly, EPA is proposing concentration-based limitations.

In the OCPSF industry, production often varies from day to day or even hour to hour. This is particularly true in large integrated plants producing a large variety of products as well as plants employing batch processing. The treatment system, in contrast, has a retention time varying from approximately eight hours to two weeks or more. The average retention time in OCPSF plants is approximately 3 days. In fact, good waste treatment practice generally requires the smoothing out of variations in wastewater flow by the use of equalization basins, because biological treatment systems in particular are sensitive to sharp changes in influent flow or quality. Interception and mixing of a plant's combined flow from all of its product/processes plus the additional retention time in the balance of the treatment system results in a delay such that pollutants discharged by a given product/process often will not appear in a plant's final effluent until several days later.

In most industrial categories, a lag of several days between generation of pollutants and appearance in the final effluent does not prevent a correlation between production and effluent flow, because the production is consistent from day to day. In the OCPSF industry, the extensive variation of production prevents correlation.

The problems described above could only be mitigated if mass-based limits are set on individual process lines prior to biological treatment, with credit given for percent reductions across the biological system. However, such in-plant mass limits are inconsistent with the definition of BPT for this industry, which is based on end-of-pipe treatment and does not require inplant flow reduction or pollutant control. Furthermore, such an approach would require the development of separate mass limitations for each of hundreds or thousands of product/processes discharged by OCPSF, a monumental and infeasible task.

EPA believes that dilution of process wastewaters by non-process wastewaters can be minimized by requiring the permit writer to establish mass based limits in the permit. Therefore, the proposed regulations require that the permit writer set mass-based limits by multiplying the plant's combined end-of-pipe process wastewater flow by the concentration limitation established by the guideline. The other source of dilution, commingling different process wastewater streams that contain different pollutants, could not be prevented even by end-of-pipe mass limitations. It could only be prevented by setting separate limitations for each product/process stream prior to the biological system. As noted above, however, such an approach would be incompatible with the concept of end-of-pipe BPT treatment.

F. BPT Pollutant Reductions, Costs and Economic Impacts

EPA estimates that the proposed BPT Limitations would result in annual incremental removals of 149 million pounds of BOD and 102 million pounds of TSS. The estimated costs of removal are capital costs of 316 million and annual costs of 105 million. No closures or employment losses are anticpated. EPA has concluded that the proposed regulations is justified and consistent with the requirements of the Act.

VI. Best Conventional Technology Effluent Limitations

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. Section 304(a)(4) designated the following as conventional pollutants: BOD, TSS, fecal coliform, and pH. The Administrator designated oil and grease as "conventional" on July 30, 1979, 44 FR 44501.

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. EPA published a methodology for determining BCT on August 29, 1979 (44 FR 50732). In *American Paper Institute v. EPA*, 660 F. 2d 954 (4th Cir. 1981), EPA was ordered to revise the cost test.

The court held that EPA must apply a two-part test. The first test compares the cost for private industry to reduce its conventional pollutants with the costs to publicly owned treatment works 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.

In response to the court order, EPA has proposed a revised BCT cost-reasonableness test at 47 FR 49176 (October 29, 1982). The proposed test provides that BCT is cost-reasonable if (1) the incremental cost per pound of conventional pollutant removed in going from BPT to BCT is less than $.27 per pound in 1976 dollars, and (2) this same

incremental cost per pound is less than 143% of the incremental cost per pound associated with achieving BPT.

EPA has considered an incremental level of conventional pollutant control beyond BPT. The technology, which is already practiced to some degree by approximately one third of the plants in the industry, is additional solids control. This includes such technology as polishing ponds and filters, which reduce the TSS levels from those achieved by BPT.

To analyze whether this technology is cost-reasonable, EPA calculated the incremental (beyond BPT) conventional pollutant removals and the incremental costs associated with this technology. Based on this information, cost per pound ratios were calculated for each of the four BPT subcategories. The results of this analysis resulted in the following incremental costs per pound in 1979 dollars:

Subcategory 1: $14.09 per pound
Subcategory 2: $1.13 per pound for high water usage $1.77 per pound for low water usage
Subcategory 3: $0.46 per pound
Subcategory 4: $1.52 per pound

All of these were found to fail the first part of the cost-reasonableness test ($0.33 per pound in 1979 dollars). Therefore, EPA is proposing that BCT be set equal to BPT. A more complete discussion of the basis for decision is contained in Section X of the BPT Development Document.

Readers should note that the BCT cost-reasonableness test results depend heavily on the limits set for BPT. If the BPT limits in the final regulation are modified based upon comment and EPA review of the proposed BPT limitations, EPA will recalculate the cost-reasonableness test to determine whether BCT should equal BPT or be more stringent than BPT. EPA also requests comment on whether any other technology, or set of technologies, should be considered as a candidate BCT technology. Furthermore, if the general BCT cost-reasonableness test proposed on October 29, 1982, is modified, EPA will reevaluate the appropriateness of BCT for the OCPSF industry accordingly.

VII. Best Available Technology Effluent Limitations

A. Legal Criteria for Developing BAT

The factors considered in establishing the best available technology economically achievable (BAT) level of control include the age of process equipment and facilities, the process employed, process changes, the engineering aspects of applying various types of control techniques, the costs of applying the control technology, nonwater quality environmental impacts such as air pollution, solid waste generation and energy requirements, and such other factors as the Administrator deems appropriate. (Section 304(b)(2)(B)). In general, the BAT technology level represents, at a minimum, the best existing economically achievable performance among plants with shared characteristics. Where existing performance is uniformly inadequate, BAT technology may be transferred from a different subcategory or industrial category. BAT may also include process changes or internal controls which are not common industry practice.

The statutory assessment of BAT considers costs but does not require a balancing of costs against effluent reduction benefits (see *Weyerhaeuser* v. *Costle*, 590 F. 2d 1011, (D.C. Cir. 1978)). In assessing the proposed BAT, however, the Agency has given substantial weight to the reasonableness of costs. The Agency has considered the volume and nature of discharges expected after application of BAT, and the costs and economic impacts of the required pollution control levels.

Despite this consideration of costs, the primary determinant of BAT is the effluent reduction capability of the control technology. As a result of the Clean Water Act of 1977, the achievement of BAT has become the national means of controlling the discharge of toxic pollutants from direct discharging plants.

B. Technical Data Gathering Efforts for BAT

The technical data gathering efforts for this rulemaking have involved several extensive activities which are summarized briefly in this section and in detail in Section V of the BAT Development Document.

In general, data gathering efforts were conducted by three principal means: (1) Review of existing information in EPA's files relating to the OCPSF industry and procurement of additional information (through written surveys of the industry and contacts with representatives of governmental agencies and private research facilities); (2) solicitation of additional information through questionnaires under the authority of Section 308 of the Act; and (3) implementation of filed sampling and analysis programs (screening, verification, and industry self-monitoring). The data gathered in the development of the BPT regulations, including responses to the BPT questionnaire, were also used in the development of the BAT regulation.

Four questionnaires were mailed to OCPSF plants. First, as mentioned previously, two sets of general questionnaires were mailed to 556 OCPSF plants requesting information on product/processes, raw waste loads, discharges, and wastewater treatment. Two additional questionnaires were mailed to selected plants for specific information on the performance of carbon adsorption and steam stripping systems.

Thousands of organic compounds are produced and potentially discharged by this industry. To specify technically supportable methods for accurately and precisely measuring each of these compounds in wastewater and to collect data to define the treatability of each of these compounds would have been an unmanageable task within the available time for developing these rules. Therefore, EPA focused its data gathering effort on the list of 65 toxic pollutants and classes of pollutants designated in the Clean Water Act.

Even the list of 65 toxic pollutants and classes of pollutants includes potentially thousands of specific pollutants. To make the task more manageable, therefore, EPA has selected for study in this rulemaking (as well as other industry rulemakings) 126 specific compounds referred to as "priority" pollutants. The criteria for choosing these pollutants included the frequency of their occurrence in water, their chemical stability and structure, the amount of the chemical produced, and the availability of chemical standards for measurement.

EPA conducted four major sampling and analysis programs: (1) Screening; (2) verification; (3) longterm sampling of physical/chemical systems and (4) 5-plant, long-term sampling of biological treatment systems. The primary objective of these programs was to produce composite samples of wastewater from which determinations could be made of the concentration (weight per unit volume) and/or mass load (weight per unit time) of the pollutants present in OCPSF wastewaters before and after various stages of treatment.

The screening program was conducted in two phases. In the first phase, 131 manufacturing plants (including direct and indirect dischargers) that represented a cross-section of the OCPSF industry were studied. A one-day composite sample from each plant was analyzed by an EPA laboratory or an EPA contractor for the presence of priority pollutants. The wastewater

samples were generally taken before end-of-pipe treatment, but sometimes after minimal preliminary end-of-pipe treatment (*e.g.*, primary sedimentation), depending on accessibility to the wastewater stream. Treated effluent samples were taken either following physical/chemical treatment (for indirect dischargers) or after biological or physical/chemical end-of-pipe treatment (for direct dischargers). EPA also sampled the raw water source (intake water) to determine the presence of pollutants prior to contamination by the manufacturing process.

These screening samples were analyzed for the presence of organic priority pollutants by gas chromatography/mass spectrometry (GC/MS) and for the presence of priority pollutant metals by atomic adsorption spectrophotometry (AAS), as detailed in *Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants* (EPA, Cincinnati, Ohio, April 1977). (Some metals data was collected by a method other than AAS and was not included in the data base because of analytical concerns). The development of these methods of analysis has been described in the preamble to the proposed regulation for the Leather Tanning Point Source Category, 40 CFR Part 425, 44 FR 38749, July 2, 1979. A summary of all priority pollutant analyses reported from the screening program is incorporated into Section VI of the BAT Development Document.

In the second screening phase, EPA sampled and analyzed 40 additional plants, including 13 direct dischargers and 24 indirect dischargers. This phase concentrated on smaller plants and plants producing specialty and relatively small-volume products.

The screening results have not been used as part of the data base for developing BAT limitations. Rather, they have been used to generally identify the pollutants of concern in a variety of plants, to confirm process chemistry predictions, to help identify candidate pollutants and processes for further study and to investigate subcategorization for BAT.

The verification program was designed to obtain 3 days of data from a representative sample of plants in the industry. In this program, EPA focused upon plants that manufacture (and thus are likely to discharge) priority pollutants and those that produce large-volume chemicals (and thus account for a major portion of the industry's discharge flow as well as the industry's economic activity).

The verification program included 37 plants. Of these, 30 are direct dischargers, 5 are indirect dischargers and 2 are zero dischargers (deep well disposal). Of the direct dischargers, 27 use at least some end-of-pipe biological treatment and 3 use only physical/chemical treatment. These plants produce 315 product/processes, including the major high-production processes, the processes used to manufacture priority pollutants, and many smaller-volume processes. These product/processes represent over 70 percent of total industry production and over 45 percent of total industry process wastewater flow.

The verification program was designed not only to study the performance of end-of-pipe systems, as in the screening program, but also to examine the nature and treatability of 176 individual product/process wastewater effluents and combinations of such effluents in the visited plants. At each plant, EPA sampled the raw waste load of individual production lines, determined the rate of production, and sampled the discharge from in-plant physical/chemical treatment systems used to treat those product/process effluents either singly or in combination with other product/process effluents.

Before sampling a verification plant, EPA first analyzed the product/processes at the plant and, through the use of process chemistry, determined which priority pollutants were likely to be discharged at the plant. A pollutant was determined to be likely to be discharged if it was the final manufactured product, used as a raw material or solvent, or commonly known or reported to be a by-product of the process reaction. In addition, EPA generally analyzed a grab sample at the plant, prior to taking 3 days of composite samples, to further identify the pollutants being discharged by the plant. Finally, EPA developed analytical methods that were specifically appropriate to measure those pollutants in the particular wastewater matrix being sampled.

The methods used by EPA were generally GC/CD (gas chromatography with conventional detectors, such as electron capture or flame ionization). The Agency used these techniques rather than GC/MS because: (1) They were commonly in use in the industry and were often being used by the sampled plants to monitor their process wastewater streams; (2) equipment to use these techniques was widely available; and (3) the costs of monitoring for a small number of targeted priority pollutants is lower for these techniques than for GC/MS. However, EPA's analytical program called for the use of GC/MS for as much as 10 percent of the samples to confirm the GC/CD results.

A discussion and summary of all priority pollutant analytical methods is contained in Appendix E of the BAT Development Document. A summary of results of the priority pollutant analyses is contained in Section V of the BAT Development Document.

In response to comments on the verification program from EPA's Science Advisory Board, EPA has carefully reviewed the analytical methods used to collect the verification data. Based upon our review, we have determined that some mistakes were made in collecting the data for some plants. For example, appropriate spiking levels were not used at six plants. As a result, EPA has deleted all of the data for 6 verification plants from the data base used to generate the BAT limitations. Furthermore, some data from other plants may be similarly deleted prior to final promulgation if warranted by further analysis. We believe that most of the data used to develop the proposed limitations are supported by adequate quality assurance/quality control (QA/QC) procedures and will be appropriate for use in the final regulation.

An additional data base assembled by EPA contains information on steam stripping, activated carbon and solvent extraction. Several full-scale systems were sampled for certain priority pollutants. Supplemental data were obtained from pilot studies, bench scale studies and laboratory studies, and engineering design models were used to allow extrapolation of the results to full scale systems.

This physical/chemical treatment data base has not been used to develop BAT limitations. However, by indicating the discharge levels achieved by variously sized and designed physical/chemical treatment systems, it has been used to help determine the costs of removing certain priority pollutants by physical/chemical means.

The last major data-collection activity was a long-term (approximately one month) sampling program at 5 plants (2 of which were also verification plants). The sampling was done on a cooperative basis among EPA, the Chemical Manufacturers Association and the 5 companies. The sampling was conducted around the end-of-pipe systems (which included biological treatment at each plant). Split samples were analyzed by EPA, CMA and, in most cases, the plants. Metals were not addressed in this study. In addition, the study did not analyze all of the organic priority pollutants.

Data from the 5-plant study, like the verification data, were used to develop the BAT limits. The five plants included an additional 16 product/processes that were not covered in the verification study. Thus the two combined data bases include 331 product/processes.

In addition to gathering data, EPA studied (using both process chemistry theory and empirical validation) the principal feedstocks (basic raw materials) and generic processes used in the OCPSF industry to determine the priority pollutants that are likely to be discharged from particular product/processes. This information has been and is continuing to be used in several ways, including: (1) Providing a theoretical understanding of the collected data; (2) identifying product/processes that have not get been sampled by EPA and are likely to discharge priority pollutants and thus are good candidates for future sampling and analysis; (3) indicating the extent to which the product/process and pollutant-discharge data in EPA's data base is representative of the entire industry; and (4) assisting permit writers and plants in determining the pollutants that are likely to be discharged and thus need to be treated and routinely monitored. A detailed discussion of this subject is contained in Section V of the BAT Development Document. EPA invites commenters to submit information to improve this discussion of priority pollutant pathways.

C. Need for BAT Regulation

The OCPSF industry is unique in that it is the only industry that intentionally manufactures large volumes of the majority of organic priority pollutants. This fact alone indicates that significant discharges of organic priority pollutants will likely occur in this industry. Several other significant sources of organic priority-pollutant discharges in the OCPSF industry are: (1) The use of priority pollutants as raw materials; (2) the use of priority pollutants as solvents; (3) the creation of priority pollutants as co-products in petrochemical processes; and (4) the presence of priority pollutants as contaminants in raw materials. Furthermore, many priority pollutant metals are used in various product segments as catalysts, oxidizing and reducing agents, reagents, reactants, raw materials, by-products and corrosion inhibitors and thus also may be expected to be discharged from OCPSF plants.

Actual data collected by EPA confirm the discharge of a wide variety of priority pollutants. Nearly every priority pollutant has been detected in at least 42 percent of the influent or effluent samples in the screening, verification and 5-plant studies. While most of these pollutants are attributable to OCPSF processes, some are not. For example, the pesticide priority pollutants found in end-of-pipe effluent cannot be attributed to OCPSF wastewaters because they are not used as raw materials or solvents, are not produced as products or co-products, and are unlikely to appear as raw material contaminants in OCPSF product/processes. They are most likely attributable to intake water used in the process or to pesticide formulations that were being applied around the plant grounds but are not related to production processes. Even after good biological treatment that meets the criteria set for the BPT data base (BOD less than 50 mg/l or better than 95% BOD reduction), the discharge of many priority pollutants is still significant and treatable.

Due to the huge process-wastewater flows that occur at many OCPSF plants, the total mass (flow times concentration) of discharged priority pollutants can be very high even at low concentrations. The total mass of discharged organic priority pollutants from this industry is the highest of any industry. EPA estimates that direct dischargers would discharge 668 million pounds of priority pollutants after achieving BPT. (The priority pollutant mass loading figures presented in the preamble are based on developing flow-weighted industry-wide priority pollutant loadings for the 176 selected product/process and then, on the basis of flow, extrapolating the loading to the entire industry).

Based upon the above information, EPA has concluded that priority pollutant discharges from the OCPSF industry are significant even after BPT treatment. Therefore, BAT limitations are necessary to control priority pollutant discharges.

D. BAT Technology Selection

Due to the diversity of priority pollutants in the OCPSF industry, a variety of treatment technologies are employed by OCPSF plants to control priority-pollutant (as well as nonconventional pollutant) discharges. Consequently, the selection of a particular set of "BAT" treatment technologies is plant-specific. Unlike other industries for which EPA has established BAT guidelines, the OCPSF industry is not amenable to the specification of a single model BAT technology.

The range of technologies used to control priority-pollutant discharges in the OCPSF industry encompasses virtually the entire range of industrial wastewater-treatment technology. Generally, as indicated previously, this technology is usually some combination of in-plant control, or treatment of specific wastestreams (from one or several product/processes) by any of a variety of physical/chemical methods, biological treatment of combined waste streams, and post-biological treatment.

Some of the controls or technologies preceding the biological segment of the treatment system are installed specifically to reduce priority pollutants. However, others are expressly designed into the treatment system to assure compliance with BPT by protecting the biological segment of the system from shock loads and other forms of interference. It is thus infeasible to specify that any particular technology is or is not a "BAT" technology or a "priority-pollutant control" technology in the OCPSF industry. Rather, each plant wishing to control its priority-pollutant discharges will employ some combination of controls and technologies (and, to some extent, dilution of some process wastewater by other process wastewater having lower concentrations of certain priority pollutants) that result in the desired reduction.

Based upon these considerations, EPA has refrained in this rulemaking from specifying a particular set of controls as the basis for BAT. Rather, EPA has based the proposed BAT limitations on the levels of priority pollutant control that are actually achieved at various OCPSF plants using differing treatment configurations. In doing so, EPA has carefully analyzed the plants in its BAT data base to assure that the data relied upon to develop BAT limitations represent the best available technology rather than simply an average of existing performance levels.

EPA has used certain existing rules to determine which plants are included in the data base used to develop BAT limitations. These rules are discussed in Section V of the BAT Development Document. EPA will continue to consider the appropriateness of the editing rules and invites comment on them.

E. Calculation of BAT Limitations

EPA considered two general options for developing BAT effluent limitations. The selected option is concentration-based limitations, based on end-of-pipe data that reflect total treatment system performance. The rejected option would have set mass-based (or, in a suboption, concentration-based) limitations, based primarily on an evaluation of the treatability of individual product/

process streams by in-plant process control, physical/chemical treatment, and biological treatment.

1. *Option 1: Mass-Based Limitations on Specific Product/Processes.* The Agency gave the rejected mass-based, product/process option very serious consideration throughout the development of these regulations. This option would have relied primarily on the data gathered in the verification program for the 176 product/processes and their treatability and also on the physical/chemical treatability data based. Based on this data, EPA would have determined what mass limitations could be achieved for each product/process through the use of in-plant control.

Under this option, each product/process would have been considered a separate subcategory, and the regulation would have contained separate mass-based limitations for each such subcategory. Monitoring would have been separately required for each product/process effluent. However, credit could have been provided for removals by an end-of-pipe (usually biological) treatment system if sampling before and after that system demonstrated a percent reduction through the biological segment of the system. This is similar to the use of removal credits in the Pretreatment program for indirect dischargers. (See 40 CFR 403.7, 46 FR 9404, January 28, 1981). See also the proposed amendments to 40 CFR 403.7, 47 FR 42698, September 28, 1982.

This option, if supported by sufficient technical information, provides some potential advantages over an end-of-pipe-based regulation:

a. By setting limits on individual product/processes, this option would assure treatment prior to the commingling of different process wastewaters. Thus, the dilution of one process wastewater containing only pollutants A–E by another process wastewater containing only pollutants F–J could not be used as a partial substitute for treatment.

b. This option could be expected, in practice, to result in an emphasis on process controls and in-plant physical/chemical treatment, thereby promoting the recycling and reuse of wastewater and by-products. Such an emphasis would result in a reduction of the overall pollutant release through various environmental media that might otherwise occur through a heavier reliance on end-of-pipe biological treatment. For example, biological treatment can, in some instances, cause the transfer of some volatile organic pollutants from the wastewater to the air, and the adsorption of some other organic pollutants, as well as metals, to the biological sludge, which is then disposed of through methods which may affect other media. While some in-plant physical/chemical controls may similarly transfer pollutants to other media (*e.g.*, precipitation of metals often results in the transfer of metals from wastewater to other media), other in-plant controls and treatments return at least some pollutants to the process, thereby minimizing total environmental releases.

Despite these theoretical advantages, EPA has concluded that this option is both technically and administratively infeasible. The difficulties with this option are outlined below:

a. EPA collected data characterizing 176 specific product/process effluents. This covers all of the high-volume products in the industry, and represents approximately 40 percent of the industry wastewater flow and approximately 65 percent of its production. Despite this extensive coverage, thousands of minor individual product/processes are left unaddressed. In implementing BAT regulations to issue a permit under this option, a permit writer would typically be faced with the arduous task of characterizing and developing effluent limitations for those product/processes at each plant that are not explicitly addressed by the regulation. The time and expertise needed by the States and EPA Regional offices to implement this approach would be enormous. It is thus likely that this approach would substantially delay the issuance of permits to, and the installation and operation of BAT controls by, OCPSF plants.

b. Calculating mass limits requires that for each product/process, EPA must calculate an F/P (flow divided by production volume) ratio representative of good industry practice. (Multiplying F/P by concentration yields a mass pollutant loading per unit of production.) For 146 of the 176 product/processes, EPA has F/P data with corresponding final effluent data at only one plant. Moreover, where we have data from two or three plants, wide variations in F/P ratios often occur. (In one case the variation is a factor of 74). Causes for these disparities could be a variety of differing process controls. To establish a BAT F/P ratio, EPA would practically have to set design and operating practices for each product/process in the industry. This is far beyond the reasonable scope of the BAT project.

c. Plants often combine the raw wastewater from several product/processes prior to in-plant treatment. The piping configurations often make it impossible to sample the isolated wastewater streams before they are combined. Undetermined mixes of several product/process effluents would confound attempts to attribute F/P ratios, raw waste loads or treatabilities to particular product/process effluents. This problem would similarly confront plants attempting to monitor individual product/process effluents in order to comply with permits implementing this option.

d. EPA's data indicating the day-to-day variability of physical/chemical-treatment-system performance is somewhat limited. Such information is available for some physical/chemical systems' day-to-day performance in treating particular priority pollutants in particular wastewater matrices. However, for others, only laboratory, pilot or bench scale data and/or theoretically based extrapolations exist. Obtaining additional full-scale data on many of the more important physical/chemical systems (e.g., steam stripping and activated carbon) would be enormously complicated. The systems must be sampled at time intervals much smaller than required for biological systems. Thus, the minimum number of samples to obtain a representative set of data, is very large, and the cost of performing such analyses for different physical/chemical treatment systems is correspondingly high.

e. Monitoring for compliance with individual product/process limitations would be enormously expensive. Sampling and analysis for organic pollutants, unlike analysis for conventional pollutants and metals, is very expensive. Monitoring on a routine basis for organic pollutants at many different points within the plant would be exceptionally expensive. For example, if a large plant monitored 15 sample points for priority pollutants once a week, the annual cost of monitoring alone could be as high as $663,000.

Although EPA has decided not to propose product/process oriented, mass-based BAT limitations, the product/process-related data have proved enormously useful to the Agency and are expected to be useful in the future. First, the information has helped EPA verify its theoretical understanding of the sources of priority pollutant discharges in the OCPSF industry. This helps assure the representativeness of the data used for the selected option and will assist permit writers in developing monitoring requirements. Second, as discussed below, the information has been crucial to EPA's analysis of the

costs and economic impacts of the proposed BAT limitations.

2. *Option 2: The selected approach—End-of-Pipe Concentration Limitations.* EPA has decided to propose concentration-based BAT limitations for two separate subcategories based upon end-of-pipe data that reflect the best available technology, including combinations of process controls, in-plant physical-chemical treatment, and end-of-pipe (usually including biological) treatment. The data base includes the verification plants and the plants included in the 5-plant study. The use of concentration-based, end-of-pipe BAT limitations avoids the difficulties discussed above with respect to a mass-based approach. However, as in the case of BPT limitations, the permit writer would multiply the concentration limit by the plant's combined wastewater flow to set a mass limitation in the permit. In addition, the permit may limit flow, on a case-by-case basis using best engineering judgment, where water use is excessive and prevents effective reduction of priority pollutant loadings.

Prior to calculating concentration-based limitations, EPA considered whether the industry should be subcategorized for BAT purposes. We considered the types of factors discussed above with respect to BPT subcategorization. We concluded that two subcategories were appropriate for BAT. One subcategory consists of discharges resulting from the manufacture of plastics and synthetic fibers only ("Plastics Only" which corresponds to the BPT Plastics Only subcategory). They tend to have less significant levels of priority pollutants than the remaining discharges, all of which result from the manufacture of at least some organic chemicals ("Not Plastics-Only" subcategory which corresponds to the BPT oxidation, Type I and Other Discharges subcategories). Thus, as discussed below, relatively few priority pollutants require control in the Plastics Only subcategory while many priority pollutants require control in the Not Plastics-Only subcategory.

The designation of fewer subcategories for BAT than for BPT stems from the conceptual differences between BAT and BPT. BPT reflects the average of the best existing industry practice. The four BPT subcategories reflect the fact that the best practicable treatment technology results in differing practicably achievable BOD and TSS discharge levels for each subcategory. The data gathered by EPA for BAT show that plants in the 3 BPT subcategories other than Plastics Only can all achieve the same effluent limitations by installing the best available technology economically achievable. Age, size, location and flow were considered and found not to be factors in subcategorization. The BAT subcategorization is discussed in further detail in Section IV of the BAT Development Document.

EPA is considering establishing a separate subcategory, for BAT purposes, for discharges resulting from the manufacture of rayon. These discharges would otherwise be covered by the Plastics Only subcategory. An industry trade association has recently submitted raw waste load and treated effluent data for this subcategory. These data indicate that discharges from the manufacture of rayon differ dramatically from other plastics discharges. Concentrations of metals in other raw (untreated) waste loads are almost always less than 5 μg/l. Rayon raw waste discharges of zinc often exceed that figure by 100 times or more. Even after good treatment, it is reasonable to expect, as the data indicate, that rayon discharges cannot achieve the same level as other plastics discharges. EPA invites comments on the suitability of establishing a separate subcategory for discharges from rayon manufacturers.

Having established the BAT subcategories, EPA then established limitations for each subcategory. EPA first calculated long-term averages for each priority pollutant that was discharged above levels achievable by BAT (36 organics and 8 metals in the Not Plastics-Only subcategory, and 5 organics and 5 metals in the Plastics Only subcategory). The averages were then multiplied by variability factors to calculate daily maximum and 4-day average effluent limitations. The 99th and 95th percentiles of the long-term data distribution provide the basis for calculating the daily maximum and 4-day average variability factors, respectively. A detailed discussion of EPA's methodology in developing limitations is contained in Section IX of the BAT Development Document.

The 4-day averages are expressed as "average of daily values for 4 consecutive monitoring days." The actual monitoring frequency will vary from plant to plant (see the discussion in Section XI of this preamble). EPA feels that monitoring four times a month is a reasonable average frequency for some plants. For others, a different frequency (*e.g.*, once per month) may be more appropriate. In any case, the 4-day average would apply to any set of 4 consecutive samples, regardless of the period of time over which the samples were taken.

One issue that has arisen with respect to the effluent limitations for organic priority pollutants is the analytical variability associated with measurements for these pollutants, especially at low levels. The practical lower limit of detection for most of these pollutants, given the proper use of analytical procedures, is between 1 and 10 μg/l. If GC/CD is used with careful cleanup and other appropriate procedures, the practical detection limit is generally even lower (between 0.1 and 1 μg/l). At very low levels approaching the detection limit from above, unless great precautions are taken, analytical variability may substantially affect the process of quantification. EPA's statistical methodology for developing the BAT limits has been designed with this problem in mind. The methodology does not require the quantification of values below 10 μg/l.

EPA found that some pollutants known to be in raw waste loads were uniformly reduced to 10 μg/l or less by plants in EPA's data base. For others, treatment uniformly reduced pollutant levels to not much higher than 10 μg/l. Appropriate statistical techniques yield low BAT limits (both daily maximum and 4-day average) for these pollutants (often less than or equal to 10 μg/l).

Low-level concentration data is viable for inclusion in a data base that reflects the range of performance of BAT systems. However, EPA feels that setting regulatory limits at 10 μg/l, even where warranted by appropriate statistical techniques applied to the data, will result in apparent violations that may occur due to analytical variability at this low level of detection. In such cases, the discharger and the pretreatment control or permitting authority would have to review the analytical procedures used, in order to determine if a violation actually occurred. Many disputes would arise concerning incidental analytical methods issues, diverting attention from the central issue: whether the appropriate set of BAT controls and treatments are being properly operated. EPA believes that sound regulatory policy dictates that levels be chosen that lessen the necessity for analytical disputes without being so high that inadequate treatment is allowed.

Consequently, a less stringent threshold of 50 μg/l has been set for organic priority pollutant limitations. This level has been selected as the daily maximum limitation whenever the statistical methodology yields lower (less than 50 μg/l) concentrations. For

pollutants whose daily maxima are proposed to be 50 μg/l (for the reasons described above), EPA is not setting 4-day average numbers. Based upon statistical techniques, these averages should be even lower than the daily maxima, which have been raised to 50 μg/l to avoid analytical method disputes. To be consistent, the 4-day averages would have to be raised to 50 μg/l for the same reasons. No purpose would be served by having average limits set at the same level as daily maxima. The daily maximum limitations of 50 μg/l will suffice for regulatory and enforcement purposes.

EPA will continue to consider the appropriateness of the 50 μg/l lower bound used in these proposed regulations. Given the extremely low levels of detection for most of the pollutants, the 50 μg/l level may be higher than necessary to avoid significant analytical methods disputes. Certainly, for the pollutants in question, substantially lower levels are both technically achievable and measurable, provided that adequate care is taken with respect to analytical techniques. EPA invites comments and analytical methods data that would shed further light on this issue.

A related issue raised by an industry trade association concerns the implementation aspects of low level limits once they have been established in the final regulation. The concern raised is that at any reasonably low level, analytical variability is sufficient to result in some cases, in apparent noncompliance caused solely by such variability. The industry association suggested an upward adjustment of such limitations to account for such variability or, alternatively, an EPA policy on how to interpret violations of a limit that are within a certain range of analytical variation from the limit.

EPA does not believe that the regulatory limits should be adjusted to address this concern. The data used to derive the limitations reflect the range of variability found in the industry, including analytical variability as well as product/process and treatment variability. Furthermore, statistical techniques used to derive the daily maximum limitations already account for analytical and other variability by multiplying the average long-term performance by variability factors. Finally, the other measures discussed above should reduce any remaining variability problems.

EPA agrees, however, that an enforcement program or a general policy that recognizes the problems of analytical variability could be useful. EPA intends to consider such an approach and welcomes comments on how best to develop and implement it.

F. Applicability of BAT Limitations

The two subcategories established for BAT, and the limitations established for each subcategory, apply to all plants that have discharges resulting form OCPSF manufacturing operations. Thus, they cover discharges of priority pollutants from thousands of product/processes.

The plants included in the BAT data base for the development of BAT limitations include 234 product/processes. These product/processes represent approximately 70 percent of industry production and approximately 45 percent of industry flow. Thus, EPA believes that they provide a fair representation of the entire industry with respect to achievable end-of-pipe concentrations.

In analyzing the BAT data base, EPA found that many plants already achieve low effluent concentrations for the pollutants covered by the BAT regulation even when those pollutants are at significant concentrations in the raw waste load. Indeed, well-operated plants are generally able to achieve low effluent levels regardless of any high loadings that may initially be generated by particular product/processes within the plants. In the case of plants that are discharging particular pollutants at higher levels than other plants in the data base, EPA has generally been able to identify a certain type of control or treatment (usually process controls or in-plant physical/chemical treatment) that is used by the better performers to treat that pollutant, but that is not being used by the poorer performers. These facts lead to the conclusion that a well-operated plant should be able to meet the BAT limitations regardless of this product/processes are being used at the plant, provided that appropriate technologies are applied. Thus, the proposed limitations based on our data base should be achievable by all plants in the industry, even when they use some product/processes that are not specifically covered by our data base.

The conclusion that the proposed BAT limitations are broadly applicable is strongly supported by an analysis of the sources of priority pollutants from a process chemistry perspective. As noted previously, priority pollutants are discharged from chemical processes generally as the result of one of the following five causes: (1) The pollutant is manufactured by the plant; (2) the pollutant is a co-product of the process reaction; (3) the pollutant is used as a raw material; (4) the pollutant is used as a solvent; or (5) the pollutant is a contaminant of a raw material.

EPA's data base includes most of the product/processes used to manufacture the priority pollutants that are produced in large volume. It includes almost all of the important types of generic chemical processes used in the OCPSF industry. Similarly, the inclusion of many different types of product/processes used in the industry ensures that the data reflect a good cross-section of the use of pollutants as raw materials or solvents. The final source of pollutants, contamination of raw materials, is largely variable even for a given product/process, depending on the plant's raw material source at a particular time. The plants and product/processes in the data base may be expected to provide a representative picture with respect to this factor as well.

EPA intends to gather more data from additional plants, including additional product/processes, to broaden the direct coverage of the data base and to confirm its representativeness of previously unsampled plants. In addition to gathering data on pollutants limited in the proposed regulation, we will be seeking data on pollutants that are not limited in the proposal, to further assure ourselves that significant discharges of these pollutants are not occurring. Based on this additional information, EPA may modify the proposed limitations or decide to limit additional pollutants. EPA's data-gathering plan is discussed in greater detail in Section XV below.

EPA invites comments on this issue. Specifically, do product/processes exist whose raw waste loads for particular priority pollutants are so high that their effluent loadings cannot be reduced to comply with the proposed BAT limitations by using the best available technology economically achievable? If so, what are the product/processes, what pollutants do they generate at what concentrations, and what difficulties preclude the achievability of the BAT limitations? Do certain product/processes discharge, at significant levels, priority pollutants that are not limited in the proposed BAT regulation? What product/processes are these, and what pollutants do they discharge at what levels?

G. BAT Removals of Priority Pollutants, Costs and Economic Impacts

EPA estimates that the proposed BAT regulation will result in the incremental removal (beyond that achieved by BPT) of 648 million pounds per year of priority pollutants. BAT is estimated to result in

capital costs of $520 million and annual costs of $243 million. Five plant closures are anticipated. In addition, 9 process lines are expected to close, resulting in the loss of 377 out of 295,000 total jobs in the industry.

Based upon the above, EPA has concluded that the proposed BAT limitations are justified and consistent with the requirements of the Act.

VIII. New Source Performance Standards

The basis for new source performance standards (NSPS) under Section 306 of the Act is the best available demonstrated technology. At new manufacturing plants, the opportunity exists to design the best and most efficient processes and wastewater treatment facilities. Therefore, Congress directed EPA to consider the best demonstrated process changes, in-plant controls, and end-of-pipe treatment technologies that reduce pollution to the maximum extent feasible.

Priority pollutants proposed for control by this regulation include those listed for BAT. BOD and TSS which are regulated in BPT, are proposed for regulation under NSPS.

The technologies used to control conventional and priority pollutants at existing plants are fully applicable to new plants. Furthermore, EPA has not identified any technologies or combinations of technologies that are demonstrated for new sources that are different from those used to establish BPT and BAT limitations for existing sources. Therefore, EPA is establishing NSPS subcategories and proposing NSPS limitations that are identical to those proposed for BPT and BAT.

IX. Pretreatment Standards for Existing Sources

A. Legal Criteria in Developing Pretreatment Standards

Section 307(b) of the Act requires EPA to promulgate pretreatment standards for existing sources (PSES), which must be achieved within three years of promulgation. PSES are designed to prevent the discharge of pollutants that pass through, interfere with, or are otherwise incompatible with the operation of POTWs. The legislative history of the 1977 Act indicates that pretreatment standards are to be technology-based, analogous to the best available technology for removal of toxic pollutants. The General Pretreatment Regulations which serve as the framework for the proposed pretreatment standards are in 40 CFR Part 403. (See 43 FR 27736, June 26, 1978; 46 FR 9404, January 28, 1981).

Before proposing pretreatment standards, the Agency examines whether the pollutants discharged by the industry pass through POTW or interfere with POTW operation or sludge disposal practices. In determining whether pollutants pass through a POTW, the Agency compares the percentage of a pollutant removed by POTWs with the percentage removed by direct dischargers applying BAT. A pollutant is deemed to pass through the POTW when the average percentage removed nationwide by well-operated POTWs (those meeting secondary treatment requirements) is less than the percentage removed by direct dischargers complying with BAT effluent limitations guidelines for that pollutant.

This approach to the definition of pass through satisfies two competing objectives set by Congress: That standards for indirect discharges be equivalent to standards for direct dischargers, and that the treatment capability and performance of the POTW be recognized and taken into account in regulating the discharge of pollutants from indirect dischargers. Rather than compare the mass or concentration of pollutants discharged by the POTW with the mass or concentration of pollutants discharged by a direct discharger, EPA compares the percentage of the pollutants removed by the plant with the POTW removal. EPA takes this approach because a comparison of mass or concentration of pollutants in a POTW effluent with pollutants in a direct discharger's effluent would not take into account the mass of pollutants discharged to the POTW from nonindustrial sources nor the dilution of the pollutants in the POTW effluent to lower concentrations from the addition of large amounts of nonindustrial wastewater.

B. Need for Pretreatment Standards

Indirect dischargers in the OCPSF industry, like the direct dischargers, use as raw materials and solvents, and produce as products or byproducts, many organic priority pollutants. Similarly, they use many priority pollutant metals in their manufacturing operations. Therefore, as in the case of direct dischargers, they may be expected to discharge many priority pollutants to POTWs at significant mass and concentration. Indeed, EPA estimates that indirect dischargers annually discharge 174 million pounds of priority pollutants to POTWs.

EPA has conducted a study of 50 well-operated POTWs that use biological treatment and meet the secondary treatment criteria to determine the extent to which priority pollutants are reduced by such POTW's. This study showed that the metals proposed for BAT regulation are typically removed at rates varying from 59 to 91 percent in POTWs. In contrast, BAT level treatment by direct dischargers in the OCPSF industry achieves removal of these metals in the range of 17 to 83 percent. While the ranges overlap in general, BAT removal exceeds POTW removal with respect to particular pollutants in only a few cases. EPA has found that one metal (lead), and cyanide discharged from the Plastics Only subcategory pass through POTWs, and 2 metals (chromium and mercury) from the Not Plastics-Only subcategory pass through.

For the organic priority pollutants proposed for BAT regulation, data from the 50 POTWs illustrate a wide range of removals for various pollutants, ranging from 45 to 98 percent reductions. BAT-level treatment by direct dischargers in the OCPSF industry also illustrates a wide range of removal. Removal data across OCPSF biological systems show a percent reduction range from 33 to greater than 99 percent. In many instances, the data on removals across biological systems understate, because of the location of the sampling points, the percent reduction across the entire BAT treatment system (including reductions across in-plant treatment). However, it is reasonable to assume that the precent reduction across an entire system would be higher than across the end-of-pipe treatment alone.

POTW percent reduction data are available for 27 of the 36 organic pollutants proposed for BAT limitations. BAT percent reductions are greater than POTW percent reductions for 11 priority pollutants. For 16 other priority pollutants, POTW removals are better than BAT removals (calculated only across the end-of-pipe portion of the BAT system, as mentioned above). Higher POTW removals for this latter group indicate the absence of pass-through with respect to the pollutants in that group. However, as noted in the above paragraph, the BAT removals may be understated by the available data.

Some of the 11 pollutants in the first group fall into a grey area. The data indicate that BAT percent reductions for 5 pollutants exceed POTW percent reduction by less than 5 percent. In light of the fact that EPA had less data in the POTW studies on organic priority pollutants than it had for the metals, and in light of the analytical variability for organic priority pollutants at the

concentrations typically found in end-of-pipe biological systems at POTWs and OCPSF plants, EPA believes that differences of 5 percent or less between the OCPSF and POTW data for organic priority pollutant reductions may not reflect real differences in treatment efficiency. Therefore, EPA has determined that for the purposes of the proposed PSES regulation, these grey-area pollutants do not pass through POTWs. We solicit comments on this issue.

In addition to the pass-through problem, many of the pollutants in OCPSF wastewaters, at sufficiently high concentrations, can inhibit biodegradation in POTW operations. Indeed, in some cases, OCPSF discharges into POTWs have caused severe upsets at POTWs resulting not only in the pass-through of the OCPSF discharge but also in the partial or complete failure by the POTW to treat other wastes.

Finally, the high concentrations of priority pollutants in a POTW's sludge can limit the use of sludge management alternatives, including the beneficial use of sludges on agricultural lands or the codisposal of sludge with refuse for recovery of thermal energy. In particular, a high level of cadmium (which is discharged by some OCPSF plants) can result in a POTW's inability to comply with the specific limitations established under Section 405 of the CWA for land spreading of Cadmium containing wastes. See 40 CFR Part 257, 44 FR 53460, September 13, 1979. EPA is not proposing PSES standards for cadmium to address this concern because cadmium discharges from OCPSF plants occur infrequently and are not known to be causing a national problem for POTW sludges. If a particular POTW is having sludge problems due to an OCPSF discharge of cadmium into the POTW, that local problem should be addressed through the local pretreatment program. We request comments on the proposal not to set a national pretreatment standard for cadmium.

Based upon the above considerations, EPA has concluded that PSES regulations are necessary for a substantial number of pollutants in this industry. Accordingly, EPA is proposing pretreatment standards today for all of the pollutants included in the BAT regulation except for those which we have determined do not pass through POTWs as discussed above. Thus, there are pretreatment standards for 15 organic priority pollutants and 2 metal priority pollutants for the Not Plastics-Only subcategory. These include 9 pollutants without corresponding POTW data to make such a determination. EPA solicits comments on whether any additional pollutants should be subject to PSES standards to prevent interference with POTW operations or to prevent POTW's sludge disposal problems.

C. Technology Selection and Establishment of Limits

The selected technology for PSES is the same as for BAT: the combination of process controls, in-plant physical/chemical treatment and end-of-pipe treatment that is the best available to control priority pollutant discharges at each plant. The PSES limitations reflecting this technology are based upon the same data as the BAT limitations: the verification data and the five plant data. This ensures that those pollutants that were found to pass through POTWs are controlled in a manner that is analogous to BAT.

As discussed previously in the case of BAT, two subcategories have been established for pretreatment: Plastics Only and Not Plastics-Only. Fewer pollutants are regulated in the pretreatment standards, reflecting the fact that POTWs adequately remove some of the pollutants regulated by BAT. For the Plastics Only subcategory, 2 organic and 2 metals are limited. For the Not Plastics-Only subcategory, 15 organics and 2 metals are limited. Standards for these pollutants are concentration-based and are equal to the BAT limitations.

In some cases, EPA anticipates that plants will install biological systems as part of their total pretreatment systems. This will occur when the use of biological treatment is more cost-effective than the use of a purely physical/chemical system in meeting the standards. However, EPA anticipates that biological treatment will be used less frequently by indirect dischargers than by direct dischargers, because the pretreatment standards do not limit the conventional pollutants BOD and TSS. Therefore, indirect dischargers that can control priority pollutants by physical/chemical means will not need to install biological treatment to address BOD and TSS. Additionally, as discussed in the next section, some indirect dischargers may obtain credits for POTW removals, resulting in less stringent limitations which may eliminate the need for biological treatment.

As in the case of BPT and BAT, PSES standards are expressed in terms of concentration rather than mass. However, unlike direct dischargers, indirect dischargers are not issued permits (except where a POTW voluntarily chooses to adopt a permit system to implement a local pretreatment program). Therefore, the concentration-based PSES standards will generally not be converted into mass-based limits as in the case of BPT and BAT limitations. EPA solicits comments on whether, and how, EPA should develop an approach whereby concentration-based PSES standards are converted to mass-based standards.

D. Removal Credits

For many priority pollutants, POTWs do not remove the pollutants as efficiently as biological systems at OCPSF plants. This occurs for two main reasons. First, influent concentrations of these pollutants at an OCPSF plant are often higher than at a POTW (which dilutes pollutant-bearing wastewaters with other wastewaters); higher influent concentrations can in many cases be reduced more efficiently (*i.e.*, by a greater percentage) than can lower concentrations. Second, OCPSF biological systems are more likely to have biota that are better acclimated to the specific OCPSF wastes than are the POTW biota receiving such wastes.

Although some priority pollutants are not adequately treated by POTWs, they are removed by POTWs to at least some extent. Recognizing this fact, Congress amended the Clean Water Act in 1977 to allow POTWs to grant "removal credits" to indirect dischargers in appropriate circumstances. The decision whether to grant removal credits is made by the POTW. No POTW removal credit can be granted without approval of the POTW owner or operator.

Section 307(b)(1) of the CWA now provides that if a POTW removes all or part of a toxic pollutant discharge and the discharge from the POTW does not violate the limitation which would apply to the pollutant if it were discharged by a source other than a POTW (i.e., an industrial plant), and does not prevent sludge use or disposal by the POTW in accordance with Section 405 of the CWA, then the owner or operator of the POTW may, at his discretion, revise the pretreatment standards to reflect the POTW removal. EPA regulations implementing this statutory provision are contained in 40 CFR 403.07, 46 FR 9404 (January 28, 1981). Revisions of these rules were recently proposed to simplify procedures and encourage the use of such "removal credits" where appropriate. See 47 FR 42698 (September 28, 1982). The proposed rules would establish, for well-operated POTWs, uniform, nationally available removal credits for the metals regulated by

today's pretreatment standards, ranging from 19 to 65 percent. The general pretreatment regulations currently allow a POTW to grant a removal credit for any pollutant for which the POTW demonstrates actual removal. Although EPA anticipates that many OCPSF plants will be granted removal credits by POTWs for metals and some will be granted removal credits for organic pollutants, EPA has assumed, for costing purposes, that OCPSF plants will not obtain removal credits and will be required to meet fully the proposed PSES limitations. This assumption may have resulted in a substantial overestimate of the costs and economic impact of the proposed PSES regulation.

E. Compliance Date

EPA is proposing a compliance date for PSES for the OCPSF category of 3 years from the date of promulgation. We believe that three years (the maximum compliance period allowed by law) are necessary for several reasons. First, many indirect dischargers presently have little or no treatment in place. Therefore, very substantial capital improvements will be required. Second, due to the complexity of OCPSF plant configurations, product mixes, and wastewater matrices, a substantial amount of engineering design work must precede the selection and installation of equipment. Third, biological systems typically require a substantial amount of startup time to acclimate the biota, attain equilibrium and achieve compliance with effluent limitations.

EPA solicits comments on the proposed compliance date for PSES.

F. PSES Priority Pollutant Removals Costs and Economic Impacts

EPA estimates that the proposed PSES regulation will result in the incremental removal of 165 million pounds per year of priority pollutants. PSES is estimated to result in capital costs of $880 million and annual costs of $404 million. Three plant closures are anticipated. In addition, 12 process lines are expected to close, resulting in the loss of 117 out of 295,000 jobs in the industry.

Based upon the above, EPA has concluded that the proposed PSES limitations are justified and consistent with the requirements of the Act.

X. Pretreatment Standards for New Sources

Section 307(c) of the Act requires EPA to promulgate pretreatment standards for new sources (PSNS) at the same time that it promulgates NSPS. These standards are intended to prevent the discharge of pollutants which pass through, interfere with or are otherwise incompatible with POTW. New indirect dischargers, like new direct dischargers, have the opportunity to incorporate the best available demonstrated technologies including process changes, in-plant control measures, and end-of-pipe treatment, and to use plant site selection to ensure adequate treatment system installation.

The priority pollutants selected for regulation by PSNS are the same as those selected for control by PSES. For the reasons discussed above, EPA has determined that these pollutants may pass through, interfere with or otherwise be incompatible with the POTW. The pretreatment standards selected as the basis for PSNS are also the same as those selected for PSES because EPA has not identified any technologies or combination of technologies that are demonstrated for new sources that are different from those used to establish PSES. These standards are the same as NSPS except that pollutants regulated by NSPS that do not pass through POTWs are not regulated by PSNS.

XI. Monitoring Requirements

The proposed regulations control a substantial number of priority pollutants, including many organic priority pollutants. To insure compliance with the proposed effluent limitations and standards, plants will be required to periodically monitor their discharges for the regulated pollutants. Permitting authorities generally must specify monitoring requirements in direct dischargers' permits, including type, intervals, and frequency sufficient to yield data that are representative of the monitored activity. See 40 CFR 122.11(b), 45 FR 33290, 33428, May 19, 1980. Similarly, today's proposed § 414.13(a) specifies that the pretreatment control authority must specify such monitoring requirements for indirect dischargers.

To date, EPA has not promulgated analytical methods for many of the organic priority pollutants. However, EPA has proposed both GC/MS and GC methods for these pollutants in 44 FR 69464 (December 3, 1979) and expects to promulgate them soon in 40 CFR Part 136. Plants will be required to use promulgated methods, or alternative methods approved by the EPA Administrator under 40 CFR 136.5, to comply with monitoring requirements.

As in the case of other industry regulations, today's proposed regulations do not specify monitoring frequency. The appropriate monitoring frequency for a particular plant depends not only on general categorical factors but also on plant-specific factors such as the size of the plant's flow and the nature of the local receiving waters. Thus, the specification of monitoring frequency is best determined locally on a case-by-case basis.

The proposed regulations do provide some guidance, however, on the appropriate range of monitoring frequencies. They include two sets of limitations; daily maxima and averages of daily values for 4 consecutive monitoring days. Although the regulations don't specify the period over which the 4 consecutive samples must be taken, the 4-day averages were concieved as replacements for the monthly averages that have typically been established in effluent guidelines and standards. EPA considers 4 times per month to be an appropriate frequency for many plants in the industry. A monitoring frequency lower than four times per month may, however, be more appropriate for smaller plants in the industry, given the relatively high cost of monitoring for organic priority pollutants. For metals, a frequency greater than four times per month may be appropriate in some cases.

EPA recognizes that some OCPSF plants do not generate some priority pollutants in their product/processes, and therefore do not discharge some of the priority pollutants that are subject to effluent standards and limitations in the proposed regulations. It would be unreasonable to require such plants to frequently monitor for these pollutants. Therefore, EPA has developed a procedure in proposed § 414.12 whereby the permitting authority (for direct dischargers) or the pretreatment control authority (for indirect dischargers) may reduce monitoring requirements for such pollutants to once per year. Two criteria must be met.

First, the Pollutant must not have been detected during the preceding year at a level exceeding 10 $\mu g/l$ if it has exceeded 10 $\mu g/l$, then it is reasonable to monitor for it frequently enough to assure that it is not being discharged at levels that would violate the applicable limits.

The monitoring data to be considered in making this assessment initially include the data submitted in the permit application (see 40 CFR 122.53, 45 FR 33290 and Form 2C, 45 FR 33516, May 19, 1981) for direct dischargers, and the initial reporting requirements for indirect dischargers (see § 403. 12(b)). Subsequently, plants seeking reduced monitoring requirements will need to submit compliance monitoring data so that the control authority can determine whether the first criterion for reduced monitoring is met. In addition, the plant must certify that the 10 $\mu g/l$ level has

not been exceeded in any monitoring that it has performed.

The second criterion for granting reduced monitoring requirements is a finding, based upon the product/processes used at the plant, that the pollutant in question is not likely to be discharged above the concentration level set forth in the applicable effluent limitation or standard. This criterion is based upon the fact that at most OCPSF plants, the nature of the product/process mix and the resultant discharge do not remain constant. Even "representative" monitoring data, unless taken very frequently at considerable expense, will not indicate the full potential for priority pollutant discharges from the plant. An analysis of product/processes, based upon information provided by the plant, will assist the control authority in identifying the potential for priority pollutant discharges not revealed by the monitoring data available for the preceeding year. The proposed regulations also direct the permitting or control authority to separately consider which product/processes were operating when the monitoring data was gathered, thereby providing a better understanding of the potential sources of priority pollutant discharges at the plant.

The analysis of the likelihood of priority pollutant discharges above regulatory levels will be made not only by the permitting or pretreatment control authority, but also by the plant, through the submission of certification. It is of course essential that the appropriate authority review the relevant information and satisfy itself that such discharges are not likely to occur. However, the plant may have knowledge of additional facts not considered by the authority which indicate that such discharges will occur. An example of this is contaminants of raw materials. Plants are often aware of the general levels of particular priority pollutants that contaminate their raw materials. Such information may be obtained by sampling raw materials for quality control or by repeatedly obtaining raw materials from a sole source over and extended period of time. The authority would generally not be aware of such a potentially significant source of priority pollutant discharges at the plant.

EPA invites comment on its proposed monitoring reduction regulations, including the once-per-year minimum monitoring requirement, the likelihood that the reduction will result in undetected permit violations, and the efficiency and reasonableness of the certification requirement.

EPA has estimated the costs of monitoring to comply with the BAT and PSES regulations. EPA estimates that a uniform monitoring requirement of once per month for all direct and indirect dischargers would result in total annual costs of $5,400,000 for BAT and $8,800,000 for PSES. This estimate assumes a cost of $800 per sample. EPA has not included this cost in the cost summaries and economic impact analyses prepared for today's proposed regulations. (However, the monitoring costs per plant are relatively low and are not expected to create significant economic impacts). Prior to final promulgation, EPA intends to develop a reasonable monitoring scenario (*e.g.*, assuming that a certain percentage of plants will monitor four times per month, others twice per month, and others once per month). This will be used to develop monitoring costs to be included in the total cost estimates and economic impact analyses that will be prepared to support the final regulation. EPA solicits comments on reasonable scenarios for this costing exercise.

XII. Best Management Practices

Section 304(e) of the Clean Water Act authorizes the Administrator to prescribe "best management practices" ("BMPs"). EPA may develop BMPs that apply to all industrial sites or to a designated industrial category, and may offer guidance to permit authorities in establishing management practices required by unique circumstances at a given plant.

Although EPA is not proposing them at this time, future BMPs could require dikes, curbs or other measures to contain leaks and spills and could require the treatment of toxic pollutants in these wastes.

XIII. Regulatory Status of Pollutants

A. Priority Pollutants Regulated

The priority pollutants the Agency is proposing to regulate at BAT and NSPS for the Plastics Only and Not Plastics-Only subcategories are set forth in Appendix B to this preamble. The priority pollutants the Agency is proposing to regulate at PSES and PSNS are a subset of the pollutants regulated at BAT and NSPS and are indicated in Appendix B by asterisks.

B. Priority Pollutants Not Regulated

1. *Paragraph 8 Exclusions.* Paragraph 8 of the Settlement Agreement contains provisions authorizing EPA to exclude toxic pollutants and industry subcategories from regulation under certain circumstances. Paragraph 8(a)(iii) authorizes the Administrator to exclude from regulation: Toxic pollutants not detectable by Section 304(h) analytical methods or other state-of-the-art methods; toxic pollutants present in amounts too small to be effectively reduced by available technologies; toxic pollutants present only in trace amounts and neither causing nor likely to cause toxic effects; toxic pollutants detected in the effluent from only a small number of sources within a subcategory and uniquely related to only those sources; toxic pollutants that will be effectively controlled by the technologies upon which are based other effluent limitations and standards; or toxic pollutants for which more stringent protection is already provided under Section 307(a) of the Act. Appendix C to this preamble lists the 18 toxic pollutants proposed for exclusion from these regulations for the Plastics Only and Not Plastics-Only subcategories pursuant to these criteria. The 18 toxic pollutants proposed for exclusion from these regulations are pesticides which, as discussed previously, are not produced as products or co-products and are unlikely to appear as raw material contaminants in OCPSF product/processes. Therefore, they are not likely to be present in OCPSF process wastewater discharges. (As noted previously, they may occasionally appear in discharges that contain OCPSF effluents, but their appearance results from Non-OCPSF-process sources.)

2. *Pollutants That Do Not Pass Through POTWs*

Some pollutants were excluded from the PSES and PSNS regulations because they were determined not to pass through or interfere with, and are not otherwise incompatible with, the operation of POTWs. These 28 toxic pollutants are listed in Appendix D to this preamble.

3. *Priority Pollutants of Concern*

EPA is not proposing to regulate at this time the priority pollutants listed in Appendix E to this preamble because adequate data ar not avilable (64 pollutants in the Not Plastics-Only subcategory and 98 pollutants in the Plastics Only subcategory). Most of these pollutants have been detected in at least 42 percent of sampled influents or effluents in the screening, verification and 5-plant sampling progams. Furthermore, the industry operates a substantial number of product/processes that, on theoretical grounds relating to raw materials and process chemistry, would be expected to

generate these pollutants in their process wastewaters. However, limited information exists on their concentrations in the industry. Therefore, EPA cannot yet establish uniform national standards and limitations controlling the discharge of these pollutants. Nor can EPA yet conclude that any of these pollutants is eligible under Paragraph 8 of the Settlement Agreement to be excluded from regulation.

EPA intends to gather additional data on at least some of these pollutants prior to final promulgation of these regulations. EPA specifically solicits comments from industry, states and the public on whether these priority pollutants are present, at what levels, and what treatment technology could be utilized to achieve effluent limitations and standards for these pollutants. EPA is considering regulating these priority pollutants in the future if warranted by the analysis of additional data.

C. Nonconventional and Nonpriority Pollutants Excluded

The proposed regulations do not address nonconventional pollutants. They also do not address some pollutants that may be covered by the list of toxic pollutants and classes of pollutants but are not specifically listed as priority pollutants. Given the variable mix of organic chemicals, plastics and synthetic fibers produced, and the complex process chemistry that are associated with the OCPSF industry, it is likely that many organic chemical compounds and other nonconventional pollutants are in OCPSF raw wastewaters and, in some cases, discharged. Some of these pollutants are known to be toxic and/or carcinogenic or mutagenic and, if discharged at significant levels, would be of concern. Indeed, some of these pollutants are discharged at significant levels by some plants.

Although EPA is concerned about the potential discharges of nonconventional and non-priority pollutants from OCPSF plants and their impacts on health and the environment, we have not been able to include them in the proposed regulation. As indicated by the foregoing discussion, the development of analytical methods and gathering of treatment data for the priority pollutants alone has been a large task. Addressing a greater list of pollutants than this priority list was beyond the feasible scope of this regulatory effort.

EPA believes that the installation and proper operation of treatment equipment to meet the BPT and BAT limitations for conventional and priority pollutants will, in may cases, be accompanied by reductions in the discharges of nonconventional and non-priority toxic pollutants to BAT levels. However, in cases where nonconventional and non-priority pollutants may be discharged at significant levels even if the proposed limitations are met, permit writers should limit these pollutants on a case-by-case basis. See Section XVII(c) below for a general discussion of case-by-case permit limitation. While EPA did gather some data on nonconventional and non-priority pollutants and parameters (e.g., chemical oxygen demand, total organic carbon and ammonia nitrogen), EPA did not focus upon creating a data base for these pollutants that could be used to establish effluent limitations. (See Section VI of the BPT and BAT Development Documents for further discussion).

D. Conventional Pollutants Excluded

Oil and grease and fecal coliform are not covered in this regulation. High-molecular weight fatty acids and other sources of oil and grease, and fecal coliform are not generally significant in OCPSF discharges.

The permit writing authority is encouraged to review plant data and, if necessary, include limitations for these pollutants in the permit on a case-by-case basis.

XIV. Costs, Economic Impacts, Cost Effectiveness, Regulatory Flexibility, Executive Order 12291, and Science Advisory Board

A. Costs and Economic Impacts

The cost and economic impacts analysis is set forth in the *Economic Analysis of Proposed Effluent Standards and Limitations for the Organic Chemicals and Plastics, Synthetics, and Fibers Industry*, EPA 440/2-83-004. This report details the investment and annual costs for the industry as a whole and for typical plants covered by the proposed regulation. Compliance costs are based on the engineering estimates of the capital requirements and annual operating and maintenance costs for the treatment technologies needed to comply with the proposed regulations.

The estimate BPT compliance costs, EPA modified existing cost curves for publicly owned treatment works (which use biological systems to treat BOD and TSS). Next, these unit treatment costs were combined in a building-block approach to yield the total plant treatment costs for 169 OCPSF facilities. Finally, the costs for the 169 facilities were used to estimate treatment costs for an additional 397 OCPSF direct dischargers.

To estimate BAT compliance costs, EPA developed treatment unit cost curves using standard engineering practice. However, EPA did not directly develop plant-specific treatment costs from these unit costs. Rather, the Agency used a modeling approach to characterize the types of wasteloads, treatment technologies, and compliance costs in the industry. EPA constructed 55 "generalized plant configurations" ("GPCs" are model plants which were configured to represent typical combinations of product/processes and corresponding combined raw wastewater loadings generally found in the OCPSF industry). Information collected on 176 product/processes in the 37 plant verification program provided the data to model combined pollutant loadings and to calculate investment and operating costs for the model facilities. EPA estimated compliance costs for real plants from these results. A detailed explanation of the cost methodology is contained in Section VIII and Appendix G of the BPT Development Document, Section VIII of the BAT Development Document, and Section 4 of the economic impact analysis.

PSES costs were generally developed in the same manner as BAT costs. The costing procedures took account of the fact that fewer pollutants are regulated at PSES than at BAT (since pollutants that do not pass through POTWs are not regulated at PSES).

EPA identified about 1500 facilities that manufacture organic chemicals or plastics, synthetics and fibers. Total investment for BPT, BAT, and PSES is estimated to be $1.7 billion with annual costs of $750 million, including depreciation and interest. These costs are expressed in 1982 dollars and are based on the determination that plants will move from existing treatment to BPT and BAT, from BPT to BAT or from existing treatment to PSES. (In a few instances, a plant may already meet BAT for its priority pollutants but require some expenditure to achieve BPT for its coventional pollutants). Twenty-one product/process closures are projected to occur as a result of these compliance costs. This represents about one percent of the total product/process lines in the industry. EPA estimates that 8 plants may close. These shut-downs and closures are expected to cause a decrease of 493 jobs. This is less than 0.2 percent of a total employment of 295,000. Price increases for the industry will average one percent. Balance of trade effects are insignificant.

The economic analysis assesses the impact of effluent control costs in terms of price changes, plant closures, process line closures, employment effects and balance of trade effects. Incremental impacts to facilities and major product groups were considered. The analysis estimated levels of prices and production volumes in 1985 without the proposed regulations. Impacts were measured as changes from this basis. The analysis also examined the effects of these proposed regulations on individual products and production processes. The Agency developed a model to reflect an important characteristic of the chemical industry: end products of some processes are often used as raw materials in other processes. Thus, the models were programmed so that a forecast for a particular chemical product could be related to forecasts for other chemical products that are upstream (raw material) or downstream (end-product) of that product in various manufacturing routes utilized by the industry.

BPT. A total of 405 facilities are estimated to incur compliance costs. Investment costs for BPT are $316 million with $105 million in annualized costs. There are no significant economic impacts projected as a result of BPT.

BAT. This regulation is estimated to affect 453 of 566 direct dischargers. Investment costs are $520 million and total annual costs $243 million. Five plants and 9 product/process lines are expected to close. Two hundred and thirty-six jobs would be lost due to plant closures and 140 jobs would be lost due to process line shutdowns.

PSES. This regulation is estimated to affect 913 indirect dischargers. Investment costs are $880 million and total annual costs are $403 million. Twelve product/process lines and 3 plants are expected to close. These colusures would result in the loss of 117 jobs.

NSPA/PSNS. The requirements for new sources are identical to those for existing sources. Regulation for new sources will not generate incremental costs or impacts.

These compliance costs are large. As discussed in the Public Comment Summary, several commenters suggested that EPA has underestimated costs of the technologies studied in this regulation. However, the Agency wishes to point out that the aggregate capital and annual cost estimates are possibly overestimated for the reasons discussed below.

First, the technology basis for PSES cost estimation is equivalent to that for BAT. It is possible that many facilities that discharge to POTWs would not use biological treatment for their process wastewater. This could occur for two reasons. Removal credits in individual locations may allow achievement of these proposed standards without the recommneded technology. In addition, less expensive physical/chemical treatment properly designed and operated for specific waste streams could, in many cases, achieve these priority pollutant limitations without relying upon biological treatment. (No PSES standards are set for conventional pollutants, which often require biological treatment).

Second, the incremental cost estimates are based on information supplied to EPA in questionnaires in the late 1970's as to treatment in place. However, the industry has installed a great deal of wastewater treatment equipment since the plants submitted the information. For example, in 1978–1980 alone, capital investments for wastewater treatment in the industry are estimated to be 580 million dollars. Clearly, less incremental treatment will be needed to achieve BAT and PSES than assumed. We will be gathering more information, as discussed in Section XV of this preamble, to improve our estimates of treatment in place.

Third, EPA used very conservative (on the high side) assumptions in developing costs for indirect dischargers. EPA assumed that any plant in our data base that is not known to be a direct discharger is, therefore, an indirect discharger. Since some of these plants actually discharge no process wastewaters, this overestimates total industry costs for pretreatment. EPA expects to collect more information to refine its analysis in this area.

One possible source of potential underestimation of total industry costs is the fact that some plants may have discharges from OCPSF operations of which EPA is unaware. This may occur where OCPSF operations are ancillary to other operations.

B. Cost effectiveness

EPA has conducted an analysis of the incremental removal cost per pound-equivalent for each of the proposed technology-based options. 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 aquatic life water-quality criterion for a standard pollutant (copper), divided by the aquatic life water-quality criterion for the pollutant being evaluated. The use of "pound-equivalent" gives relatively more weight to removal of more highly toxic pollutants. Thus for a given expenditure, the cost per pound-equivalent removal would be lower when a highly toxic pollutant is removed than if a less toxic pollutant is removed. This analysis is included in the record of the Organic Chemicals and Plastics and Synthetic Fibers Category. EPA invites comments on the methodology used in this analysis.

C. Regulatory Flexibility Analysis

Public Law 96–354 requires that a Regulatory Flexibility Analysis (RFA) be prepared for regulations proposed after January 1, 1981 that have a significant impact on a substantial number of small entities. The analysis may be done in conjunction with, or as part of, any other analysis conducted by the Agency.

A small business analysis is included in the economic impact analysis. This analysis shows that there will not be a significant impact on any segment of the industry, large or small. Number of employees is the variable used to distinguish firm size. Firms with less than fifty employees were defined as small businesses. The Agency invites comment on this size definition. No significant differential impacts were estimated for small businesses; therefore a formal Regulatory Impact Analysis is not required.

D. Executive Order 12291

Executive Order 12291 requires EPA and other agencies to perform regulatory impact analyses of major regulations. Major rules impose an annual cost to the economy of $100 million or more or meet other economic impact criteria. The proposed regulation for the Organic Chemicals, Plastics and Synthetic Fibers Industry exceeds $100 million annually and thus is a major rule. EPA has prepared a preliminary regulatory impact analysis (RIA) which may be obtained at the address listed at the beginning of this preamble.

The RIA contains an analysis of the effect of the proposed regulations on existing water quality. The analysis has two parts.

The first part of the RIA projects, based upon a modeling approach, water quality impacts for 50 plants located on 40 stream segments across the country. EPA's published water quality criteria for priority pollutants are used to assess water quality impacts. The analysis indicates that existing violations of water quality criteria will be reduced by about 50 percent by the proposed regulations.

The second part of the RIA attempts to assess the specific health and environmental benefits that may result from the proposed regulations in a few

selected locations. To date, only two stream segments have been investigated. Neither of these segments has drinking water intakes. The first segment is part of the Kanawha River in West Virginia. Recreational and other non-health benefits are estimated to be in the range of $2.3 to 9.7 million, versus a projected cost for OCPSF plants on that segment of about $5.8 million. The second segment is the Houston Ship Channel. Recreational and commercial fishing benefits are estimated at less than $1 million, versus costs of about $25 million. However, this segment is considered to present a worst-case scenario in terms of benefits due to its heavy use by ocean-going vessels, its physical characteristics, and the fact that OCPSF plants are not the major sources of pollution within the area. In both areas, reduction in human health risks from commercial fishing and volatilization of organic compounds has been estimated to be quite small. However, some additional reduction in human health risks due to subsistence fishing along the channel's lateral bays is anticipated but could not be quantified in the study. EPA expects to study at least two additional stream segments prior to final promulgation. In particular, EPA hopes to analyze the effect of the regulation upon human health risks caused by drinking water taken from the receiving water bodies.

This regulation was submitted to the Office of Management and Budget for review, as required by Executive Order 12291. Any comments from OMB to EPA and any EPA response to those comments are available for public inspection at the EPA Public Information Reference Unit at the address listed above in this preamble.

E. Science Advisory Board

Pursuant to the provisions of the Environmental Research, Development and Demonstration Authorization Act (ERDDAA) of 1978, 42 U.S.C. 4365, EPA's Science Advisory Board has reviewed certain technical aspects of these proposed regulations. The SAB is currently reviewing these technical issues and is preparing a report to the Administrator. Copies of this report will be made publicly available.

XV. Collection of Additional Data

As explained at various points throughout this preamble, EPA has expended considerable resources to characterize the OCPSF industry in terms of product/process operations, raw waste loads, technologies in place, effectiveness of technologies, unit and plant costs to meet target limits, economic impacts, and other relevant factors. The industry is large and complex and EPA has attempted to obtain data that is representative of the industry with respect to these many factors and to appropriately characterize the industry.

Throughout the development of this rulemaking, members and representatives of the regulated industry have expressed concern that, despite extensive data gathering, the data base is incomplete and fails to adequately address certain types of plants and discharges. While the Agency believes that the data base is adequate to support the proposed regulation, the Agency welcomes the submission of any data that confirm, supplement or contradict elements of our data base.

To further assure the regulated community that the final regulations will be supported by an adequate and representative date base, EPA will gather additional data from OCPSF plants under the authority of Section 308 of the CWA. This effort will consist of two parts: a sampling and analysis of a limited number of plants to supplement our technical data base, and a questionnaire soliciting information to supplement our data base on costs and potential economic impacts.

The sampling and analysis program will be designed to enhance EPA's technical data base. It will cover the following areas:

1. Supplemental end-of-pipe data on regulated pollutants to increase the number of data points reflecting BAT treatment.

2. Data on unregulated priority pollutants and on several nonconventional pollutant parameters such as TOC, COD, ammonia and certain other parameters believed to be discharged in significant amounts, to determine whether any of these parameters are in fact discharged in significant amounts and need to be regulated and, if so, to establish appropriate limitations.

3. Raw waste load data and treated effluent data for plants using product/processes not previously sampled by, EPA.

4. Data on raw waste loads from product/processes not covered by the verification study.

5. Additional data on physical/chemical treatment system performance, both in-plant and end-of-pipe (*e.g.*, as used by many indirect dischargers).

6. Additional long-term (at least 15 days) data to obtain additional information to be used to develop variability factors for both organic and metal priority pollutant concentrations in treated effluents.

EPA has already selected some plants for future study. Some important criteria for plant selection include: The potential to discharge priority pollutants (based upon a review of product/processes used) for which additional information is sought; the proper operation of appropriate treatment technologies for those pollutants; the use of physical/chemical systems known to be effective in treating those pollutants; and the operation of product/processes not previously sampled, but which have some potential for generating priority pollutants. A major consideration is whether a plant combines several of these criteria, thereby providing a maximum amount of information per plant visit.

The questionnaire will be directed at factors that affect technology and costs to comply with the limitations and the impact of those costs. It would update information received in response to the previous BAT questionnaire as well. The questionnaire would validate or update existing information with basic questions concerning current discharge status (direct, indirect or zero), flows, end-of-pipe influent and effluent loadings, operation characteristics (e.g., number of production days annually), and treatment in place. This information would be used to update and broaden our data base on the costs to be incurred by plants to comply with the BAT regulations. Indirect discharges would also be asked to set forth the user fees that they now pay to POTWs to provide a complete picture of their wastewater treatment costs.

The questionnaire would also request information that is relevant to predicting economic impacts. This would include plant size, product mix, production levels, volume of sales, and product prices. It would also cover new capital investment for production and for pollution control, capacity utilization and employment.

As mentioned previously, EPA believes that our current estimates of costs and resulting economic impacts are significantly overestimated. Additional information of the type outlined above should reduce such overestimates.

The Agency requests that comments on the additional data collection activities be submitted as soon as possible for immediate use in program planning activities.

XVI. Non-Water Quality Environmental Impacts

The elimination or reduction of one form of pollution may create or aggravate other environmental

problems. Therefore, sections 304(b) and 306 of the Act require EPA to consider the non-water quality environmental impacts (including energy requirements) of certain regulations. In compliance with these provisions, EPA has considered the effect of these regulations on air pollution, solid waste generation, and energy consumption.

The following are the non-water quality environmental impacts associated with the proposed regulations:

A. *Air Pollution*—The effect of BPT, if viewed alone, would likely be a moderate increase in concentrations of hazardous air pollution in the immediate vicinity of some OCPSF industry plants. This would be the result of plants installing or upgrading the performance of aerated lagoons, activated sludge basins and neutralization basins and thus more effectively driving off volatile organic compounds. This effect would be more than offset, however, by moving to BAT, because we expect many plants to comply with the BAT Limits by installing in-process controls that effectively remove volatile organic compounds before they reach the end-of-pipe controls. Thus, we expect a net decrease in both air loadings and concentrations of volatile organic compounds from BPT and BAT combined, and we expect similar effects as a result of PSES as well.

B. *Solid Waste*—EPA has considered the effect these proposed reguations would have on the accumulation of solid waste, including hazardous waste defined under Section 3001 of the Resource Conservation and Recovery Act (RCRA). EPA estimates that the total solid waste, including hazardous waste, generated as a result of the proposed regulations will increase insignificantly compared to current levels.

EPA's Office of Solid Waste has analyzed the hazardous waste management and disposal costs imposed by the RCRA requirements and has published some results in 45 FR 33066 (May 19, 1980). Additional cost estimates for land disposal of hazardous wastes were published in 47 FR 32274 (July 26, 1982). Thirty solid waste streams currently generated at OCPSF plants have been listed as hazardous under Section 3001 of RCRA (See 40 CFR Part 261.32). Other waste streams not listed may be hazardous by virtue of possessing characteristics of ignitability, corrosivity, reactivity or toxicity (see 40 CFR 261.21–.24, 45 FR 33066, May 19, 1980). The annual increase in RCRA costs due to these proposed reguations is estimated to be $9 million, or approximately one percent of the total current estimated annual cost for the industry.

C. *Energy Requirements*—EPA estimates that the attainment of proposed BPT, BAT, NSPS, and PSNS will increase energy consumption by a small increment over present industry use.

Further details are set forth in Sections VIII and IX of the BPT Development Document and Sections VIII and IX of the BAT Development document.

XVII. Regulatory Implementation

A. Upset and Bypass Provisions

A recurring issue is whether industry limitations and standards should include provisions authorizing noncompliance with effluent limitations duirng 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. EPA believes that upset provisions are necessary because such upsets will inevitably occur due to limitations in control technlolgy. Because technology-based limitations can require only what technology can achieve, it is claimed that liability for such situations is improper. When confronted with this issue, courts have been divided on the question of 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). See also *American Petroleum Institute* v. *EPA*, 540 F.2d 1023 (10th Cir. 19176); *CPC International, Inc.* v. *Train*, 540 F.2d 973 (4th Cir. 1976)); *FMC Corp.* v. *Train*, 539 F.2d 973 (4th Cir. 1976).

While an upset is an unintentional episode during which effluent limits are exceeded, a bypass is an act of intentional noncompliance during which waste treatment facilities are circumvented in emergency situations.

EPA has both upset and bypass provisions in NPDES permits, and has promulgated NPDES reguations which include upset and bypass permit provisions. (See 45 FR 33290, 33448; 40 CFR 122.60(g)(h), 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. Since permittees in the OCPSF industry will be entitled to upset and bypass provisions in NPDES permits, these proposed regulations do not specifically repeat these provisions.

B. Variances and Modifications

Upon the promulgation of these regulations, the numerical effluent limitations for the appropriate subcategory must be applied in all Federal and State NPDES permits issued to direct dischargers in the OCPSF industry. In addition, the pretreatment standards are directly applicable to indirect dischargers.

For the BPT effluent limitations, the only exception to the binding limitations is EPA's "fundamentally different factors" variance. (See *E. I. duPont de Nemours and Co.* v. *Train*, 430 U.S. 112 (1977)). This variance recognizes factors concerning a particular discharger which 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 not the specific industry regulations. (See the NPDES regulations at 40 CFR Part 125 Subpart D; 44 FR 32854, 32893 (June 7, 1979) for the text and explanation of the "fundamentally different factors" variance).

Discharges subject to the BAT limitations proposed in these regulations also are subject to EPA's "fundamentally different factors" variance. In addition, BAT limitations for nonconventional pollutants may be modified under Section 301(c) and 301(g) of the Act. Under Section 301(1) of the Act, these statutory modifications are not applicable to "toxic" or conventional pollutants.

Discharges subject to pretreatment standards for existing sources are subject to the "fundamentally different factors" variance and credits for pollutants removed by POTWs (See 40 CFR 403.7 and 403.13; 46 FR 9404 (January 28, 1981)). Discharges subject to pretreatment standards for new sources are subject only to the credit provision (See 40 CFR 403.7; 46 FR 9404 (January 28, 1981)). New sources subject to NSPS are not eligible for EPA's "fundamentally different factors" variance or any statutory or regulatory modifications. (See *duPont* v. *Train, supra).*

C. Relationship to NPDES Permits

The BPT and BAT limitations and NSPS in this regulation will be applied to individual plants through NPDES permits issued by EPA or approved State agencies under Section 402 of the Act. The preceding section of this preamble discussed the binding effect of

this regulation on NPDES permits, except when variances and modifications are expressly authorized. This section adds more detail on the relationship between this regulation and NPDES permits.

One subject of interest is the scope of NPDES permit proceedings when effluent limitations and standards do not exist. Under current EPA regulations, States and EPA regions that issue NPDES permits before regulations are promulgated must do so on a case-by-case basis. This regulation provides a technical and legal base for new permits.

Another issue is how the regulation affects the authority of those that issue NPDES permits. EPA has developed the limitations and standards in this regulation to cover the typical facility for this point source category. In specific cases, the NPDES permitting authority may have to establish permit limits on pollutants that are not covered by this regulation. The regulation does not restrict the power of any permit-issuing authority to comply with law or any EPA regulation, guideline, or policy. For example, if this regulation does not control a particular pollutant, the permit issuer may still limit the pollutant on a case-by-case basis, when such action conforms with the puposes of the Act. Similarly, although this regulation does not set a national limit to require flow reduction due to insufficient data, a permit writer may set a limit for flow where required to achieve effective removals of priority pollutants. In addition, if State water quality standards or other provisions of State or Federal law require limits on pollutants not covered by this regulation [or require more stringent limits on covered pollutants], the permit-issuing authority *must* apply those limitations. (See the detailed discussion immediately below).

A final topic of concern is the operation of EPA's NPDES enforcement program, many aspects of which have been considered in developing this regulation. The Agency emphasizes that although the Clean Water Act is a strict liability statute, the initiation of enforcement proceedings by EPA is discretionary (*Sierra Club* v. *Train*, 557 F. 2d 485, (5th Cir., 1977). EPA has exercised and intends to exercise that discretion in a manner that recognizes and promotes good-faith compliance.

D. Relationship of the Proposed Technology-Based Regulations to the Water Quality and Hazardous Waste enforcement Actions

As discussed throughout this preamble, the regulations proposed today are uniform technology-based limits for the OCPSF industry. In some situations, however, local water quality or other environmental factors may, under a variety of legal authorities, require more stringent limitations to be set for OCPSF process wastewater discharges as well as other discharges resulting initially from OCPSF operations (*e.g.*, discharges of chemical wastes from landfills and lagoons, or discharges by POTWs that receive wastewater from OCPSF operations). In these cases, limitations may be set in permits, judicial decrees or other legally binding documents that are lower (*i.e.*, more stringent) than the limits set forth in these proposed BPT, BAT and pretreatment standards. In a number of hazardous waste enforcement actions, EPA has sought, pursuant to various statutory authorities, to abate the migration of substances that may create an "imminent and substantial endangerment" to the public health or the environment in particular locations. Statutory authorities used to bring such actions include Section 504 of the Clean Water Act, 33 U.S.C. 1364, Section 7003 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6973, Section 106 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9606 and Section 1431 of the Safe Drinking Water Act, 42 U.S.C. 300i. Many of the chemicals of concern in these cases are priority pollutants that are subject to limitations in today's proposed regulations. In these cases, EPA is often seeking (and in some cases has already obtained in judicial decrees) limits that are lower that those contained in today's proposed regulation. These lower limits are based on unique site-specific determinations of the nature and degree of local endangerment of human health, water quality and other environmental effects.

The remedies that EPA has obtained in these cases vary from site to site and the limits on the chemicals may vary depending upon the toxicity of the chemical, the presence of other chemicals, the degree of exposure and other relevant information. Such site-specific determinations are based on a substantial amount of site-specific information, including often the presence of a definable population at risk. In such cases, these determinations, rather than today's proposed regulations, will be used to develop appropriate limits for the discharges in question.

Another authority for more stringent limits than those proposed today is water quality standards, which are generally established by States under Section 303 of the Clean Water Act, 33 U.S.C. 1302. A water quality standard limits the ambient concentration of a particular chemical that is permitted in a particular water body. The purpose of water quality standards is to protect the public health or welfare, enhance the quality of water and generally serve the purposes of the Act. Based on water quality standards, NPDES permits may contain effluent limits that are more stringent than the guideline limits. Other legal authorities may compel consideration of water quality in determining discharge limits, as discussed immediately below.

The most significant and comprehensive example of the need to make such site specific water quality determinations is EPA's onging Niagara Frontier Agenda. Concerns about the discharges of toxic chemicals to the Niagara River have been noted since 1973. International Joint Commission, Special Report on the Niagara River at 3 (1981).

In response to specific problems along the Niagara, EPA initiated litigation, *e.g.*, *United States et al.* v. *The City of Niagara Falls*, Civ. Act. No. 81-363 (W.D.N.Y., May 6, 1981) and *United States et al.* v. *Hooker Chemicals & Plastic Corp. et al. (Hyde Park Landfill)*, Civ. Act. No. 79-989 (W.D.N.Y., Dec. 20 1979). (A consent decree settling this case was entered April 30, 1982.) EPA has also used CERCLA to investigate or remedy other problems, as in the case of the Love Canal CERCLA remedial action program.

In recognition of the potential for area-wide effects along the Niagara River and in Lake Ontario and the need to co-ordinate regulatory responses, EPA and the State of New York, in consultation with the government of Canada, have initiated the Niagara Frontier Agenda. This effort is designed to more accurately identify the source and quantities of toxic chemicals entering the Niagara River and, utilizing the best scientific information available, reduce the discharges of toxic chemicals as required by law.

In addition to the domestic statutes that govern the discharge of substances to the Niagara River, the 1909 Treaty Between the United States and Great Britain Relating to Boundary Waters, and Questions Arising Between the United States and Canada (1909 Boundary Waters Treaty) requires that boundary waters "shall not be polluted on either side to the injury of the health or property of the other." Article IV of the 1909 Boundary Waters Treaty. The United States "has standing * * * also to carry out treaty obligations [pursuant to the 1909 Boundary Waters Treaty] to

a foreign power bordering upon some of the Lakes concerned * * *" *Sanitary District* v. *United States*, 266 U.S. 405, 425–6 (1924).

In addition, the 1978 Agreement Between the United States and Canada on Great Lakes Water Quality (1978 Great Lakes Agreement) sets out specific and general water quality objectives for the boundary waters and requires that any regulations promulgated by either country "shall be consistent with the achievement of the General and Specific Objectives." Article V of the 1978 Great Lakes Agreement. The treaty and international agreement indicate the unique character of the Niagara River as an international water body.

The Niagara Frontier Agenda provides a concrete example of how site-specific factors may require more stringent effluent limits, as well as how the unique international status of a water body may require additional obligations.

In regard to the above considerations, it should be noted that although today's proposed regulations use a floor of 50 μg/l for organic priority pollutant limits for a variety of reasons, detection limits for most organic priority pollutants are in the range of 0.1 to 10 μg/l, depending on the method used. Indeed, limitations at very low μg/l ranges have been agreed to by several chemical companies in hazardous waste consent decrees, *e.g., United States* v. *Fike Chemical Inc., et al.*, Civ. Act. No. 80–2497 (S.D.W.Va., entered Nov. 16, 1982) and *United States et al.* v. *Hooker chemicals & Plastics Corp. et al. (Hyde Park Landfill)*, Civ. Act. No. 79–989 (W.D.N.Y., entered April 30, 1982). Careful attention to detail in performing analyses (*e.g.*, the use of appropriate sample cleanup procedures and of confirmatory techniques to resolve interferences) should result in acceptable precision and accuracy even at these low levels. Where necessary to protect the public health and the environment, consent decrees in such enforcement actions may appropriately require the detection of organic chemicals in low concentrations.

XVIII. Summary of Public Participation

In December, 1981 the Agency circulated a draft contractor's report describing the data gathering efforts in support of today's proposed BPT regulations. The report was distributed to trade associations, environmental groups, individual companies in the OCPSF industry, states and EPA regions.

In April, 1982 the Agency similarly distributed a draft contractor's report describing the data gathering efforts in support of the proposed BAT, NSPS, PSES, and PSNS regulations.

In addition the agency has conducted public seminars on its analytical methods. The Agency has also conducted workshops concerning the special problems of incorporating these proposed regulations into NPDES permits.

The Agency has met frequently with representatives of the industry and environmental groups.

Written comments were solicited concerning the draft contractor's reports. Additional written comments have been received by the Agency. A summary of major comments received to date is presented in Appendix F to this proposed regulation.

XIX. Solicitation of Technical and Economic Data and Comment on Other Aspects of this Proposed Regulation

EPA invites and encourages public participation in this rulemaking. The Agency asks that any deficiencies in the record of this proposal be pointed to with specificity and requires that suggested revisions or corrections be supported by relevant data.

Throughout this preamble, EPA has requested data and comments with respect to a variety of technical and policy issues. We reiterate those requests here. Set forth below is a summary of the major areas in which additional comments and information are solicited. Supporting data should be submitted wherever appropriate.

(1) EPA is considering, as a basis for final TSS limitations, an additional BPT technology for solids control (i.e. defining "average-of-the best" TSS control as biological treatment followed by effective solids control). If EPA decides to use this technology, those biological systems that are not followed by adequate physical/chemical solids control systems would be deleted from the BPT TSS data base. The Agency invites comments on this approach and solicits data on the use and effectiveness of polishing ponds, filters and other treatment technologies used to reduce TSS loadings from biological treatment systems.

(2) EPA has concluded that its BPT subcategorization will not, in practice, improperly group together plants that cannot practicably achieve the required limitations. EPA requests comment on this conclusion.

(3) EPA requests comments on the likelihood that some plants will shift subcategories by adding or deleting particular product/processes. For which specific plants is this a significant possibility?

(4) EPA's BPT subcategorization approach bases subcategories on the product/processes that contribute raw waste loadings of BOD, and sets concentration limitations at the end of the pipe, giving full credit for any treatment or control taking place prior to that point. An alternative suggested approach would subcategorize based on BOD and/or TSS levels in the influent to the end-of-pipe treatment system, and set percent reduction limits. The Agency invites comments on the advantages and disadvantages of these approaches.

(5) EPA invites comments on its consideration of simplifying the BPT subcategorization scheme by combining certain subcategories.

(6) EPA solicits comments regarding its unit costs (*i.e.*, CAPDET municipal treatment model modified to reflect OCPSF unit costs). EPA used this model to estimate compliance costs for proposed BPT limitations. Alternative unit costs were offered without an explanation of their basis. The Agency solicits specific actual costs, how they were calculated, what assumptions were used in the calculations, and what they were incurred for.

(7) EPA invites comments identifying OCPSF plants that experience significant difficulties meeting the BPT limitations and standards because ambient temperatures are too high (specifically, detailed explanations as to how high ambient temperatuare makes meeting the proposed limitations infeasible).

(8) EPA solicits comments on the suitability of its regulatory and costing approach for plants that presently comply with BOD but not with TSS, and presently have no biological treatment in place.

(9) EPA solicits additional information on the performance of BPT systems in the Oxidation subcategory with respect to TSS.

(10) EPA devised a method to determine which priority pollutants are likely to be discharged from particular product/processes. This method was used to assist EPA in technical data gathering efforts for the proposed BAT limitations. The Agency solicits information to improve its priority pollutant pathway scheme.

(11) EPA seeks information on existing product/processes having raw wasfe loadings for particular priority pollutants so high that achieving the proposed BAT limitations is infeasible economically. Specifically, what are these product/processes, what concentrations of what pollutants are being generated, and what difficulties

prelude the achievability of the proposed BAT limitations?

(12) EPA solicits information on product/processes discharging, at significant levels, priority pollutants that are not limited in the proposed BAT regulations. Specifically, what are these product/processes, and what priority pollutants do they discharge, at what levels?

(13) EPA solicits comments on its determination that, for the OCPSF industry, some priority pollutants do not pass through POTWs.

(14) EPA invites information on additional pollutants that the public or industry believes should be subject to PSES standards to prevent interference with POTW operations. EPA also invites comment on whether cadmium PSES standards are necessary to prevent interference with particular POTWs' chosen sludge disposal practices.

(15) EPA welcomes comment on the proposed PSES compliance date of three years from the date of promulgation.

(16) EPA solicits information on priority pollutants not regulated—whether they are present, and at what levels. The Agency would also like suggestions as to what treatment technologies could be utilized to achieve effluent standards and limitations for these pollutants.

(17) EPA invites comments on the methodology used in its analysis of the incremental removal cost per pound equivalent for these limitations and standards. (This analysis is included in the record of the OCPSF Category.)

(18) EPA invites comments on its size definition (firms with less than fifty employees were defined as small businesses). EPA's economic impact analysis shows that there will not be a significant impact on any segment of the industry, large or small. The Agency solicits information from small plants that would suffer economically from the proposed regulations (including factual reasons as to why they would suffer)

(19) EPA invites industry to submit data that would fill any gaps that they believe still remain in the data base. EPA also solicits additional data on variability to supplement the existing data base.

(20) If any information submitted to EPA is not now representative of a particular facility, EPA specifically solicits comments and additional information more representative of current practice.

(21) EPA solicits data that would contribute to the improvement of its modeling effort evaluating the performance of treatment technologies, as well as to the design of the generalized plant configurations. EPA welcomes the submission of additional biological treatment K-rate data by industry.

(22) EPA solicits operating and analytical information on powdered activated carbon performance in removal of toxic pollutants.

(23) EPA welcomes the submission of additional data to make possible a review of the technical assumptions of the model describing the performance of activated carbon, steam stripping, and ion exchange.

(24) EPA solicits data from the regulated industry (particularly from any plants that have installed any of the technologies evaluated as BAT) to be used in further cost curve development. The data should include details of design, unit costs, labor, any assumptions in calculating costs of capital, and other information of the type used in EPA's present cost modeling.

(25) EPA continually solicits data and product/process waste loads and toxic waste loads that could be added to the computed master process file catalogue. Data should be submitted showing the waste sampled, their source, the analytical method used, the compounds analyzed for, the compounds detected, and a quantitative measure of the compounds detected.

(26) EPA solicits comments and analytical methods data on the appropriateness of the 50 $\mu g/l$ lower limit used in the proposed regulation.

(27) EPA welcomes comments on whether and how to develop and implement a compliance program or a general policy that recognizes the problems of analytical variability.

(28) EPA invites comment on the proposed monitoring reduction strategy, including the once-per-year minimum monitoring requirement, the likelihood that the reduction will result in undetected permit violations, and the efficiency and reasonableness of the certification requirement.

(29) To determine the economic impact of this regulation, the Agency has calculated the cost of installing BPT, BAT, PSES, NSPS and PSNS for model plants and each manufacturing facility for which data was available. The details of the estimated costs and economic impacts are presented in the Technical Development Document and in the Economic Impact Analysis. The Agency estimates that no significant economic impacts will result from the proposed regulation. Much of the data used in the analysis is from publicly available information, independent estimates from private sources, and technical data submitted to the agency. Because the Agency did not have plant specific data on production costs, costs of capital, sales and prices and other financial measures, the Agency used industry averages, ranges, or analytical results to estimate compliance costs and economic impacts. The agency invites comments, supported by appropriate data, on these analyses. The Agency particularly seeks comments on whether the incremental costs are achievable, especially at small or secondary producers of organic chemicals. Commenters are requested to address not only the potential for plant closure or process shut downs, but also the effects of the regulation on capacity expansion, production costs, cost of capital for environmental control, product prices, and profitability. We solicit specific data on these factors.

(30) The Agency requests comments and suggestions on the economic impact analysis methodology. In particular, we solicit specific comments concerning the product/process supply-demand analysis, the closure methodologies, and estimation of treatment costs for facilities.

The reporting provisions in this rule will be submitted for approval to the Office of Management and Budget under Section 3504(h) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. Any final rule will explain how its reporting provisions respond to any Office of Management and Budget or public comments.

List of Subjects in 40 CFR Part 414

Chemicals, Waste treatment and disposal, Water pollution control.

Dated: February 28, 1983.

Anne M. Burford,

Administrator.

Appendix A—Abbreviations, Acronyms, and Other Terms Used in this Notice

Act—The Clean Water Act.

Agency—The U.S. Environmental Protection Agency.

BAT—The best available technology economically achievable, applicable to effluent limitations to be achieved by July 1, 1984, for industrial discharges to surface waters, as defined by Section 304(b)(2)(B) of the Act.

BAT Development Document—Development Document for Proposed Effluent Limitations Guidelines and Standards for the Organic Chemicals and Plastics and Synthetic Fibers Point source Category, Vol. II (BAT), EPA 440/1-83/009-b.

BCT—The best conventional pollutant control technology, applicable to discharges of conventional pollutants from existing industrial points sources,

as defined by Section 304(b)(4) of the Act.

BMP—Best management practices, as defined by Section 304(e) of the Act.

BPT—The best practicable control technology currently available, applicable to effluent limitations to be achieved by July 1, 1977, for industrial discharges to surface waters, as defined by Section 304(b)(1) of the Act.

BPT Development Document—Development Document for Proposed Effluent Limitations Guidelines and Standards for the Organic Chemicals and Plastics and Synthetic Fibers Point Source Category, Vol. I (BPT) EPA 440/1-83/009-b.

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).

Consent Decree—See Settlement Agreement.

Conventional Pollutants—Constituents of wastewater as determined by Section 304(a)(4) of the Act, including, but not limited to, pollutants classified as biochemical oxygen demand, suspended solids, oil and grease fecal coliform, and pH.

Direct Discharger—An industrial discharger that introduces wastewater to a receiving body of water with or without treatment by the discharger.

Economic Analysis—*Economic Analysis of Proposed Effluent Standards and Limitations for the Organic Chemicals and Plastics, Synthetics, and Fibers Industry*, EPA 440/2-83-004.

Effluent Limitation—A maximum amount, per unit of time, production or other unit, of each specific constituent of the effluent that is subject to limitation from an existing point source. Allowed pollutant discharge may be expressed as a concentration in milligrams per liter (mg/l) or micrograms per liter (μg/l).

End-of-Pipe Treatment (EOP)—Refers to those processes that treat a combined plant wastestream for pollutant removal prior to discharge. EOP technologies covered are classified as primary (physical separation processes), secondary (biological processes), and tertiary (treatment following secondary) processes. Different combinations of these treatment technologies may be used depending on the nature of the pollutants to be removed and the degree of removal required.

GPCs—Generalized plant configurations, used for costing purposes, defined as model plants which were configured to represent typical combinations of product/processes and corresponding generally found in the OCPSF industry.

Indirect Discharger—An industrial discharger that introduces wastewater into a publicly owned treatment works.

In-plant Control or Treatment Technologies—Controls or measures applied within the manufacturing process to reduce or eliminate pollutant and hydraulic loadings of raw wastewater. Typical in-plant control measures include process modification, instrumentation, recovery of raw materials, solvents, products or by-products, and water recycle.

Nonconventional Pollutants—Parameters selected for use in developing effluent limitation guidelines and new source performance standards which have not been previously designated as either conventional pollutants or toxic pollutants.

Non-Water Environmental Quality Impact—Deleterious aspects of control and treatment technologies applicable to point source category wastes, including, but not limited to air pollution, noise, radiation, sludge and solid waste generation, and energy used.

NPDES—National Pollutant Discharge Elimination System, a Federal program requiring industry and municipalities to obtain permits to discharge plant effluents to the nation's water courses, under Section 402 of the Act.

NSPS—New source performance standards, applicable to industrial facilities whose construction is begun after the publication of the proposed regulations, as defined by Section 306 of the Act.

OCPSF—Organic chemicals, plastics, and synthetic fibers manufacturing point source category.

Point Source Category—A collection of industrial sources with similar function or product, established by Section 306(b)(1)(A) of the Federal Water Pollution Control Act, as amended for the purpose of establishing Federal standards for the disposal of wastewater.

POTW—Publicly owned treatment works, facilities that collect, treat, or otherwise dispose of wastewaters, owned and operated by a village, town, county, authority, or other public agency.

Pretreatment Standard—Industrial wastewater effluent quality required for discharge to a publicly-owned treatment works.

Product/Process— A product definition specifying both the raw material and the generic process by which it is produced.

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 (b) and (c) of the Act.

RCRA—Resources Conservation and Recovery Act (Pub. L. 94-580) of 1976 Amendments to Solid Waste Disposal Act.

Revised Settlement Agreement—A rewritten form of the Settlement Agreement which described provisons authorizing the exclusion from regulation, in certain industries, of toxic pollutants and industry subcategories.

Settlement Agreement—Agreement entered into by EPA with the Natural Resources Defense Council and other environmental groups and approved by the U.S. District Court for the District of Columbia on June 7, 1976. One of the principal provisions of the Settlement Agreement was to direct EPA to consider an extended list of 65 classes of toxic pollutants in 21 industrial categories in the development of effluent limitations and guidelines and new source performance standards.

SIC—Standard Industrial Classification, a numerical categorization scheme used by the U.S. Department of Commerce to denote segments of industry.

Toxic Pollutants—All compounds specifically named or referred to in the Settlement Agreement, as well as recommended specific compounds representative of the nonspecific or ambiguous groups or compounds named in the agreement. This list of pollutants was developed based on the use of criteria such as known occurrence in point source effluents, in the aquatic environment, in fish, in drinking water, and through evaluations of carcinogenicity, other chronic toxicity, bioaccumulation, and persistence.

Zero Discharger—A plant that does not discharge wastewaters to either POTWs or to surface water bodies. Methods of zero discharge include: deep well injection, contract hauling, offsite treatment, incineration, evaporation, impoundment, and land disposal.

Appendix B—Toxic Pollutants Regulated

Note.—This table sets forth 46 toxic pollutants regulated at BAT and NSPS for the Plastics-Only (denoted by P) and/or Not Plastics-Only (denoted by O) subcategories. The 21 toxic pollutants regulated at PSES and PSNS are denoted by an asterisk.

Pollutant or pollutant property	Not plastics only	Plastics only
2,4,6-trichlorophenol	O*	
2-chlorophenol	O*	
2,4-dichlorophenol	O*	
2,4-dimethylphenol	O*	

Pollutant or pollutant property	Not plastics only	Plastics only
2-nitrophenol	O*	
2-nitrophenol	O*	
2,4-dinitrophenol	O*	
pentachlorophenol	O	
phenol	O	P.
acenaphthene	O	
1,2,4-trichlorobenzene	O	
1,2-dichlorogenzene	O	
isophorone	O*	
bis(2-ethylhexyl)phthalate	O	P.
di-n-butyl phthalate	O	
diethyl phthalate	O	
dimethyl phthalate	O*	
acenaphthylene	O*	
fluorene	O*	
phenanthrene	O*	
acrolein		P*.
benzene	O	
carbon tetrachloride	O	
1,2-dichloroethane	O*	
1,1,1-trichloroethane	O	
1,1-dichloroethane	O	
1,1,2-trichloroethane	O	
chloroethane	O*	
chloroform	O	
1,1-dichloroethylene	O	
ethylbenzene	O	P.
methylene chloride	O	
methyl chloride	O	
methyl bromide	O*	
dichlorobromomethane	O	
toluene	O	
trichloroethylene	O	
vinyl chloride		P*.
antimony	O	
cadmium	O	P.
chromium	O*	P.
copper	O	P.
mercury	O*	
zinc	O	
lead	O	P*.
cyanide	O	P*.

Appendix C—Toxic Pollutants Excluded Under Paragraph 8

Note. This table sets forth 18 toxic pollutants excluded from these proposed regulations for both the Plastics Only and Not Plastics Only subcategories under Paragraph 8 authority

Pollutant or Pollutant Property

aldrin
dieldrin
chlordane
4,4'-DDT
4,4'-DDE
4,4'-DDD
alpha-endosulfan
beta-endosulfan
endosulfan sulfate
endrin
endrin aldehyde
heptachlor
heptachlor epoxide
alpha-BHC
beta-BHC
gamma-BHC
delta-BHC
toxaphene

Appendix D—Pollutants Not Regulated by PSES or PSNS

Note.—This table sets forth 28 toxic pollutants excluded from PSES and PSNS regulations because they were determined not to pass through or interfere with the operation of POTWs.

Pollutant or pollutant property	Not plastics only	Plastics only
pentachlorophenol	O	
phenol	O	P.
acenaphthene	O	
1,2-4-trichlorobenzene	O	
1,2-dichlorobenzene	O	
bis (2-ethylhexyl) phthalate	O	P.
di-n-butyl phthalate	O	
diethyl phthalate	O	
benzene	O	
carbon tetrachloride	O	
1,1,1-trichloroethane	O	
1,1-dichloroethane	O	
1,1,2-trichloroethane	O	
chloroform	O	
1,1-dichloroethylene	O	
ethylbenzene	O	P.
methylene chloride	O	
methyl chloride	O	
dichlorobromomethane	O	
toluene	O	
trichloroethylene	O	
antimony	O	
cadmium	O	P.
chromium		P.
copper	O	P.
zinc	O	
lead	O	
cyanide	O	

Appendix E—Toxic Pollutants Not Regulated*

Note.—This table sets forth the 64 pollutants for Not Plastics-Only subcategory and the 98 toxic pollutants for the Plastics Only subcategory which are not proposed for regulation at this time generally due to lack of adequate data. The letters O (Not Plastics-Only) and P (Plastics-Only) indicate in which subcategory a pollutant is not regulated.

Pollutant or pollutant property	Not plastics only	Plastics only
2,4,6-trichlorophenol		P.
p-chloro-m-cresol	O	P.
2-chlorophenol		P.
2,4-dichlorophenol		P.
2,4-dimethylphenol		P.
2-nitrophenol		P.
4-nitrophenol		P.
2,4-dinitrophenol		P.
4,6-dinitro-o-cresol	O	P.
pentachlorophenol		P.
acenaphthene		P.
benzidine	O	P.
1,2,4-trichlorobenzene		P.
hexachlorobenzene	O	P.
hexachloroethane	O	P.
bis(2-chloroethyl)ether	O	P.
2-chloronaphthalene	O	P.
1,2-dichlorobenzene		P.
1,3-dichlorobenzene	O	P.
1,4-dichlorobenzene	O	P.
3,3'-dichlorobenzidine	O	P.
2,4-dinitrotoluene	O	P.
2,6-dinitrotoluene	O	P.
1,2-diphenylhydrazine (as azobenzene)	O	P.
fluoranthene	O	P.
4-chlorophenyl phenyl ether	O	P.
4-bromophenyl phenyl ether	O	P.
bis(2-chloroisopropyl) ether	O	P.
bis(2-chloroethoxy) methane	O	P.
hexachlorobutadiene	O	P.
hexachlorocyclopentadiene	O	P.
isophorone		P.
naphthalene	O	P.
nitrobenzene	O	P.
N-nitrosodimethylamine	O	P.
N-nitrosodiphenylamine	O	P.
N-nitrosodi-n-propylamine	O	P.
butyl benzyl phthalate	O	P.
di-n-butyl phthalate		P.
di-n-octyl phthalate	O	P.
diethyl phthalate		P.
dimethyl phthalate		P.
benzo(a)anthracene	O	P.
benzo(a)pyrene	O	P.
3,4-benzofluoranthene	O	P.
benzo(k)fluoranthene	O	P.
chrysene	O	P.
acenaphthylene		P.
anthracene	O	P.
benzo(ghi)perylene	O	P.
fluorene		P.
phenanthrene		P.
dibenzo(a,h)anthracene	O	P.
ideno(1,2,3-cd)pyrene	O	P.
pyrene	O	P.
2,3,7,8-tetrachlorodibenzo-p-dioxin	O	P.
acrolein	O	
acrylonitrile	O	P.
benzene		P.
carbon tetrachloride		P.
chlorobenzene	O	P.
1,2-dichloroethane		P.
1,1,1-trichloroethane		P.
1,1-dichloroethane		P.
1,1,2-trichloroethane		P.
1,1,2,2-tetrachloroethane	O	P.
chloroethane		P.
2-chloroethylvinyl ether	O	P.
chloroform		P.
1,1-dichloroethylene		P.
1,2-trans-dichloroethylene	O	P.
1,2-dichloropropane	O	P.
1,3-dichloropropylene	O	P.
methylene chloride		P.
methyl chloride		P.
methyl bromide		P.
bromoform	O	P.
dichlorobromomethane		P.
chlorodibromomethane	O	P.
tetrachloroethylene	O	P.
toluene		P.
trichloroethylene		P.
vinyl chloride	O	
PCB-1242	O	P.
PCB-1254	O	P.
PCB-1221	O	P.
PCB-1232	O	P.
PCB-1248	O	P.
PCB-1260	O	P.
PCB-1016	O	P.
antimony		P.
arsenic	O	P.
asbestos	O	P.
beryllium	O	P.
mercury		P.
nickel	O	P.
selenium	O	P.
silver	O	P.
thallium	O	P.
zinc		P.

*Each of 126 toxic pollutants of the 129 priority pollutants listed in the Consent Decree are accounted for in Appendices B through E. Three have been removed from the original group of 129. These are bis(chloromethyl) ether (deleted 46 FR 10723 2/4/81), and trichlorofluoromethane and dichlorofluoromethane (deleted 46 FR 2266 1/8/81).

Appendix F.—Public Comment Summary

A. BAT

1. *Comment:* It cannot be inferred from available information that different product/processes using the same generic process produce pollutant loads that have similar treatabilities.

Response: EPA's grouping of product/processes under several generic process headings is simply for convenience in sorting out the manufacturing methods of the industry as a whole. It has not

been used to develop treatability data for use in the regulation. While a generic process may be common to a number of product/processes, the subset of priority pollutants that is associated with a particular product/process is usually dependent on, and generically related to, the raw material used. For example, chlorination of benzene will lead to a different subset of priority pollutants than the chlorination of ethylene. Thus, the EPA agrees that the subset of priority pollutants likely to be in the effluent cannot be inferred from the generic process alone; rather the generic process and raw material must both be considered.

EPA hypothesized, when it began its BAT studies, that subsets of generically related priority pollutants, regardless of product/process origin, have an inherent treatability. Since such subsets are specifically related to product/processes, it follows that the combined wastewaters from similar mixes of product/processes will have similar treatability. The data EPA has collected across treatment systems operating at different plants within the OCPSF industry shows good and consistent reduction of priority pollutants coming from a variety of product/process mixes. These empirical results suggests that the concept that a generic subset of priority pollutants has an inherent treatability, regardless of product/process origin, is general to most of the major product/process mixes represented within the OCPSF industry.

2. *Comment:* EPA's grouping of product/processes into generic groups and predicting expected pollutant loadings from reaction chemistry and other scientific methods is qualitative not quantitative and, therefore, has no place in the establishment of effluent limitations for product/processes not characterized under EPA's study program.

Response: EPA agrees that the predictive scheme is qualitative. It is useful for identifying, but not predicting precise levels of, those priority pollutants that are likely to be found in the combined wastewater at a plant. For that very reason, the proposed effluent limitations have not been derived from the predictive scheme.

As used by EPA in its study program of the OCPSF industry, the term "product/process" defines a manufacturing method in terms of the product, its raw material and a generic process. Through an understanding of the chemistry of a product/process, generically related subsets of priority pollutants likely to be associated with that product/process are predictable. The EPA generally confirmed the expected predictability by sampling and analyzing the individual wastewater effluents of over 170 major product/processes of the OCPSF industry.

EPA's studies further suggest that many higher order product/processes (using simpler organic compounds to manufacture more complex organic compounds), beyond those that were specifically characterized, are not significant sources of priority pollutants. These findings support the concept that only certain raw material-generic process combinations have any significant potential to generate priority pollutants, and explain why priority pollutants often fail to show up in the effluents of many of the higher order product/processes.

3. *Comments:* EPA's displays of analytical data in tables should not be carried out to significant figures representative of thousandths of a part per billion. This could give a misleading impression of the precision of the analytical methods to a reader who is not familiar with the limitations of the method.

Response: This preamble discussion and the effluent limitations and standards set forth in the regulations are consistent with the comment. Computer-calculated averages, provided in the Development Document, are sometimes carried to decimal points generated by the algorithms and not rounded off in the data presentations. However, discussions of analytical variability in the document should ensure that the reader understands the limitations of analytical methods. Numerical values presented in the record for this proposed rulemaking are of two types: the laboratory reported individual analytical sample results, or statistics calculated from these sample results. The Agency reports the individual sample results as they were reported by the laboratory that analyzed the samples. Statistics generated from individual analytical results represent a summary of these values. EPA agrees that an excessive number of significant figures resulting from such calculations does not represent a measure of the precision of the analytical methodology.

4. *Comment:* Because of inherent variability in the analytical data, EPA should not display or use that data as numerical values, but instead should display and use them as ranges.

Response: As previously noted, EPA is aware of the inherent variability of analytical results. Regardless of the substance or material, (*e.g.*, pollutants in the environment, tensile strength of a metal, length of life of an electrical product, etc.) a measured value is the result of many sources of variation. That is, any value resulting from measurement has uncertainty associated with it. However, the fact that uncertainty exists in a reported value does not preclude the pragmatic reporting of specific laboratory results. Furthermore, EPA's statistical procedures include analytical variability, as well as other sources of variability, in the mathematical computations for determining the numerical limitations based on the data. As previously described in this preamble, and as done in the case of other industry regulations, EPA has used such procedures in its computations of the proposed OCPSF effluent guidelines limitations. Using such procedures that account for variability—both analytical and other types—makes the display and use of that data as numerical values a valid procedure.

5. *Comment:* At concentrations below 100 parts per billion (ppb) the variability of analytical results becomes much more pronounced. As concentrations approach 10 ppb even the identification of compounds becomes suspect. These limitations should be considered in any use of the data.

Response: EPA has considered limitations inherent in the analytical methods in using the data to support today's proposed guidelines and standards.

EPA did not analyze verification samples for all priority pollutants. It only analyzed for compounds that were detected in a preliminary screening, or those with a high probability of occurrence based on an understanding of the process chemistry. Knowledge of expected pollutants enabled EPA to focus its analytical resources on those pollutants that were ascertained to be in each sample.

Most samples were analyzed by compound specific methods based on gas chromatography with conventional detectors (GC/CD). As will be discussed further in comment 10, EPA believes that these very sensitive detectors produce accurate quantitative results, particularly in the low concentration ranges. Properly used, GC/CD procedures often have detection limits in the range of 0.1 to 1 μg/l. Thus, in many cases, GC/CD results were reported in the data base at concentrations below 10 ppb. Other data are based on analysis with gas chromatography with identification and quantification by mass spectrometer (GC/MS). GC/MS has a detection limit of less than 10 ppb for nearly all priority pollutants. The assertion that pollutants cannot be identified by GC/MS with confidence

when they are present at levels approaching 10 ppb is incorrect.

In analyzing its data base, EPA has treated all values reported below 10 ppb from either method as 10 ppb. EPA selected this criterion as a conservative measure to avoid potential problems concerning the variability of numbers in the data base that were reported at less than 10 μg/l.

The concentration limitations and standards proposed today contain no requirements lower than 50 ppb. These are based on data indicating long to term achievable concentrations in the 10 to 20 ppb range and lower, and are associated with relatively low calculated variability factors. Thus, a wide range of potential analytical error is accounted for in the regulation.

EPA believes that the above procedures have insured that the special problems of measurement at the limits of analytical detection have been fairly considered in setting limitations. The resulting limitations are well within the recognized analytical capability of available monitoring technology.

6. *Comment:* EPA's calculation of mass loadings for certain product/processes appears, in some cases, to be based on only one observation and is, therefore inappropriate for characterizing OCPSF industry wastewater.

Response: As discussed earlier in this preamble, EPA has shifted the focus of this proposed regulation from a mass-based regulation applied to specific product/processes, to a concentration-based regulation applied to the plant discharge. Thus, the focus of the characterization of OCPSF wastewaters has shifted from data such as that criticized by the commenter to end-of-pipe data. The criticized data were, however, used in estimating the cost of compliance. The criticism as it relates to the cost analysis will be discussed below as a part of comments relating to the cost estimating methodology.

7. *Comment:* EPA's verification sampling program covered only 37 plants of 1,217 in the industry and 176 product/processes of over 2,500 used in the industry. Those samples are not sufficiently representative of the industry to permit characterization of the entire industry. The data are particularly unrepresentative of batch and complex second generation product/processes.

Response: EPA has collected data that we believe, based on process chemistry, are representative of the entire industry. The product/process effluents that the EPA elected to characterize are those of high-volume products and of products that, either are priority pollutants, or are expected to be associated with them. The priority pollutants observed in each of these effluents were found to be generally consistent with the raw materials, solvents, process chemistry and coproducts of the corresponding product/processes. Moreover, plant effluent data, on which these proposed regulations are based, include the combined and treated wastewater discharges from product/processes other than the 176 that were explicitly characterized. Among these others were higher order product/processes, often manufactured by a batch process (rather than a continuous process). Thus, the EPA has collected data that it believes is representative of the entire industry. As discussed in Section XV of the preamble, EPA expects to collect additional data to further confirm the representativeness of the data base.

As in the response to the previous comment, EPA notes that product/process data are used mainly for treatment cost estimations.

Further, the commenter is contradicted by its own report on the 5-plant sampling program. This report concludes, "these (5) manufacturing sites and their respective treatment systems are a representative sample from the organic chemicals industry." Elsewhere it states, "(t)his comparison supports the conclusion that the participating biological treatment plants in the five plant study generally can be considered representative of the median level of performance obtained by biological treatment of organic chemicals industry wastewater." EPA has used the data from the CMA/EPA Five-Plant sampling program. It has also used data from 37 verification plants (2 of which were included in the CMA/EPA study). EPA believes that inclusion of data from 35 additional plants can only increase the representativeness of the data base.

Finally, we continue to invite the commenter and all other persons with relevant data to submit such data to EPA.

8. *Comment:* EPA's use of a three-day sampling period at most plants is too short, ignoring variability in raw wasteloads and making the data useless for calculating long term averages or variability.

Response: EPA's data base includes, on the one hand, data collected over a 24 to 30-day period at each of 5 plants. The use of 3-day verification data, on the other hand, allowed EPA to include a greater number of plants and product/processes than would otherwise have been feasible. EPA believes that this dual approach is pragmatic and rational. Furthermore, OCPSF plants generally use flow equalization and biological treatment systems with retention times sufficient to smooth out wasteload variations. EPA made every effort to ensure that the product/processes considered representative of the industry were in fact operating when plants were sampled. Thus, EPA believes that the three day sampling period provided results that are characteristic of long-term averages of priority pollutants in treated plant effluent discharges.

Variability in the data derives from a number of sources. These include process variation, sampling variation, and variation in the practices of analytical methods between and within laboratories. EPA's data base reflects all of these sources of variability.

9. *Comment:* The most extensive and best long-term (4 to 6 weeks) data base was generated by the EPA/CMA five-plant sampling program. This data base is supported wtih a comprehensive QA/QC program and can provide EPA with an understanding of biological treatability and uncertainty associated with analytical methods for organic priority pollutants. EPA's verification phase data base, generated with a site specific analytical methodology that essentially was not validated, is suspect.

Response: EPA agrees that the EPA/CMA five plant sampling program is a good source of data to support this proposed regulation. EPA does not agree, as the comment seems to imply, that it should be used to the exclusion of the verification data base. As noted in responses to other comments, we believe that the verification data are valid, and therefore will be used by EPA.

Furthermore, EPA notes that placing sole reliance on the five-plant data would result in significant gaps in the data base. The five-plant analytical effort included none of the metals and only some of the organic priority pollutants that are characteristic of the OCPSF industry. EPA's study of the verification results suggests that some pollutants, not covered by the 5 plant sampling program, are discharged at significant and treatable levels, even when a plant has installed a well designed and operated biological treatment system. For these reasons, reliance on the 5-plant data alone would be inappropriate.

EPA concludes that a data base resulting from a combination of the verification and the five plant sampling efforts is reliable and representative data upon which to base today's proposed effluent limitations and standards. EPA invites the industry to

submit additional data on long-term performance and on variability to supplement the existing data base.

10. *Comment:* Most of the verification sampling results were obtained by gas chromatography with conventional detectors (GC/CD). Only about 10 percent of the results were confirmed using gas chromatography with a mass spectrophotometer for detection (GC/MS). Use of GC/CD analysis increases the risk of false positive and false negative compound identification.

Response: EPA believes that GC/CD and GC/MS are both excellent techniques for analyzing organic priority pollutants in wastewater. Both methods are commonly used by OCPSF plants to routinely monitor process and end-of-pipe wastewater. EPA has in fact proposed both GC/CD amd GC/MS methods for such analyses and expects to promulgate them in the near future.

The use of GC/CDS can increase the risk of false positives (*i.e.,* the risk of "identifying" a compound that is not actually present in the sample being analyzed), but the likelihood of any false negatives (*i.e.,* the failure to detect a compound that is actually present in the analyzed sample) is extremely small with the use of GC/CD. A false positive can occur if the compound of interest is so-eluted from the gas chomatograph with a second ("interfering") compound. The risk of such an occurrence can be minimized by employing certain procedures. Such procedures were used by EPA and its contractors, as described below.

First, proper cleanup procedures prior to injecting the sample into the chromatograph will reduce the number of potential interferences. Second, interferences can be reduced by selection of a GC column with appropriate column conditions. Third, selective detectors (i. e., detectors sensitive only to certain compounds, exclusive of others present) may be employed.

Finally, GC/MS can be used for interferences that still remain. EPA authorized its contract laboratories to run up to 10 percent of their samples on GC/MS. The laboratory analysts were given the discretion to determine when to use GC/MS. This approach, as opposed to a rigid schedule for systematic use of GC/MS, assured that the GC/MS could be run in precisely those situations where it was needed to resolve interferences and confirm GC/CD results. Furthermore, at some plants, GC/MS was run prior to the GC/CD analyses to identify the compounds present. In total, GC/MS was actually used for approximately 15 percent of all samples analyzed in the verification program.

EPA's program and, in most cases, its laboratory practices, followed the above procedures. As mentioned in the preamble, EPA has deleted some data that do not meet its rigorous quality criteria and will continue to examine the remaining data to assure that it is valid.

Qualitatively (i. e., with respect to identifying compounds), the GC/CD methods used by EPA in its verification program are similar to the GC/CD methods which EPA has been developing under Section 304(h) of the Clean Water Act. EPA's effort under that statutory provision is intended to promulgate both GC/MS and GC/CD methods as valid analytical procedures for organic priority pollutants.

11. *Comment:* The QA/QC program used during verification "should have, but did not include, an adequate level of quantitative GC/MS to validate the GC/CD analytical concentration."

Response: EPA disagrees. The QA/QC program for the analysis of wastewater samples from the OCPSF industry included GC/CD quantitation by both replicate analysis and analysis of spiked samples. GC/CD quantitation is known to be more accurate than GC/MS quantitation, because some of the conventional detectors are more sensitive (detection limit is lower) than the mass spectrometer. Therefore, quantitative validation of GC/CD measured concentrations by GC/MS generally is unnecessary.

12. *Comment:* The GC/CD methods should have been validated at the start of the verification program prior to sample collection, by an independent methodology such as GC/MS.

Response: The commenter appears to be suggesting that EPA should have conducted a "round-robin" validation program, incorporating the analysis of many samples from many wastewaters by many laboratories, prior to gathering any of the data needed to develop effluent guidelines and standards for the OCPSF industry. Such a program typically takes several years to complete. Indeed, EPA has been conducting a validation program for the 600-series methods proposed on December 3, 1979, and this program has taken several years.

As discussed above in the preamble, EPA has been subject to a Settlement Agreement, modified by subsequent court orders, that has required the proposal and promulgation of effluent guidelines and standards for many industries, including the OCPSF industry, by dates set forth in the agreement. For all industrial categories subject to the Settlement Agreement, EPA has recognized that compliance with that agreement required the collection of necessary data, whether by GC/MS or GC/CD, prior to conducting validation programs for these analytical methods. In all cases, EPA used then-existing state-of-the-art methods for GC/MS and/or GC/CD to develop the data needed to comply with its legal obligations under the court-sanctioned agreement.

Although the GC/CD methods that were used to analyze OCPSF wastewaters were not validated on a uniform national basis prior to their use in collecting data, they were validated on a case-by-case basis as the data was collected. By using appropriate QA/QC (quality assurance/quality control), including such procedures as duplicate analysis and spiked samples, EPA validated each method for the precise wastewater sample being measured. This approach had the advantage of ensuring a valid methodology for the specific wastewater matrix being analyzed.

13. *Comment:* EPA adjusted the verification values by using recovery values. These are obtained by injecting a known quantity of a pollutant into water and determining the percent of the known amount measured. Such factors are not technically supportable.

Response: EPA does not agree as a general proposition that use of recovery values are technically unsupportable. EPA does agree, however, that the results of this study are better represented as unadjusted for recovery. EPA has, therefore, based these proposed regulations on unadjusted values in the data base.

14. *Comment:* EPA deviated from its sampling protocol in some cases in ways that could affect the reliability of some results.

Response: EPA has conducted a thorough review of its data base to determine which values could be affected by such errors as excessive lag between sample collection and analysis as well as other departures from the sampling protocol. Some data has been deleted as a result of this review. If the commenter or other members of the public are aware of other values that have not been properly evaluated, EPA solicits specific comments identifying which samples are involved, what variations occurred and how the variation may have affected the reliability of the data.

15. *Comment:* Some of the data EPA is using is as much as five years old and may not be representative of current OCPSF industry practice.

Response: As described in the body of this preamble and in the technical support documents, the development of these proposed effluent limitations guidelines involved a massive and often sequential data gathering effort. Technical questionnaires requesting information under section 308 of the Act had to be prepared, returned and evaluated before a significant sampling effort could begin.

EPA is particularly aware that some plants have upgraded their treatment technology and has attempted to account for these improvements in its technical and costing analyses. If any member of the public, particularly the regulated industry, believes that the information they submitted to EPA is not now representative of their facility, EPA specifically solicits comments and additional information that would make the previously submitted information more representative of current practice. It is noted that the use of outdated data tends to yield higher (less stringent) effluent limitations and to overstate the impacts of the regulation. Thus, any error is in favor of the industry.

16. *Comment:* Some of the effluent targets evaluated by EPA appear to be water-quality-based and not technology based as required by the Act.

Response: EPA has evaluated a number of effluent target levels simply for the purpose of identifying the costs associated with those levels. Some were set very low to determine whether available technology could achieve them and what cost would be associated with those options. The effluent limitations in the regulation reflect real world data demonstrating the actual performance of available technology practiced in the industry and are not based upon target levels, or water quality criteria.

17. *Comment:* EPA considers 64 priority pollutants to be significant for BAT regulation. These pollutants were selected by applying a selection criterion. If the pollutant occurred in more than 50 percent of the plants sampled, it was considered significant. Alternatively, if the mean or median concentration across all plants exceed 100 ppb, it was considered significant. These criteria are arbitrary. They are particularly unfair when the mean is used as a selection criterion, since a few plants with high concentrations could result in a mean over 100 ppb resulting in regulation of that pollutant for the whole industry rather than for the few discharging it.

Response: EPA has modified its criteria for selecting pollutants to be controlled by this proposed regulation. EPA has examined plants employing BPT treatment technology—those meeting the criteria of 95 percent removal of BOD or a final effluent concentration of 50 mg/l or less of BOD. Pollutants discharged from these plants for which we have adequate data are covered in the proposed regulation. Only 46 pollutants are covered.

EPA is sensitive to the commenter's concern that industry-wide regulation of a significant number of toxic pollutants could result in unnecessary monitoring requirements of certain pollutants by individual plants. As discussed in Section XI of this preamble, EPA has developed a program to avoid unnecessary monitoring requirements.

18. *Comment:* The modeling effort outlined by EPA for evaluating the performance of treatment technologies is seriously flawed by such factors as inaccurate kinetic co-efficients, invalid model components, and a lack of model verification. However, if corrected for these deficiencies, the model has potential value for estimating incremental costs associated with different levels of treatment. The modeling approach is not suitable for purposes of establishing effluent limitations based on a given treatment train.

Response: EPA is not proposing effluent limitations based on its modeling effort. Today's proposed effluent limitations guidelines are based on statistical analysis of data from actual treatment systems that EPA believes are representative of the industry.

EPA's modeling effort was, however, used to estimate the cost of complying with these proposed regulations. The comments appear to suggest that EPA should design the most cost-effective treatment system for each plant in the industry and calculate its cost. For example, one "flaw" alleged by the commenter is the model's failure to account for local topography in calculating pumping costs.

While cost is a factor considered by the Administrator in selecting BAT technology, EPA does not believe that the Act requires detailed analysis of every single plant with the precision implied by many of the commenter's suggestions (discussed below). EPA's use of a computer modeling system for 55 model plants (called generalized plant configurations, GPC's) to develop a reasonable estimate of plant costs is sufficient under the Act.

EPA believes that these 55 GPC's represent a reasonable cross-section of the industry. Using the costs generated for complying with BAT effluent limitations, EPA has calculated an estimate of the compliance cost throughout the industry. Such a modeling approach is permitted by the Act. Indeed, when an industrial category is as large and diverse as the OCPSF industry, it is the only reasonable way to calculate toxic pollutant reduction costs. While this approach does not generate costs with the precision advocated by the commentor, EPA believes that it does estimate cost with sufficient accuracy to permit EPA to properly consider cost and to evaluate economic impacts in its selection of BAT technology. EPA solicits data that would contribute to the improvement of the model, as well as to the design of the GPC's.

19. *Comment:* A major technical flaw in the model is that its kinetic co-efficients do not consider competing modes of removal in activated sludge systems such as biooxidation, volatilization, and adsorption. The model itself however, does consider removal by volatilization and adsorption. This causes the model to "remove" pollutants "twice" in the activated sludge system. The model will, thus, generally predict superior performance in activated sludge systems than is actually achievable.

Response: EPA believes that the model has been properly adjusted to consider removal by adsorption and volatilization as well as biooxidation. EPA will, however, continue to evaluate the model. EPA's sampling efforts have contained a large number of activated sludge systems. Those data do not support the commenter's contention that activated sludge cannot reduce effluents to the degree assumed by the model.

20. *Comment:* EPA's comprehensive model should be reevaluated in the light of more recent, available data.

Response: EPA is continually seeking data that will make this rulemaking as technically sound as is possible. We solicit additional detailed technical information that would improve the model. EPA will thoroughly review its model in light of all available data before promulgation.

21. *Comment:* The K factors (factors used to determine rates of biodegradability of wastestreams) used in EPA's model are based on insufficient data and, thus, only are accurate to an order of magnitude.

Response: This comment appears to arise out of the commentor's concern (discussed previously) that the model would be used to calculate effluent limitations. As stated in previous responses, EPA is using the model for treatment cost purposes only. Furthermore, EPA has compared the effluent quality predicted by the model with that of actual activated sludge

effluents and finds that they are sufficiently comparable for use in cost estimating. Of course, EPA welcomes the submission of additional K-rate data.

22. *Comment:* EPA's model estimates BOD removal in activated sludge systems by determining the BOD contribution of individual product/processes and calculating a weighted K factor based on these contributions. This approach is subject to large amounts of error, and is not likely to produce a true representation of BOD removal in an activated sludge system.

Response: Weighting the K factors for the contributions by various product/processes of biodergradable materials to the activated sludge system is a valid means of deriving an appropriate K-rate for the combined waste streams. Comparison of GPC modeled removals in activated sludge systems with removals in actual systems sampled by EPA do not reveal large discrepancies in BOD removal. The model appears to estimate BOD removal well within the acceptable range for the model's objective of estimating costs of compliance.

23. *Comment:* The model sets maximum influents for activated sludge of total dissolved solids (TDS) and mixed liquor volatile suspended solids (MLVSS) are 10,000 mg/l and 4,000 mg/l, respectively. These values are well below levels encountered in some OCPSF industry waste treatment plants which are successfully operating. For actual systems capable of operating at higher TDS and MLVSS the model will add additional treatment technology that might be more economically deleted by operating the activated sludge system at higher TDS and MLVSS rates.

Response: These technology-based regulations are based on technology which EPA concludes can be used throughout the industry. EPA recognizes that with some plants' wastewater matrices, the same effluent quality can be more economically achieved by using technlolgy. These proposed regulations would not require industry to install the model technology. Industry is free to use any technology, including operating activated sludge at higher TDS and MLVSS values than assumed for the model technology. The only requirement would be that industry achieve the proposed effluent quality. These comments indicate that the industry's cost to comply with the proposed limitations will be lower than EPA's estimates.

24. *Comment:* EPA has not evaluated the effectiveness of powdered activated carbon (PAC) enhancement of activated sludge. PAC, although expensive, may be cost effective if the alternatives are tertiary treatment with granular activated carbon, or resin adsorption, or pretreatment by steam stripping, solvent extraction, etc.

Response: EPA did not believe it had sufficient data on actual operation of PAC on toxic pollutants to evaluate it and include it in the model treatment catalogue. If particular plants believe they can more economically achieve the final effluent limitations using PAC, they are, of course, free to do so.

EPA solicits operating and analytical information on PAC performance removing toxic pollutants that would permit it to include PAC in its treatment catalogue.

25. *Comment:* The removal of heavy metals due to adsorption on biological solids in the activated sludge process is not considered by the model.

Response: EPA has recognized this error, which would have overstated the cost of complying with the proposed BAT limitation for metals, and has corrected the model results to reflect heavy metals removal in the activiated sludge system.

26. *Comment:* If phenol concentrations exceed 300 mg/l, a solvent extraction system is designed in the computer model prior to activated sludge to minimize potential toxicity problems. The arbitrary 300 mg/l cut off point should be deleted, since well acclimated biological treatments systems can biologically treat higher phenol concentrations. In addition, specification of a solvent extraction system under these circumstances will overstate costs associated with treatment.

Response: EPA agrees that some biological treatment systems can and will adequately treat phenol concentrations in excess of 300 mg/l. However, since some systems will require solvent extraction and others will not, the model was conservatively designed to specify and cost that treatment on an industry-wide basis.

27. *Comment:* The model sometimes designs unrealistic activitated sludge systems. In one case, it designed one with a 15-minute detention time. Such systems are not practical and allowing the model to design such systems significantly understates costs.

Response: Such impractical designs are a consequence of the system logic, which attempts to upgrade biological treatment to presumed BCT levels. EPA will review and attempt to correct the model to avoid such anomalies. For estimating BAT compliance costs, the model's assumed starting point is well-designed and operated biological treatment. With such a floor, it is unlikely that BAT compliance costs will be significantly understated. Since the model adds other treatment processes to the basic biological segment of the treatment system to achieve a selected final effluent target level for *all* pollutants inthe GPC raw waste load, it is more likely that BAT compliance costs will be overstated.

28. *Comment:* The comment designs a separate nitrification unit for ammonia concentrations in the range of 10 mg/l to 2000 mg/l as N. Such systems are often unnecessary in the OCPSF industry, since operating parameters of the activated sludge system can often be adjusted to treat ammonia in these ranges.

Response: Although operating characteristics of individual activated sludge units can be adjusted to obviate the need for special treatment to remove ammonia, EPA does not believe that the need for separate nitrification units can be eliminated in all cases simply by adjusting the operating parameters of activated sludge systems. Thus, in estimating costs, EPA has conservatively assumed that the installation of additional treatment would be required.

29. *Comment:* EPA's questionnaire for carbon adsorption technology was deficient. The results are therefore suspect. The Chemical Manufacturer's Association offered an alternative questionnaire requesting more information, which was rejected by EPA. The items that differ between the two questionnaires should be evaluated to determine whether additional information should be obtained.

Response: EPA, of course, has already evaluated CMA's alternative questionnaire, reviewing both the information sought and that not sought, in the light of its modeling needs. EPA believes that the additional information suggested by CMA would be useful for an exhaustive study of activated carbon performance. However, EPA does not believe it was appropriate for the purpose of developing model costs.

30. *Comment:* Some of the technical assumptions used in the model describing the performance of activated carbon, steam stripping and ion exchange are incorrect.

Response: EPA has reviewed these technical assumptions and will continue to do so in light of available information to insure that these assumptions reflect the best available theoretical foundations. We welcome the submission of additional data.

31. *Comment:* The basis for selecting cadmium, chromium, cyanide, and mercury as removable pollutants using

activiated carbon has not been demonstrated.

Response: The proposed limitations are based on data from a variety of plants using different treatment configurations. No single technology was selected by EPA to remove any particular pollutants.

32. *Comment:* Other technologies contained in the treatment file used by the model do not yield the most cost efficient treatment train for a given plant's unique wastewater characteristics.

Response: As discussed in previous comments, EPA's model technology approach sometimes errs on the high side in developing costs for its model plants. This approach benefits industry by assuming that potential economic impacts will be fully addressed.

33. *Comment:* EPA's Master Process File (MPF) contains pollutants for each product/process found in raw wastewaters during verificaion sampling. The MPF is the starting point in designing treatment systems for the purpose of cost estimating. Some pollutants occur in the MPF that are not predicted by EPA's generic methodology. They should be dropped as extraneous since the system may design and cost treatment for them.

Response: The data in the MPF are actual sampling data. EPA's generic methodology is a useful tool to predict likely priority pollutant coproducts from various raw material/generic process combinations. EPA does not contend that the generic methodology will predict every conceivable pollutant from every source. One of it several useful purposes is to conceptually characterize the industry's potential for generating priority pollutants, to ensure that EPA has collected data from a representative cross section of the industry. It is technically erroneous to conclude that a measured pollutant is extraneous simply because the generic methodology did not identify it as an anticipated pollutant. It is possible, however, that some of the pollutants listed for certain product/processes in the MPF, but not predicted by the generic methodology, are false positives (i.e., analytical anomalies). EPA has reviewed the master process file and tried to identify and remove such pollutants. If any remain, they will result in overestimating costs, rather than an understanding.

34. *Comment:* The cost curves used by the computer model to estimate cost for model plants appear to underpredict capital costs. In particular, the other two cost estimating manuals published by EPA generally give higher capital cost estimates for comparable units.

Response: The cost curves used by the EPA model were developed by using actual cost estimates prepared by EPA's contractor, after considering the particular applications of the OCPSF industry. The cost estimating manuals referenced by the commenter are more general estimating guides. The estimates from one appear reasonably consistent with those predicted by the model. The other predicts much higher costs. EPA will examine this discrepancy prior to final promulgation.

EPA solicits data from the OCPSF industry with which the most accurate cost curves possible can be developed. EPA specifically solicits data from any plants in the OCPSF industry that have already installed any of the technologies evaluated as BAT technology. Data should be in sufficient detail to allow it to be used in developing generalized cost curves and should not be merely total costs of installation. Data should include details of design, unit costs, labor costs, any assumptions in calculating costs of capital, and other information of the type included in EPA's present cost modeling.

35. *Comment:* EPA did a benchmark analysis of its costing model by comparing modeled costs with acutal costs incurred for seven plants in the OCPSF industry. While the costs generally agree on an overall basis, costs of individual treatment show considerably less agreement. This points to deficiencies in the model.

Response: EPA disagrees. As the commenter has pointed out in other comments, specific facilities designed to treat a specific wasterwater will have a treatment system tailored to that wastewater. Designers may find that increasing the biological treatment system with less in-plant control will result in a more cost effective treatment system at that site or vice versa. EPA's costing model uses more generalized design parameters and, thus, result in a more standardized design for costing purposes. For example, as discussed in an earlier comment, the model assumes that influent phenol should be reduced to 300 ppb to protect the treatment system. The commenter argued that some biological systems treating some wastewaters could be designed to treat higher concentrations of phenol. In this case the model would design in-plant treatment for phenol followed by biological treatment. The real plants may have no in-plant treatment, but perhaps a more expensive biological treatment system.

Because model systems designs were being compared with specific treatment systems, EPA believes it properly evaluated the more generalized total cost of treatment when benchmarking the model.

36. *Comment:* The cost-estimating model designs a treatment system based on the average raw wasteload contained in the master process file. If instead costs were estimated based on the maximum and minimum wasteloads, the estimated costs would differ by an order of magnitude. This analysis shows that the cost estimating procedure is sensitive to variations in raw wasteload from plant to plant. The model therefore cannot be used to estimate total cost of compliance but only incremental costs from the technology to technology.

Response: EPA is estimating the cost of compliance of this proposed regulation by calculating the costs of compliance of 55 representative plant configurations (called GPC's). These model plants were configured to represent typical combinations of product/processes and corresponding raw wasteloads found in the OCPSF industry. Therefore, EPA believes it properly used average concentration, rather than maximum or minimum because the average is more representative of the industry.

Large errors in the average concentrations (and loadings) would create large errors in costs estimated for compliance. EPA believes, however, that it has made a scientifically valid survey of the industry by sampling a representative cross section of product/process of the industry. EPA continually solicits additional data, however, to insure that the average wasteloads are representative of the industry. EPA specifically solicits any data the regulated industry may have on toxic pollutant wasteloads that could be added to the MPF catalogue. Data should be submitted showing the wasteloads sampled, their source with particularity, the analytical method used, the compounds analyzed for, the compounds detected and a quantitative measure of the compounds detected.

Summary of Comments-BPT

37. *Comment:* The data collected to support BPT are now six years old and were gathered before many BPT permits were effective. They might not be reflective of current OCPSF plants' treatment performance (comment submitted in July 1982). However, in comments submitted recently, the same commenter criticized EPA's reliance on plant performance data gathered after 1977, when most plants were complying with permits, based upon permit writers' best engineering judgment of BPT, saying that this unrealistically distorts the data and results in limitations

requiring far better treatment than the Act contemplated for BPT limitations (comment submitted in January, 1983 by the same commenter).

Response: The industry has, as late as July, 1982, criticized EPA on the ground that its data did not reflect the true treatment potential of well operated and designed biological treatment systems. In part as a response to these comments, EPA has solicited and obtained more current data on well operated biological treatment systems and included them in its data base. Some data is as recent as 1981 but most reflects treatment in place in the mid 1970's.

Industry has recently changed its stance on this issue. It now contends that EPA should not use post 1977 data unless EPA includes *all* plants, whether or not they are properly designed and operated. In short, they now ask EPA to set limits reflecting average performance, rather than the "average of the best" performance, in defining BPT.

EPA rejects this last argument. The definition of BPT, as explained in the preamble, is the average-of-the-best control of conventional pollutants by end-of-pipe treatment systems, preceded by necessary in-plant controls to assure that the end-of-pipe systems function effectively and consistently. The selected end-of-pipe technologies have been widely practiced within the industry for years, and the selection of them for BPT is fully consistent with the Act.

The criteria for selecting plants for inclusion in the data base were those that reflect proper design and operation of end-of-pipe systems. Any plant that meets such criteria is a useful example of proper biological treatment and deserves to be included in the data base, thereby assuring a broad and fully representative data base. As noted in the preamble, 82 percent of all plants compared against these criteria met them. In other words, in defining "average-of-the-best", we included 82 percent of all plants as representing the "best" treatment, on the basis of which a long-term average was computed. This confirms the representativeness of the data included in the BPT data base and the appropriateness of using the selection criteria and all available data on well designed and operated treatment systems.

38. *Comment:* Guideline limits should be based on concentrations rather than a mass per unit of production. Many treatment systems are arranged to treat a variety of influent flows, some nonregulated under effluent guidelines. A production-based limit makes it very difficult to properly allocate pollutant loadings for each process flow in order to achieve the combined discharge limit.

Response: As discussed in Section V of this preamble, EPA has decided to propose concentration-based limits rather than mass-based ones.

39. *Comment:* A production-based limit does not accurately address treatment efficiencies or capabilities during process outages, startups or treatment upsets.

Response: The effects of normal variations in treatment efficiencies are accounted for in statistically derived variability factors based on actual plant data. Abnormal excursions or treatment upsets are addressed by permit upset and bypass provisions discussed earlier in this preamble.

40. *Comment:* Both BPT and BAT guidelines should allow flexibility for case-by-case permitting considering such factors as plant age, size, and location.

Response: All relevant factors, including plant age, size and location were considered in deriving these proposed regulations. In cases where existing plants have factors fundamentally different than those considered in setting the effluent limitation guideline or standard and where those factors significantly affect a plant's ability to attain the limit, a variance may be considered on a case-by-case basis. These fundamentally different factors (FDF) variances are discussed earlier in this preamble.

41. *Comment:* If the existing data are not the sole basis for writing effluent guidelines, there should be an opportunity for public comment regarding any additional data used in writing effluent guidelines.

Response: As described earlier in this preamble, EPA does expect to gather additional data. EPA intends to release any new data it expects to use in establishing effluent limitations for public comment.

42. *Comment:* Plants that do not discharge wastewater to POTWs or directly to surface water are grouped under a classification called "zero discharge." This includes plants that dispose of wastewaters by deep well injection, contract hauling, and other methods. Use of the term "zero discharge" to describe these plants is misleading and implies that they either do not generate wastewater or practice total recycle. A term such as "alternative discharge" would better describe these plants.

Response: EPA believes it has adequately defined the term "zero discharge" to remove any implication that it applies only to plants generating no wastewater or practicing total recycle. This term has been similarly used throughout the history of the effluent guidelines regulatory program.

43. *Comment:* In attempting to subcategorize the OCPSF industry, EPA contends that there is no correlation between the age of the process and its impact on effluent flow or treatability. Clearly a plant designed and built after the Federal Water Pollution Control Act of 1972 has a significantly smaller flow of aqueous wastes.

Response: As discussed above, EPA is proposing concentration-based effluent limitations and standards. Thus, an older plant's flow relative to a newer plant's lower flow is not necessarily a significant factor. The chief factor for subcategorization for the concentration-based regulation is the use of product/processes that contribute high or low raw concentrations of BOD. Age is not a significant factor in this regard. Furthermore, age is an amorphous concept in the OCPSF industry, since most plants have both old and new processes contributing to a combined end-of-pipe discharge. Finally, EPA's data base does not reveal any differences in achievable effluent concentrations that are attributable to age.

44. *Comment:* The BPT report makes reference to an assumption that non-contact cooling water makes no contribution to the pollutant load of a treatment plant. Such water can exert a significant BOD and TSS load.

Response: EPA has based these proposed regulations on end-of-pipe discharge data which are expressed in concentration units. Where EPA could separately attribute concentrations to process wastewater, it did so. Where it could not, it assumed that commingled cooling water was uncontaminated. This assumption results in a slightly higher raw waste concentration for process wastewater. This conservative assumption is not likely to introduce substantial error, and any error would favor industry.

45. *Comment:* The capital and operating costs are expressed in 1979 dollars. This inappropriately understates the incumbent financial obligations associated with the construction, operation, and maintenance of the treatment facilities in question. One especially troublesome area that is ignored in this analysis is the dramatic increase in the cost of capital over the last three years. There are fairly standard and simple means of converting capital cost that should be applied here.

Response: EPA has used 1982 costs for today's proposed effluent guidelines and standards.

46. *Comment:* EPA used the CAPDET municipal treatment model to estimate costs of compliance. OCPSF treatment plants are not analogous to municipal systems and require significantly higher unit costs for such things as labor, building, excavation, etc. The commenter provides recommended unit costs as much as 7 times those used by EPA.

Responses: EPA believes that CAPDET, appropriately modified to reflect OCPSF unit costs, is technically sound costing approach. EPA solicits specific comments on the accuracy of the unit costs it used. The commenter, however, simply offered alternative costs without explaining the basis for them. Such conclusory data cannot be properly evaluated to determine whether the costs EPA used are in fact too low. EPA, therefore, solicits specific comments regarding its unit costs including specific actual costs, how they were calculated, what assumptions were used, and for what they were incurred.

47. *Comment:* EPA evaluated TSS effluent targets of 20, 30, and 50 mg/l. EPA did not evaluate a TSS target level of 100 mg/l on the basis that such a level would be deleterious to the receiving waters. The report fails to justify that conclusion. In any event it is irrelevant to a technology-based regulation.

Response: EPA evaluated long-term target levels of 20, 30 and 50 mg/l of TSS for costing purposes only and believes them to be reasonable target levels for available technology in the industry. Technology-based analyses have been conducted and are the basis of today's proposed effluent limitations and standards.

48. *Comment:* The BPT report inappropriately equates TSS with BOD.

Response: The evaluation leading to TSS and BOD limitations for four subcategories was not based on that assumption. Instead separate, actual BOD and TSS data were evaluated. Thus the limits proposed today do not rest on any assumption about TSS/BOD correlation.

49. *Comment:* The effluent target limits failed to adequately address ambient temperature effects on biological treatment system efficiency. Use of heating degree days is an inappropriate variable for assessing those effects since it ignores poor system performance at very high temperatures. Moreover, use of State boundaries to determine heating degree days is inappropriate in that it ignores climatological variations within a state.

Response: EPA used heating degree days to assess whether locations should be a factor in subcategorizing the OCPSF industry. In particular, EPA wanted to assess whether plants in generally colder climates should be subcategorized to reflect poorer system performance. The analysis was limited to whether generally colder climates would have a significant effect on a plant's ability to achieve the limitations and standards proposed today. For such an analysis EPA believes consideration by states, rather than by even smaller geographical subdivisions, is appropriate. Temperature was not found to be a significant factor in determining a plant's ability to treat conventional pollutants. If temperature had been found to be a significant factor, a more detailed analysis such as recommended by the commenter might be appropriate. EPA is not aware of OCPSF plants that experience significant difficulties meeting the limitations and standards proposed today because ambient temperature is too high. If such plants exist, EPA invites comments identifying those plants and explaining in detail how high ambient temperature makes meeting today's proposed limitations and standards infeasible.

50. *Comment:* Some OCPSF plants discharge into water-quality limited stream segments. Permits, and resulting treatment, were designed to meet water quality limitations, not technology-based limitations. Inclusion of these plants in the technology-oriented data base is, therefore, inappropriate.

Response: EPA has reviewed the data submitted by the industry regarding these plants with treatment systems designed to meet water quality limits. Several plants that included treatment not considered BPT were deleted from the BPT data base. In many of the plants, the treatment that was allegedly installed to meet water quality based requirements consisted simply of well designed and operated BPT systems. As such, EPA believes that the data are relevant to determine PBT limits.

51. *Comment:* No single effluent target should be set throughout the industry. The industry should be subcategorized based on product/process, influent loadings, and size of the treatment unit.

Response: EPA has conducted a thorough review of the industry and concluded that subcategorization based on four broad groups of product/processes is appropriate. For this concentration-based regulations, EPA believes that these categories adequately describe significant differences in waste generation and consequent influent loadings throughout the industry. EPA does not believe that size of the treatment unit is a relevant factor in defining subcategories. Size of an existing treatment system may become relevant in considering the cost of compliance. Where existing treatment is inadequate, EPA has calculated incremental costs associated with upgrading the treatment system to meet proposed limitations or standards and has evaluated their associated economic impacts.

For the reasons set out in the preamble, 40 CFR Parts 414 and 416 are amended as set forth below.

PART 416—[REMOVED]

1. 40 CFR is amended by removing Part 416.

2. 40 CFR Part 414 is revised to read as follows:

PART 414—ORGANIC CHEMICALS, PLASTICS, AND SYNTHETIC FIBERS

Subpart A—General

Sec.
414.10 General definitions.
414.11 Applicability.
414.12 Compliance data for Pretreatment Standards for Existing Sources (PSES).
414.13 Monitoring requirements.

Subpart B—Plastics Only Subcategory

414.20 Applicability; description of the plastics only subcategory.
414.21 Specialized definitions.
414.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology (BPT).
414.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology (BCT).
414.24 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology economically achievable (BAT).
414.25 New source performance standards (NSPS).
414.26 Pretreatment standards for existing sources (PSES).
414.27 Pretreatment standards for new sources (PSNS).

Subpart C—Oxidation Subcategory

414.30 Applicability; description of the oxidation subcategory.
414.31 Specialized definitions.
414.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology (BPT).
414.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology (BCT).
414.34 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable control technology economically achievable (BAT).

414.35 New source performance standards (NSPS).
414.36 Pretreatment standards for existing sources (PSES).
414.37. Pretreatment standards for new sources (PSNS).

Subpart D—Type I Subcategory

414.40 Applicability; description of the Type I subcategory.
414.41 Specialized definitions.
414.42 Effluent limitations representing the degree effluent reduction attainable by the application of the best practicable pollutant control technology (BPT).
414.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
414.44 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
414.45 New source performance standards (NSPS).
414.46 Pretreatment standards for existing sources (PSES).
414.47 Pretreatment standards for new sources (PSNS).

Subpart E—Other Discharges Subcategory

414.50 Applicability; description of the Other Discharges subcategory.
414.51 Specialized definitions.
414.52 Effluent limitations representing the degree of effluent reduction attainable by application of the best practicable pollutant control technology (BPT).
414.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).
414.54 Effluent limitations representing the degree of effluent reduction attainable by the application of the best available technology economically achievable (BAT).
414.55 New source performance standards (NSPS).
414.56 Pretreatment standards for existing sources (PSES).
414.57 Pretreatment standards for new sources (PSNS).

Authority: Secs. 301, 304 (b), (c), (e), and (g), 306 (b) and (c), 307 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"); 3 U.S.C. 1311, 1314 (b), (c), (e) and (g), 1316 (b) and (c), 1317 (b) and (c), and 1361; 86 Stat. 816, Pub. L. 92–500; 91 Stat. 1567, Pub. L. 95–217.

Subpart A—General

§ 414.10 General definitions.

As used in this part:

(a) Except as provided in this regulation, the general definitions, abbreviations and methods of analysis set forth in Part 401 of this chapter shall apply to this part.

(b) "Pretreatment control authority" means: (1) The POTW if the POTW's submission for its pretreatment program has been approved in accordance with the requirements of 40 CFR 403.11, or (2) the Approval Authority if the submission has not been approved. "Priority pollutants" means the toxic pollutants listed in 40 CFR 401.15.

§ 414.11 Applicability.

The provisions of this part are applicable to discharges resulting from the manufacture of synthetic organic chemicals, plastics and synthetic fibers, except that they do not apply to any such discharges for which a different set of effluent limitations guidelines and standards in Parts 405 through 699 of this subchapter apply. They also do not apply to any discharges from the extraction of organic chemical compounds from natural materials.

§ 414.12 Compliance date for Pretreatment Standards for Existing Sources (PSES).

All dischargers subject to PSES in this part must comply with the standards no later than three years after promulgation of this regulation.

§ 414.13 Monitoring requirements.

(a) The pretreatment control authority shall specify monitoring type, intervals and frequency requirements for each industrial user for all pollutants controlled by the applicable categorical pretreatment standard (PSES) or (PSNS) in this part. The frequency shall be sufficient to yield data that are representative of the monitored activity.

(b) The permitting authority or pretreatment control authority may reduce the monitoring frequency for a particular pollutant to once per year if:

(1) The pollutant has not been detected during the preceding year at a level exceeding 10 μg/l;

(2) Based upon a review of all product/processes used at the plant whose effluents contribute to the discharge, the authority determines that the pollutant is not likely to be discharge above the concentration level set forth in the applicable effluent limitation or standard. In reviewing the product/processes used, the control authority shall separately review:

(i) All product/processes in operation when monitoring occurred, and

(ii) All other product/processes that are regularly scheduled to operate periodically; and

(3) The facility seeking a reduction in monitoring submits a certification by an authorized employee stating that:

(i) The certifier has knowledge of the information contained in the certification, based upon personal examination of the information or upon inquiry of those individuals immediately responsible for obtaining the information;

(ii) The facility has monitored the discharge for the pollutant one or more times during the twelve-month period preceding the submission of the certification, and the pollutant has in no case been detected at a level exceeding 10 μg/l; and

(iii) Based upon a review of the raw materials and raw material contaminants, generic processes and solvents used, products manufactured, and other information known by the certifier, the certifier concludes that the pollutant is unlikely to be discharged above the concentration level set forth in the applicable effluent limitation or standard.

Subpart B—Plastics Only Subcategory

§ 414.20 Applicability; description of the plastics only subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of plastics and synthetic fibers only.

§ 414.21 Specialized definitions.

For the purpose of this subpart:

Except as provided in 40 CFR 414.10(e) or below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 414.22 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable pollutant control technology (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve discharges not exceeding the quantity determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

SUBPART B

Pollutant or pollutant property	BPT effluent limitations [1]	
	Maximum for any 1 day	Maximum for monthly average
BOD5	49	22
TSS	117	36
pH	(2)	(2)

[1] All units except pH are milligrams per liter.
[2] Within the range of 6.0 to 9.0 at all times.

§ 414.23 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve

discharges not exceeding the quantity determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

SUBPART B

Pollutant or pollutant property	BPT effluent limitations [1]	
	Maximum for any 1 day	Maximum for monthly average
BOD5	49	22
TSS	117	36
pH	([2])	([2])

[1] All units except pH are milligrams per liter.
[2] Within the range of 6.0 to 9.0 at all times.

§ 414.24 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 through 125.32, any existing point source subject to this subpart must achieve discharges not exceeding the quantity determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

SUBPART B

Pollutant or pollutant property	BAT effluent limitations [1]	
	Maximum for any 1 day	Average of daily values for 4 consecutive monitoring days
Phenol	50	—
bis (2-ethylhexyl) phthalate	100	50
Acrolein	50	—
Ethylbenzene	50	—
Vinyl Chloride	50	—
Cadmium	30	20
Chromium	110	60
Copper	120	60
Lead	40	20
Cyanide	50	20

[1] All units are micrograms per liter. A dash (—) signifies no limitation.

§ 414.25 New source performance standards (NSPS).

Any new source subject to this subpart must achieve discharges not exceeding the quantity determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

SUBPART B

Pollutant or pollutant property	NSPS effluent limitations [1]	
	Maximum for any 1 day	Average of daily values for 4 consecutive monitoring days
Phenol	50	—
bis(2-ethylhexyl) phthalate	100	50
Acrolein	50	—
Ethylbenzene	50	—

SUBPART B—Continued

Pollutant or pollutant property	NSPS effluent limitations [1]	
	Maximum for any 1 day	Average of daily values for 4 consecutive monitoring days
Vinyl Chloride	50	—
Cadmium	30	20
Chromium	110	60
Copper	120	60
Lead	40	20
Cyanide	50	20

[1] All units except pH, BOD5 and TSS are micrograms per liter. BOD5 and TSS are milligrams per liter. A dash (—) signifies no limitation.

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
BOD5	49	22
TSS	117	36
pH	([2])	([2])

[2] Within the range of 6.0 to 9.0 at all times.

§ 414.26 Pertreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works (POTWs) must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

SUBPART B

Pollutant or pollutant property	Pretreatment standards for existing sources [1]	
	Maximum for any 1 day	Average of daily values for 4 consecutive monitoring days
Vinyl chloride	50	—
Acrolein	50	—
Cyanide	50	20
Lead	40	20

[1] All units are micrograms per liter. A dash (—) signifies no limitation.

§ 414.27 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7 any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

SUBPART B

Pretreatment standards for new sources [1]	Pollutant or pollutant property	
	Maximum for any 1 day	Average of daily values for 4 consecutive monitoring days
Vinyl chloride	50	—
Acrolein	50	—
Cyanide	50	20
Lead	40	20

[1] All units are micrograms per liter. A dash (—) signifies no limitation.

Subpart C—Oxidation Subcategory

§ 414.30 Applicability; description of the oxidation subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of organic chemicals only or both organic chemicals and plastics and synthetic fibers that include wastewater from the oxidation generic process.

§ 414.31 Specialized definitions.

For the purpose of this subpart:

(a) Except as provided in 40 CFR 414.10(e) or below, the general definitions, abbreviations, and methods of analysis set forth in 40 CFR 401 shall apply to this subpart.

(b) "High water-use" means a plant at which wastewater discharge is greater than or equal to 0.2 gallon per pound of total daily production.

(c) "Low water-use" means a plant at which wastewater discharge is less than 0.2 gallon per pound of daily production.

(d) "Daily production" means the annual production divided by the number of operating days in the year. Production shall be determined for each plant based upon past production practices, present trends, or committed growth.

§ 414.32 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable pollutant control technology (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve discharges not exceeding the quantity determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

(a) *High Water Use.*

SUBPART C(a)

Pollutant or pollutant property	BPT effluent limitations [1]	
	Maximum for any 1 day	Maximum for monthly average
BOD5	106	42
TSS	246	84
pH	([2])	([2])

[1] All units except pH are milligrams per liter.
[2] Within the range of 6.0 to 9.0 at all times.

Low Water Use.

SUBPART C(b)

Pollutant or pollutant property	BPT effluent limitations [1]	
	Maximum for any 1 day	Maximum for monthly average
BOD5	146	58
TSS	353	120
pH	([2])	([2])

[1] All units except pH are milligrams per liter.
[2] Within the range of 6.0 to 9.0 at all times.

§ 414.33 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve discharges not exceeding the quantity determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

(a) *High Water Use.*

SUBPART C(a)

Pollutant or pollutant property	BCT effluent limitations [1]	
	Maximum for any 1 day	Maximum for monthly average
BOD5	106	42
TSS	246	84
pH	([2])	([2])

[1] All units except pH are milligrams per liter.
[2] Within the range of 6.0 to 9.0 at all times.

(b) *Low Water Use.*

SUBPART C(b)

Pollutant or pollutant property	BCT Effluent Limitations[1]	
	Maximum for any 1 day	Maximum for monthly average
BOD5	146	58
TSS	353	120
pH	([2])	([2])

[1] All units except pH are milligrams per liter.
[2] Within the range of 6.0 to 9.0 at all times.

§ 414.34 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 through 125.32, any existing point source subject to this subpart must achieve discharges not exceeding the quantity determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

SUBPART C

Pollutant or pollutant property	BAT effluent limitations [1]	
	Maximum for any 1 day	Average of daily values for 4 consecutive monitoring days
2, 4, 6-trichlorophenol	175	100
2-chlorophenol	75	50
2, 4-dichlorophenol	200	100
2, 4-dimethylphenol	50	—
2-nitrophenol	100	75
4-nitrophenol	500	325
2, 4-dinitrophenol	150	100
pentachlorophenol	100	50
phenol	50	—
acenaphthene	50	—
1, 2, 4-trichlorobenzene	225	125
1, 2-dichlorobenzene	250	125
isophorone	50	—
bis (2-ethylhexyl) phthalate	350	150
di-n-butyl phthalate	300	150
diethyl phthalate	275	125
dimethyl phthalate	375	175
acenaphthylene	50	—
flourene	50	—
phenanthrene	50	—
benzene	125	75
carbon tetrachloride	50	—
1, 2-dichloroethane	150	100
1, 1, 1-trichloroethane	50	—
1, 1-dichloroethane	225	125
1, 1, 2-trichloroethane	75	50
chloroethane	50	—
chloroform	75	50
1, 1-dichloroethylene	125	75
ethylbenzene	275	150
methylene chloride	50	—
methyle chloride	50	—
methyl bromide	50	—
dichlorobromomethane	50	—
toluene	225	125
trichloroethylene	75	50
antimony	780	370
cadmium	70	40
chromium	190	90
copper	150	70
lead	70	40
mercury	90	50
zinc	210	100
cyanide	410	180

[1] All units are micrograms per liter. A dash (—) signifies no limitation.

§ 414.35 New source performance standards (NSPS).

Any new source subject to this subpart must achieve discharges not exceeding the quantity determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

SUBPART C

Pollutant or pollutant property	NSPS effluent limitations [1]	
	Maximum for any 1 day	Average of daily values for 4 consecutive monitoring days
2, 4, 6-trichlorophenol	175	100
2-chlorophenol	75	50
2, 4-dichlorophenol	200	100

SUBPART C—Continued

Pollutant or pollutant property	NSPS effluent limitations [1]	
	Maximum for any 1 day	Average of daily values for 4 consecutive monitoring days
2, 4-dimethylphenol	50	—
2-nitrophenol	100	75
4-nitrophenol	500	325
2, 4-dinitrophenol	150	100
pentachlorophenol	100	50
phenol	50	—
acenaphthene	50	—
1, 2, 4-trichlorobenzene	225	125
1, 2-dichlorobenzene	250	125
isophorone	50	—
bis(2-ethylhexyl) phthalate	350	150
di-n-butyl phthalate	300	150
diethyl phthalate	275	125
dimethyl phthalate	375	175
acenaphthylene	50	—
fluorene	50	—
phenanthrene	50	—
benzene	125	75
carbon tetrachloride	50	—
1, 2-dichloroethane	150	100
1, 1, 1-trichloroethane	50	—
1, 1-dichloroethane	225	125
1, 1, 2-trichloroethane	75	50
chloroethane	50	—
chloroform	75	50
1, 1-dichloroethylene	125	75
ethylbenzene	275	150
methylene chloride	50	—
methyl chloride	50	—
methyl bromide	50	—
dichlorobromomethane	50	—
toluene	225	125
trichloroethylene	75	50
antimony	780	.370
cadmium	70	40
chromium	190	90
copper	150	70
lead	70	40
mercury	90	50
zinc	210	100
cyanide	410	180

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
High Water Use:		
BOD5	106	42
TSS	246	84
pH	([2])	([2])
Low Water Use:		
BOD5	146	58
TSS	353	120
pH	([2])	([2])

[1] All units except pH, BOD5 and TSS are micrograms per liter. BOD5 and TSS are milligrams per liter. A dash (—) signifies no limitation.
[2] Within the range of 6.0 to 9.0 at all times.

§ 414.36 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works (POTWs) must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES).

SUBPART C

Pollutant or pollutant property	Pretreatment standards for existing sources [1]	
	Maximum for any 1 day	Average of daily values for 4 consecutive monitoring days
2,4,6-trichlorophenol	175	100
2-chlorophenol	75	50
2,4-dichlorophenol	200	100
2,4-dimethylphenol	50	—
2-nitrophenol	100	75
4-nitrophenol	500	325
2,4-dinitrophenol	150	100
isophorone	50	—
dimethyl phthalate	375	175
acenaphthylene	50	—
fluorene	50	—
phenanthrene	50	—
1,2-dichloroethane	150	100
chloroethane	50	—
methyl bromide	50	—
chromium	190	90
mercury	90	50

[1] All units are micrograms per liter. A dash (—) signifies no limitation.

§ 414.37 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS).

SUBPART C

Pollutant or pollutant property	Pretreatment standards for new sources [1]	
	Maximum for any 1 day	Average of daily values for 4 consecutive monitoring days
2,4,6-trichlorophenol	175	100
2-chlorophenol	75	50
2,4-dichlorophenol	200	100
2,4-dimethylphenol	50	—
2-nitrophenol	100	75
4-nitrophenol	500	325
2,4-dinitrophenol	150	100
isophorone	50	—
dimethyl phthalate	375	175
acenaphthylene	50	—
fluorene	50	—
phenanthrene	50	—
1,2-dichloroethane	150	100
chloroethane	50	—
methyl bromide	50	—
chromium	190	90
mercury	90	50

[1] All units are micrograms per liter. A dash (—) signifies no limitation.

Subpart D—Type I Subcategory

§ 414.40 Applicability; description of Type I subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of organic chemicals only or both organic chemicals and plastics and synthetic fibers that include wastewater from any of the following ("Type I") generic processes but not from the oxidation generic process.

Peroxidation	Hydration
Acid Cleavage	Alkoxylation
Condensation	Hydrolysis
Isomerization	Carbonylation
Esterification	Hydrogenation
Hydroacetylation	Neutralization

§ 414.41 Specialized definitions.

For the purpose of this subpart: Except as provided in 40 CFR § 414.10(e) the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 414.42 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable pollutant control technology (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve discharges not exceeding the quantity determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

SUBPART D

Pollutant or pollutant property	BPT effluent limitation [1]	
	Maximum for any 1 day	Maximum for monthly average
BOD5	100	40
TSS	137	47
pH	([2])	([2])

[1] All units except pH are milligrams per liter.
[2] Within the range of 6.0 to 9.0 at all times.

§ 414.43 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve discharges not exceeding the quantity determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

SUBPART D

Pollutant or pollutant property	BCT effluent limitation [1]	
	Maximum for any 1 day	Maximum for monthly average
BOD5	100	40
TSS	137	47
pH	([2])	([2])

[1] All units except pH are milligrams per liter.
[2] Within the range of 6.0 to 9.0 at all times.

§ 414.44 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 through 125.32, any existing point source subject to this subpart must achieve discharges not exceeding the quantity determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

SUBPART D

Pollutant or pollutant property	BAT effluent limitations [1]	
	Maximum for any 1 day	Average of daily values for 4 consecutive monitoring days
2,4,6-trichlorophenol	175	100
2-chlorophenol	75	50
2,4-dichlorophenol	200	100
2,4-dimethylphenol	50	—
2-nitrophenol	100	75
4-nitrophenol	500	325
2,4-dinitrophenol	150	100
pentachlorophenol	100	50
phenol	50	—
acenaphthene	50	—
1,2,4-trichlorobenzene	225	125
1,2-dichlorobenzene	250	125
isophorone	50	—
bis(2-ethylhexyl) phthalate	350	150
di-n-butyl phthalate	300	150
diethyl phthalate	275	125
dimethyl phthalate	375	175
acenaphthylene	50	—
fluorene	50	—
phenanthrene	50	—
benzene	125	75
carbon tetrachloride	50	—
1,2-dichloroethane	150	100
1,1,1-trichloroethane	50	—
1,1-dichloroethane	225	125
1,1,2-trichloroethane	75	50
chloroethane	50	—
chloroform	75	50
1,1-dichloroethylene	125	75
ethylbenzene	275	150
methylene chloride	50	—
methyl chloride	50	—
methyl bromide	50	—
dichlorobromomethane	50	—
toluene	225	125
trichloroethylene	75	50
antimony	780	370
cadmium	70	40
chromium	190	90
copper	150	70
lead	70	40
mercury	90	50
zinc	210	100
cyanide	410	180

[1] All units are micrograms per liter. A dash (—) signifies no limitation.

§ 414.45 New source performance standards (NSPS).

Any new source subject to this subpart must achieve discharges not exceeding the quantity determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

SUBPART D

Pollutant or pollutant property	NSPS effluent limitations [1]	
	maximum for any 1 day	Average of daily values for 4 consecutive monitoring days
2,4,6-trichlorophenol	175	100
2-chlorophenol	75	50
2,4-dichlorophenol	200	100
2,4-dimethylphenol	50	—
2-nitrophenol	100	75
4-nitrophenol	500	325
2,4-dinitrophenol	150	100

SUBPART D—Continued

Pollutant or pollutant property	NSPS effluent limitations [1]	
	maximum for any 1 day	Average of daily values for 4 consecutive monitoring days
pentachlorophenol	100	50
phenol	50	—
acenaphthene	50	—
1,2,4-trichloroobenzene	225	125
1,2-dichlorobenzene	250	125
isophorone	50	—
bis(2-ethylhexyyl) phthalate	350	150
di-n-butyl phthalte	300	150
diethyl phthalate	275	125
dimethyl phthalate	375	175
acenaphthylene	50	—
fluorene	50	—
Phenanthrene	50	—
benzene	125	75
carbon tetrachloride	50	—
1,2-dichloroethane	150	100
1,1,1-trichloroethane	50	—
1,1-dichloroethane	225	125
1,1,2-trichloroethane	75	50
chloroethane	50	—
choloroform	75	50
1,1-dichloroethylene	125	75
ethylbenzene	275	150
methylene chloride	50	—
methyl chloride	50	—
methyl bromide	50	—
dichlorobromomethane	50	—
toluene	225	125
trichloroethylene	75	50
antimony	780	370
cadmium	70	40
chromium	190	90
copper	150	70
lead	70	40
mercury	90	50
zinc	210	100
cyanide	410	180

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
BOD5	100	40
TSS	137	47
pH	([1])	([1])

[1] All units except pH, BOD5 and TSS are micrograms per liter. BOD5 and TSS are milligrams per liter. A dash (—) signifies no limitation.

§ 414.46 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works (POTWs) must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES).

SUBPART D

Pollutant or pollutant property	Pretreatment standards for existing sources [1]	
	Maximum for any 1 day	Average of daily values for 4 consecutive monitoring days
2,4,6-trichlorophenol	175	100
2-chlorophenol	75	50
2,4-dichlorophenol	200	100
2,4-dimethylphenol	50	—
2-nitrophenol	100	75

SUBPART D—Continued

Pollutant or pollutant property	Pretreatment standards for existing sources [1]	
	Maximum for any 1 day	Average of daily values for 4 consecutive monitoring days
4-nitrophenol	500	325
2,4-dinitrophenol	150	100
isophorone	50	—
dimethyl phthalate	375	175
acenaphthylene	50	—
flourene	50	—
phenanthrene	50	—
1,2-dichloroethane	150	100
chloroethane	50	—
methyl bromide	50	—
chromium	190	90
mercury	90	50

[1] All units are micrograms per liter. A dash (—) signifies no limitation.

§ 414.47 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS).

Subpart D

Pollutant or pollutant property	Pretreatment standards for new sources [1]	
	Maximum for any 1 day	Average of daily values for 4 consecutive monitoring days
2,4,6-trichlorophenol	175	100
2-chlorophenol	75	50
2,4:dichlorophenol	200	100
2,4:dimethylphenol	50	—
2-nitrophenol	100	75
4-nitrophenol	500	325
2,4-dinitrophenol	150	100
isophorone	50	—
dimethyl phthalate	375	175
acenaphthylene	50	—
fluorene	50	—
phenanthrene	50	—
1,2-dichloroethane	150	100
chloroethane	50	—
methyl bromide	50	—
chromium	190	90
mercury	90	50

[1] All units are micrograms per liter. A dash (—) signifies no limitation.

Subpart E—Other Discharges Subcategory

§ 414.50 Applicability; description of other discharges subcategory.

The provisions of this subpart are applicable to discharges resulting from the manufacture of organic chemicals only or both organic chemicals and plastics and synthetic fibers that are not subject to subparts B, C and D of this part.

§ 414.51 Specialized definitions.

For the purpose of this subpart:

Except as provided in 40 CFR 414.10(e) the general definitions, abbreviations, and methods of analysis set forth in 40 CFR Part 401 shall apply to this subpart.

§ 414.52 Effluent limitations representing the degree of effluent reduction attainable by the application of the best practicable pollutant control technology (BPT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve discharges not exceeding the quantity determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

SUBPART E

Pollutant or pollutant property	BPT effluent limitations [1]	
	Maximum for any 1 day	Maximum for monthly average
BOD5	69	28
TSS	115	39
pH	([2])	([2])

[1] All units except pH are milligrams per liter.
[2] Within the range of 6.0 to 9.0 at all times.

§ 414.53 Effluent limitations representing the degree of effluent reduction attainable by the application of the best conventional pollutant control technology (BCT).

Except as provided in 40 CFR 125.30 through 125.32, any existing point source subject to this subpart must achieve discharges not exceeding the quantity determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

SUBPART E

Pollutant or pollutant property	BCT effluent limitations [1]	
	Maximum for any 1 day	Maximum for monthly average
BOD5	69	28
TSS	115	39
pH	([2])	([2])

[1] All units except pH are milligrams per liter.
[2] Within the range of 6.0 to 9.0 at all times.

§ 414.54 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 through 125.32, any existing point source subject to this subpart must achieve discharges not exceeding the quantity determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

SUBPART E

Pollutant or pollutant property	BAT effluent limitations [1]	
	Maximum for any 1 day	Average of daily values for 4 consecutive monitoring days
2,4,6-trichlorophenol	175	100
2-chlorophenol	75	50
2,4-dichlorophenol	200	100
2,4-dimethylphenol	50	—
2-nitrophenol	100	75
4-nitrophenol	500	325
2,4-dinitrophenol	150	100
pentachlorophenol	100	50
phenol	50	—
acenaphthene	50	—
1,2,4-trichlorobenzene	225	125
1,2-dichlorobenzene	250	125
isophorone	50	—
bis(2-ethylhexy) phthalate	350	150
di-n-butyl phthalate	300	150
diethyl phthalate	275	125
dimethyl phthalate	375	175
acenaphthylene	50	—
fluorene	50	—
phenanthrene	50	—
benzene	125	75
carbon tetrachloride	50	—
1,2-dichloroethane	150	100
1,1,1-trichloroethane	50	—
1,1-dichloroethane	225	125
1,1,2-trichloroethane	75	50
chloroethane	50	—
chloroform	75	50
1,1-dichloroethylene	125	75
ethylbenzene	275	150
methylene chloride	50	—
methyl chloride	50	—
methyl bromide	50	—
dichlorobromomethane	50	—
toluene	225	125
trichloroethylene	75	50
antimony	780	370
cadmium	70	40
chromium	190	90
copper	150	70
lead	70	40
mercury	90	50
zinc	210	100
cyanide	410	180

[1] All units are micrograms per liter. A dash (—) signifies no limitation.

§ 414.55 New source performance standards (NSPS).

Any new source subject to this subpart must achieve discharges not exceeding the quantity determined by multiplying the process wastewater flow subject to this subpart times the concentration listed in the following table.

SUBPART E

Pollutant or pollutant property	NSPS effluent limitations [1]	
	Maximum for any 1 day	Average of daily values for 4 consecutive monitoring days
2,4,6-trichlorophenol	175	100
2-chlorophenol	75	50

SUBPART E—Continued

Pollutant or pollutant property	NSPS effluent limitations [1]	
	Maximum for any 1 day	Average of daily values for 4 consecutive monitoring days
2,4-dichlorophenol	200	100
2,4-dimethylphenol	50	—
2-nitrophenol	100	75
4-nitrophenol	500	325
2,4-dinitrophenol	150	100
pentachlorophenol	100	50
phenol	50	—
acenaphthene	50	—
1,2,4-trichlorobenzene	225	125
1,2-dichlorobenzene	250	125
isophorone	50	—
bis(2-ethylhexyl phthalate	350	150
di-n-butyl phthalate	300	150
diethyl phthalate	275	125
dimethyl phthalate	375	175
acenaphthylene	50	—
fluorene	50	—
phenanthrene	50	—
benzene	125	75
carbon tetrachloride	50	—
1,2-dichloroethane	150	100
1,1,1-trichloroethane	50	—
1,1-dichloroethane	225	125
1,1,2-trichloroethane	75	50
chloroethane	50	—
chloroform	75	50
1,1-dichloroethylene	125	75
ethylbenzene	275	150
methylene chloride	50	—
methyl chloride	50	—
methyl bromide	50	—
dichlorobromomethane	50	—
toluene	225	125
trichloroethylene	75	50
antimony	780	370
cadmium	70	40
chromium	190	90
copper	150	70
lead	70	40
mercury	90	50
zinc	210	100
cyanide	410	180

Pollutant or pollutant property	Maximum for any 1 day	Maximum for monthly average
BOD5	69	28
TSS	115	39
PH	(2)	(2)

[1] All units except pH, BOD5 and TSS are micrograms per liter. BOD5 and TSS are milligrams per liter. A dash (—) signifies no limitation.
[2] Within the range of 6.0 to 9.0 at all times.

§ 414.56 Pretreatment standards for existing sources (PSES).

Except as provided in 40 CFR 403.7 and 403.13, any existing source subject to this subpart that introduces pollutants into a publicly owned treatment works (POTWs) must comply with 40 CFR Part 403 and achieve the following pretreatment standards for existing sources (PSES):

SUBPART E

Pollutant or pollutant property	Pretreatment standards for existing sources [1]	
	Maximum for any 1 day	Average of daily values for 4 consecutive monitoring days
2,4,6-trichlorophenol	175	100
2-chlorophenol	75	50
2,4-dichlorophenol	200	100
2,4-dimethylphenol	50	—
2-nitrophenol	100	75
4-nitrophenol	500	325
2,4-dinitrophenol	150	100
isophorone	50	—
dimethyl phthalate	375	175
acenaphthylene	50	—
fluorene	50	—
phenanthrene	50	—
1,2-dichloroethane	150	100
chloroethane	50	—
methyl bromide	50	—
chromium	190	90
mercury	90	50

[1] All units are micrograms per liter. A dash (—) signifies no limitations.

§ 414.57 Pretreatment standards for new sources (PSNS).

Except as provided in 40 CFR 403.7, any new source subject to this subpart that introduces pollutants into a publicly owned treatment works must comply with 40 CFR Part 403 and achieve the following pretreatment standards for new sources (PSNS):

SUBPART E

Pollutant or pollutant property	Pretreatment Standards for New Sources [1]	
	Maximum for any 1 day	Average of daily values for 4 consecutive monitoring days
2,4,6-trichlorophenol	175	100
2-chlorophenol	75	50
2,4-dichlorophenol	200	100
2,4-dimethylphenol	50	—
2-nitrophenol	100	75
4-nitrophenol	500	325
2,4-dinitrophenol	150	100
isophorone	50	—
dimethyl phthalate	375	175
acenaphthylene	50	—
fluorene	50	—
phenanthrene	50	—
1,2-dichloroethane	150	100
chloroethane	50	—
methyl bromide	50	—
chromium	190	90
mercury	90	50

[1] All units are micrograms per liter. A dash (—) signifies no limitation.

[FR Doc. 83-6620 Filed 3-18-83; 8:45 am]
BILLING CODE 6560-50-M

federal register

Monday
March 21, 1983

Part III

Environmental Protection Agency

Motor Vehicles; Emission Control System Performance Warranty Short Tests

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part Part 85

[AMS-FRL 2198-6]

Motor Vehicles; Emission Control System Performance Warranty Short Tests; Additional Short Tests and Other Amendments

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to amend the Emission Control System Performance Warranty Short Tests as provided in Section 207(b) of the Clean Air Act, 42 U.S.C. 7541(b), and as established May 22, 1980 (45 FR 34802).

Under a provision contained in the existing short test regulations (40 CFR 85.2211), Ford Motor Co. has requested that the Administrator approve an alternative short test procedure for its 1981 and later model year vehicles. This Notice proposes to approve the alternative short test procedure requested by Ford. This test procedure is also proposed for non-Ford vehicles as an optional test.

Secondly, this action also proposes to establish a variation of an existing short test for use with the warranty: the 2500 rpm/Idle Test.

Thirdly, this action proposes to establish a process States and other Inspection/Maintenance (I/M) authorities can use to gain EPA approval for certain quality control procedures which are different but equally or more effective than the procedures now specified in the short test regulations.

Lastly, this action proposes to make specific the total error limit for inspection analyzers. Adjustments are required if the sum of the leak plus electronic errors of an instrument exceed ±5%.

DATES: There will be a 60 day public comment period following publication of this Notice in the **Federal Register** for the proposed rules. Any requests for a public hearing should be submitted within 10 days of publication.

ADDRESSES: Comments should be submitted (4 copies if possible) to Central Docket Section (A-130), Environmental Protection Agency, Attn: Docket No. A-81-40, 401 M Street SW., Washington, D.C. 20460. In addition, the dockets of the original emission performance warranty rulemaking, Nos. EN-79-6 and EN-79-8, are hereby incorporated by reference into this docket. The docket is located in the U.S. EPA, Central Docket Section, West Tower Lobby, Gallery I, 401 M St. SW., Washington, D.C. The docket may be inspected between 8 a.m. and 4 p.m. on weekdays. As provided in 40 CFR Part 2, EPA may charge a reasonable fee for copying.

FOR FURTHER INFORMATION CONTACT: Phil Lorang, Emission Control Technology Division, U.S. Environmental Protection Agency, 2565 Plymouth Road, Ann Arbor, Michigan 48105, telephone: (313) 668-4374.

SUPPLEMENTARY INFORMATION: Section 207(b) of the Clean Air Act as amended, 42 U.S.C. 7541(b), requires the Administrator to establish testing procedures to be used for determining in-use vehicle compliance with emission standards if the Administrator determines that the procedures are in accordance with good engineering practices and are reasonably capable of being correlated with the certification test (Federal Test Procedure (FTP)). The Administrator also is required to prescribe regulations requiring manufacturers to warrant their vehicles' emission control systems when the Administrator determines that the facilities and equipment needed to perform the test procedures are available. On May 22, 1980, the Administrator made the necessary findings and established three such testing procedures, or "short tests" (45 FR 34802), and promulgated the emissions performance warranty regulations (45 FR 34829). The three short tests are called the Idle Test, the Two Speed Idle Test and the Loaded Test. These short tests are to be used in State or local vehicle Inspection/Maintenance (I/M) programs, and the performance warranty covers any 1981 or later light-duty vehicle or light-duty truck owner subject to any sanction for failing an approved short test for the vehicle's statutory useful life of 5 years or 50,000 miles if the vehicle was maintained in accordance with the manufacturer's instructions.

I. Proposal To Approve an Alternative Short Test in Response To Ford Petition

A. *Basis for the Proposal.* Under § 85.2211 of 40 CFR, Ford Motor Company has requested that the Administrator promulgate an alternative short test for Ford vehicles. The basis for this request is that a high percentage of certain 1981 and later Ford vehicles will incorrectly fail the existing Idle Test and Two Speed Idle Test if they idle too long prior to testing. The existing tests in question place no limitation on how long a vehicle may idle before the test. These incorrect failures are the result of a design feature in the air pump control system which routes air from the air pump (secondary air) to the atmosphere instead of the exhaust stream after 60-120 seconds at idle. This can result in an increase in idle HC and CO emissions that may cause the vehicles to fail the short tests even though the same vehicles would pass the Federal Test Procedure (FTP), which does not include extended idle periods greater than those found during normal driving cycles.

Not all Ford vehicles display the same sensitivity (increase in idle HC and CO emissions) to the loss of secondary air. In addition, some but not all of these Ford vehicles reroute secondary air to the exhaust with 2500 rpm preconditioning, which allows them to be tested properly with the Two-Speed Idle Test and with the Idle Test with optional 2500 rpm preconditioning. However, EPA believes that enough Ford vehicles are sensitive and enough cannot reroute air to the exhaust with 2500 rpm preconditioning to warrant some action to prevent a disproportionate number of incorrect failures on Ford vehicles. Although one alternative would be to require I/M programs to limit the amount of idling prior to testing to no more than 60 seconds, most programs could not effectively control the amount of vehicle idling that occurs immediately prior to testing. Providing an alternate test that ensures that the secondary air is routed to the exhaust at the time of measuring the pollutant concentrations is the most efficient means to correct this situation. Since Ford's unique air control system can result in a higher short test failure rate than that assumed by EPA when it established the short tests, Ford is entitled to relief under § 85.2211.

EPA has authority under 40 CFR 86.077-2(b) to deny vehicle certification if an auxiliary emission control device that reduces the effectiveness of the emission control system under normal operating conditions is used, unless its use is justified to prevent damage or accident. EPA has approved certification of vehicles with this air control system on the basis that it was necessary to prevent the catalyst from overheating. Basing design of a system on catalyst protection is commendable. Nevertheless, because of the potential emissions effect, EPA plans to explore with Ford whether the continued use of this system is necessary, whether there are any alternative systems which can accomplish the same purpose without any adverse effect on idle emissions, or whether the frequency of occurrence in normal urban driving of prolonged idle is so infrequent and the emission increase small enough to result in an

insignificant effect on emissions during urban driving.

The correspondence between EPA and Ford on this alternate short test is available in the docket. Also in the docket is a report entitled "Technical Appendix to **Federal Register** Notice of Proposed Rulemaking: Alternative Emissions Peformance Warranty Short Test for Ford Vehicles; 2500 RPM/Idle Test." This report contains extensive discussions on the causes of the problems which Ford vehicles may experience on the current short tests, plus all EPA and Ford data that are relevant to the problem. Copies of this report may also be obtained from the Information Contact listed at the beginning of these proposed rules. Overall, EPA believes that the technical justification for Ford's request is valid for at least some Ford engine families and may be valid for others, and that the test requested by Ford should therefore be proposed.

EPA also believes that the short test proposed for Ford vehicles meets the statutory criteria of being "available, * * * in accordance with good engineering practices, and * * * is reasonably capable of being correlated with (certification tests)" (45 FR 34802 column 3). Furthermore, the test proposed for Ford results in similar air quality benefits as the currently approved short tests. These items are discussed further in the Technical Appendix to this document, which is available from the Information Contact listed at the beginning of this action, and is also available from the docket.

B. *Ford's Proposed Short Test Procedure.* Ford has requested that the following procedure be required for all Ford vehicles. The short test procedure involves three steps: first, the ignition is turned off; second, the vehicle is restarted and the engine is operated at 2500 rpm ±300 rpm for 30 seconds; [1] and third, the vehicle is returned to idle and idle emissions are measured within 30 seconds. This will hereinafter be referred to as the Engine Restart Idle Test.

Ford has not requested different standards for the Engine Restart Idle Test; therefore, the Engine Restart Idle Test is proposed with standards of 1.2% CO and 220 ppm HC (as hexane). These are the same standards as those for the Idle Test and the Loaded Test.

C. *Proposed Action.* Although EPA first considered making the alternative short test applicable to only those 1981 and later Ford vehicles that have problems with the current short tests, and then considered making the alternative test applicable to only all 1981 and later Ford vehicles, EPA is proposing the Engine Restart Idle Test as an approved test for *all* 1981 and later vehicles. Reasons why this action was chosen are discussed in Section F—"Alternatives Not Proposed" and in the Technical Appendix. There appears to be no technical reason why the Engine Restart Idle Test would adversely affect the short test results for non-Ford vehicles. EPA wishes to protect other auto manufacturers' rights, and therefore invites comment as to whether making this test applicable for all vehicles would adversely affect any manufacturer. Comments should be specific as to how and why short test emissions might increase with the Engine Restart Idle Test. Also, EPA invites comment on whether the action of proposing the alternative test for all 1981 and later vehicles is in fact needed or desired by I/M administrators to make I/M programs more practical to administer.

D. *Effects of Proposed Action on Inspection and Maintenance Programs.* By proposing that the Engine Restart Idle Test be approved for all vehicles, States and localities implementing I/M could choose the least burdensome method of obtaining warranty coverage for Ford vehicles. Any one of six options which would be created if EPA takes the proposed action could be used: (1) Implement the Engine Restart Idle Test for all vehicles regardless of model year or manufacturer; (2) implement the Engine Restart Idle Test for all Ford vehicles regardless of model year; (3) implement the Engine Restart Idle Test for all 1981 and later vehicles; (4) implement the Engine Restart Idle Test only for 1981 and later Ford vehicles; (5) implement the Engine Restart Idle Test only for Ford vehicles, regardless of model year, which have failed another warranty test implemented for all other vehicles (such as the Idle Test); (6) implement the Engine Restart Idle Test only for 1981 and later Ford vehicles which have failed another warranty test implemented for all other vehicles. Of course, in all cases the Emissions Performance Warranty extends only to 1981 and later model year vehicles.

Under the first option, I/M programs could implement the Engine Restart Idle Test for all vehicles. Some I/M programs, particularly decentralized ones, might want to do this so as to reduce the number of short tests an inspector must learn. Centralized programs are concerned with obtaining the highest throughput in their facilities. The Engine Restart Idle Test requires slightly more time to complete than some of the other warranty short tests (i.e., the Idle Test) that might be selected by centralized programs; therefore, centralized programs might select one of the other options.

Under the second, third, and fourth options, I/M programs could implement the Engine Restart Idle Test for the certain specified vehicles, and have a separate test for other vehicles. Decentralized program inspectors would have to learn two short tests. Centralized programs would have a time savings over the situation in which the Engine Restart Idle Test were implemented for all vehicles, regardless of model year. However, all inspectors would have to learn to discern one type of vehicle from the other, based on model year and/or manufacturer.

Model year indentification could be accomplished by the inspector examining the vehicle registration card, the Vehicle Identification Number (VIN), or the emission control label in the engine compartment. Most States require the owner of a vehicle to have the registration card in the vehicle when the vehicle is driven. The VIN is printed on a tag in the upper left-hand corner of the dash, above the instrument panel, and can be easily sighted through the windshield. The emission control lable is usually affixed to either the inside of the engine hood or around the area of the hood latch mechanism. In any event, inspectors should be able to develop quick and reliable ways of determining a vehicle's model year. Identification of manufacturer should not be a problem as most cars are clearly marked, and most inspectors would quickly learn the differences, if they did not already know them.

Under the fifth option, I/M programs could implement the Engine Restart Idle Test only on all Ford vehicles which had already failed another short test the State may be using. In other words, Ford vehicles would be given a second chance with the Engine Restart Idle Test, regardless of model year. Centralized I/M programs might choose this option, since it would likely result in fewer Ford cars being tested with the longer duration Engine Restart Idle Test. For example, if the Idle Test with 2500 rpm preconditioning is used to inspect all vehicles initially, only the Ford vehicles whose secondary air injection system is not reset by 2500 rpm operation will possibly fail the test incorrectly due to secondary air being diverted to the atmosphere. Only those Ford vehicles would need to be retested with the Engine Restart Idle Test. (See

[1] Ford originally requested a 90–100 second period of 2500 rpm operation following restart, but later requested that this be shortened to 30 seconds.

the Technical Appendix in the public docket for a detailed explanation of subtypes of Ford vehicles and their test requirements.)

Under the sixth and final option, I/M programs could implement the Engine Restart Idle Test only on 1981 and later Ford vehicles which fail another short test the State might be using. The same discussions apply here as in option five, except that inspectors would again need to determine the model year of Ford vehicles.

E. *Summary Description of Proposed Action.* 1. Establish the test requested by Ford as a replacement for the Idle and Two Speed Idle Tests. Any 1981 or later Ford vehicle would need to fail either the Engine Restart Idle Test or the currently approved Loaded Test in order to receive warranty coverage. The Engine Restart Idle Test would be used with standards of 1.2% CO and 220 ppm HC.

2. Delete the label requirement contained in § 85.2211(b) for 1981 and 1982 model year Fords but require it for 1983 and later model year Fords. This label requirement states that any alternative test procedure must be specified on the emission control label to be effective for a given vehicle. Since the 1982 model year is already underway, it is impossible for this requirement to be met for the 1981 model year or the majority of 1982 production.

3. Establish the Engine Restart Idle Test as an option for all non-Ford vehicles. The test would be used with standards of 1.2% CO and 220 ppm HC.

More specific language describing the proposed action can be found in the proposed regulations.

F. *Alternatives Not Proposed.* The following briefly described the various alternatives which were examined and why they were not proposed.

1. Take no action: This might have been unfair to Ford, since the available evidence (presented in the Technical Appendix) indicates that a significant number of Ford vehicles would be incorrectly failed by the existing Idle Test and Two-Speed Idle Test if they are allowed to idle too long before the test.

2. Leave only the Loaded Test approved for Fords: This would have forced I/M programs to adopt this more expensive and complex test in order to ensure warranty coverage for Ford vehicle owners. Since a workable nonloaded test—the Engine Restart Idle Test—is available, this would have imposed an unnecessary burden. Also, some I/M programs might not implement the Loaded Test, leaving some Ford owners unprotected by the warranty.

3. Establish one test for some types of Ford vehicles and another test for other types: There are two ways of segregating Ford vehicles into different groups receiving different test procedures. The first way assumes that all Fords must be tested with the benefit of secondary air, regardless of whether or not they are sensitive to the loss of secondary air. The Engine Restart Idle Test would be required only on those Fords with systems that do not route air to the exhaust stream at 2500 rpm operation. The Two-Speed Idle Test or the Idle Test with 2500 rpm preconditioning would be acceptable on all other Fords and the Idle Test without 2500 rpm preconditioning would be unacceptable, but the Engine Restart Idle Test would also be acceptable for these vehicles (and all others).

In this alternative EPA would have to list in the short test regulations those engine families that need the Engine Restart Idle Test to ensure proper routing of the secondary air. This information has been submitted by Ford Motor Company for the 1981 model year, but may change in later model years. I/M inspectors would have to identify these vehicles in I/M lanes. One way to do this is by lifting the hood of the car and reading the emission label. Although these labels are seldom removed they can become dirty, cracked, or otherwise rendered unreadable after a short period of vehicle operation. A second method of identifying these Ford vehicles which require the Engine Restart Idle Test would be through the Vehicle Identification Number (VIN). For example, based on Ford's submission, only the 1981 Mercury Marquis and Ford LTD models with a "D" or "F" in the 8th position of the VIN will require the special test for proper routing of secondary air. Others could be tested with a different test, but could also be tested with the special test. Quick and proper identification of these vehicles via the label or even the VIN might not always be possible for I/M inspectors, however, due to lack of inspector care, proficiency, and supervision. Also, Ford might change its designs in subsequent model years such that other models with different VIN codes might need the special test. Inspectors would then be faced with a bigger job in trying to determine which Ford vehicles need the special test. Therefore, EPA believes that this first way of implementing separate tests for different groups of Ford vehicles is less preferable than requiring one test for all 1981 and later Ford vehicles.

The second way EPA could propose one test for one group of Ford vehicles and another test for another group would be to require the Engine Restart Idle Test only on those Ford vehicles which are proved by short test results to be sensitive to the absence of secondary air and which need the Engine Restart Idle Test to ensure the presence of secondary air. The Two-Speed Idle Test or Idle Test with 2500 rpm preconditioning would be acceptable for other sensitive Fords but not the Idle Test without 2500 rpm preconditioning; I/M programs could use any of the 207(b) short tests for nonsensitive Fords. States could implement the Engine Restart Idle Test for all Ford and non-Ford vehicles if they prefer to use a single test.

There are two reasons why this alternative was not proposed. First and most importantly, there is not enough data to determine conclusively which 1981 and 1982 families are sensitive to the absence of secondary air. Second, 1983 and later Ford engine families may be different, requiring a new rulemaking each year. The previously stated difficulties in identifying particular Ford vehicles are also a consideration. Therefore, EPA believes that this alternative is also less preferable.

4. Establish the Engine Restart Idle Test only for 1981 and later Ford vehicles: EPA considered approving the Engine Restart Idle Test for 1981 and later Ford vehicles only. All other vehicles would need to be tested with one of the other three existing short tests. However, EPA thought that some I/M programs would want to use a single short test for all vehicles. This would eliminate the need for inspectors to identify Fords from non-Fords, and would eliminate the need for inspectors to learn two tests. EPA could find no technical reason why the Engine Restart Idle Test should not be applicable to non-Fords, so it was proposed for all vehicles. However, EPA is interested in other parties' and other manufacturers' views on this applicability.

G. *Request for Comments.* Comments are specifically requested in the following areas. Comments not related to these specific areas may, of course, also be submitted. However, it is not EPA's intention in this rulemaking to reopen issues of statutory interpretation which were decided in the original 207(b) rulemaking (45 FR 34802). All comments should be submitted to the Public Docket at the address given earlier in this notice.

1. Other alternative procedures which might be simpler, shorter or easier to administer than the procedure requested by Ford.

2. Other possible methods of implementing the Engine Restart Idle Test which may provide savings in time or administrative complexity.

3. Appropriateness of approving the Engine Restart Idle Test for all vehicles. Manufacturers objecting to the use of the Engine Restart Idle Test on their vehicles should provide technical discussions and/or data as to why the Engine Restart Idle Test should not be used on their vehicles.

4. Other potential effects of the proposed action which were not discussed in this notice, including any adverse effects on State or local I/M programs.

5. Whether the typical amount of vehicle idling prior to testing in I/M programs is enough for a significant number of Ford vehicles to incorrectly fail the current short tests.

6. Whether any of the alternatives which were not proposed should be preferred over the one that is being proposed.

II. 2500 rpm/Idle Test

A. Introduction. The Two Speed Idle test is the only one of the three currently specified short tests in which compliance can be determined at 2500 rpm as well as at idle. EPA would like to make available another short test in which compliance can be determined at 2500 rpm and idle. EPA is proposing the establishment of a new test procedure: the 2500 rpm/Idle Test. Two versions of the test are proposed, one suitable for use with all vehicles and a simpler version suitable for all vehicles other than Ford vehicles. The first test is called the Engine Restart 2500 rpm/Idle Test. Procedurally, the engine restart step is the only difference between the two tests; consequently, technical discussion of the test will focus only on the 2500 rpm/Idle Test.

The 2500 rpm/Idle Test is very similar to the Two Speed Idle Test. The only difference between the two is how compliance is determined. Compliance on the Two Speed Idle Test (which involves sampling a vehicle's emissions during an initial idle mode followed by a 2500 rpm mode and a second idle mode) can be determined on the basis of: (1) The lower emissions from the two idle modes, (2) the emissions from the 2500 rpm mode, or (3) both (1) and (2). The proposed 2500/rpm Idle Test involves measuring a vehicle's emissions during a 2500 rpm mode and a subsequent idle mode (the initial idle mode is deleted) with compliance determined in both modes. This differs from the third compliance variation of the Two Speed Idle Test in that under the proposed test only the emissions from the single idle mode are used rather than the *lower* emissions from the first and second idle mode.

This test avoids the step of determining (for two pollutants) which idle mode has the lower emissions for each pollutant. While this determination may not appear to be very difficult, it does present an opportunity for errors to be made. The 2500 rpm/Idle Test also takes less time than the third variation of the Two Speed Idle Test, since emissions from the first idle mode do not need to be measured.

It is proposed that the 2500 rpm/Idle Test be used with emission standards of 1.2% CO and 220 ppm HC. Further technical discussions of this test are presented in the Technical Appendix.

B. *Discussion of Proposed Action.* The 2500 rpm/Idle Test must independently meet the statutory requirements for Emission Performance Warranty short tests. EPA has conducted an analysis of the parameters which define the effectiveness of a short test (i.e., its ability to detect "excess emissions," or measured emissions that exceed the standards established under Section 202 of the Clean Air Act), and its ability to meet the statutory criteria. The same data base that was used to evaluate the three previously approved short tests—the Portland Study data (see 45 FR 34802)—was used to evaluate the proposed test. This has allowed EPA both to compare the effectiveness of the proposed procedure to the current Two-Speed Idle Test and to ensure that this procedure, when applied in combination with particular cutpoints, will impose no more of a burden on manufacturers than do the current tests, i.e., that it is "reasonably correlated" to the Federal Test Procedure (FTP).

The results of the analysis are presented in the Technical Appendix. Excess emissions identified, overall failure rate, and errors of commission (incorrect failures) exhibited by the 2500 rpm/Idle Test are all slightly higher than the same parameters of the Two-Speed Idle Test when cutpoints of 1.0% CO and 200 ppm HC are used for both tests. This introduces a problem only with respect to the rate of errors of commission, since EPA has used a correlation methodolcigy that holds false short test failures to the same approximate levels as if the FTP were used as the short test (see 45 FR 34803). Since EPA was able to avoid excessively high rates of errors of commission for the approved short tests by choosing appropriately high cutpoint levels, the same can be done for the proposed procedure. By applying cutpoints of 1.2% CO and 220 ppm HC, the rate of errors of commission remain in the range that EPA has determined to approximate that of the FTP.

The short tests standards proposed with the 2500 rpm/Idle Test will still detect a substantial portion of HC and CO emissions above the FTP standarda, approximately as well as the Two-Speed Idle Test and its cutpoints. Since the proposed test will identify most high emitting vehicles with about the same error of commission rate as the FTP, it is reasonably correlated with the FTP. (See 45 FR 34803 (col. 3).)

Since the proposed test is very similar to the Two-Speed Idle Test, it also meets the remaining statutory criteria of availability and being in accordance with good engineering practices. (See 45 FR 34802 (col. 3).) The proposed procedure is well within the capabilities of field equipment and personnel since it will be shorter and simpler to administer than the Two-Speed Idle Test, and jurisdictions need not obtain equipment different from that needed for the Two-Speed Idle Test in order to adopt the proposed test. For these reasons, EPA concludes that the findings and conclusions demonstrating that the Two-Speed Idle Test meets statutory criteria support the 2500 rpm/Idle Test as well, and the Agency hereby incorporates by reference those findings and conclusions.

EPA does not propose to establish the 2500 rpm/Idle Test for Ford vehicles, since like the existing Two Speed Idle Test it may result in secondary air-related errors of commission. However, if the 2500 rpm/Idle Test is preceded by turning the engine off and then restarting it, the resulting test (hereinafter called the Engine Restart 2500 rpm/Idle Test) will be suitable for both Ford and non-Ford vehicles. EPA concludes that establishing the Engine Restart 2500 rpm/Idle Test for all vehicles will not represent an additional burden of compliance on the manufacturers or a loss in the air quality benefit of I/M and will meet statutory criteria. In light of this, it is proposed that the 2500 rpm/Idle Test be established using standards of 1.2% CO and 220 ppm HC for non-Ford vehicles, and that the Engine Restart 2500 rpm/Idle Test be established using the same standards for all vehicles. These are the same standards which are specified for the Idle Test and the Loaded Test in the current warranty. More specific language describing the actual test procedures can be found in the proposed regulations.

C. Effects of the Proposed Action. 1. 2500 rpm/Idle Test: As mentioned above, this proposed action should not place any additional burden on the

manufacturers since the rate of errors of commission should be as low or lower for the 2500 rpm/Idle Test as for the currently established Two Speed Idle Test. In addition, the proposed action does not represent a loss of environmental benefit since the data indicate that the 2500 rpm/Idle Test is as effective in identifying excess emissions as the Two Speed Idle Test.

The main negative effect of the proposed action is that it might slightly complicate the understanding and administraton of the Emission Performance Warranty. This would be simply because of the availability of another short test.

The main positive effect of the proposed action is that it provides a new test procedure for non-Ford vehicles which is both shorter and easier to administer than the Two Speed Idle Test. Some States and localities may choose a test procedure for their I/M programs which includes a 2500 rpm pass/fail mode. The 2500 rpm/Idle Test represents the quickest and most workable way of including a 2500 rpm mode.

2. Engine Restart 2500 rpm/Idle Test: This test should not place any additional burden on the manufacturers for the same reasons as described in the preceding section on the 2500 rpm/Idle Test. Similarly, no loss in environmental benefits is expected with this test.

Positive effects of this action are that I/M authorities will have a single short test which: (1) Is applicable to all vehicles, (2) is easy to administer and is quicker than the Two Speed Idle Test, and (3) is as effective in terms of air quality benefits as the Two Speed Idle Test.

D. *Request for Comments.* Comments are specifically requested in the following areas. Comments not related to these specific areas may, of course, also be submitted. However, it is not EPA's intention in this rulemaking to reopen issues of statutory interpretation which were decided in the original 207(b) rulemaking (45 FR 34802). All comments should be submitted to the Public Docket at the address given earlier in this notice.

1. Adequacy of the data analysis, and the extent to which the 2500 rpm/Idle Test meets applicable statutory criteria, including correlation to the FTP.

2. Any reasons why the 2500 rpm/Idle Test for non-Ford vehicles might represent either an additional burden to the manufacturers or a loss of emission reduction for those I/M programs which select the 2500 rpm/Idle Test.

3. Any reasons why the Engine Restart 2500 rpm/Idle Test for all vehicles might represent either an additional burden to the manufacturers or a loss of emission reduction for those I/M programs which select the Engine Restart 2500 rpm/Idle Test. Comments should be specific as to how and why short test results in the Engine Restart 2500 rpm/Idle Test will be higher than the corresponding results from the 2500 rpm/Idle Test, if such a claim is intended.

III. Simultaneous Sampling of Dual Exhausts

The current warranty short tests require that vehicles with dual exhausts have each exhaust outlet sampled individually and the emission results be numerically averaged. To apply this same principle to the Engine Restart 2500 rpm/Idle Test and the 2500 rpm/Idle Test could require the test procedures to be excessively long in duration. This might represent an excessive and costly burden on centralized I/M programs which want to implement these tests but also want to achieve maximum throughput. This burden is unnecessary, since sampling hardware exists which allows simultaneous sampling of both tailpipes on dual exhaust vehicles, the emission results being the same as one would obtain if the tailpipes were individually sampled and numerically averaged. EPA therefore proposes that the Engine Restart 2500 rpm/Idle Test and the 2500 rpm/Idle Test allow the use of such hardware. Furthermore, since there is no technical reason against the use of such hardware in the existing short tests, and there are significant potential cost savings to I/M programs which use such hardware, EPA proposes to amend each of them to allow the use of such hardware.

EPA is interested in other parties' views on this issue. EPA invites comments on the use of simultaneous sampling hardware for dual exhaust vehicles, and will consider such comments it receives before the Administrator makes a final decision.

IV. Provision for Approving Alternative Instrument Quality Control Procedures

A. *Introduction.* The State of New York has requested permission from EPA to use quality control (QC) procedures for analyzers different from those currently specified in the short test regulations. Sections for which this permission was requested are § 85.2217(b) [hourly electrical zero and span], (d)(1) (calibration frequency), and (d)(2) (leak check). EPA has evaluated these requests, and has asked for additional clarification and data from New York on them.

Currently there is no provision in the short test regulations which would allow EPA to grant permission to States and other I/M authorities to use different QC procedures which may be equivalent or better than those currently specified in the short test regulations. However, in principle I/M programs should have the flexibility to design the most effective and efficient QC procedures for their individual I/M programs without sacrificing warranty coverage, provided that the statutory requirements of correlation and good engineering practice are met. Therefore, EPA is proposing a process which I/M programs may use to gain EPA approval for alternative QC procedures. This process will provide notice and allow interested parties to comment on each State request.

B. *Discussion of Proposal.* The currently specified QC procedures in § 85.2217 of the short test regulations have been determined by the Administrator to meet the statutory criteria of being available, in accordance with good engineering practices, and result in the short tests being reasonably capable of being correlated with the FTP (see 45 FR 34802). EPA would like to accommodate I/M programs' use of other QC procedures, provided that they also meet the statutory criteria. The most sensible approach to accommodating other QC procedures is to define the critical parameters considered in determining whether the statutory criteria have been met. Since EPA based its approval of the current QC procedures on their effectiveness in limiting errors of commission or false failures due to instrument inaccuracies, placing a limit on total errors occurring in the analyzers used for inspections in a given I/M program would achieve the same goals. The limit would be in the form of a requirement that specific percentage of the analyzers in a program must be within a specific tolerance of a calibration gas which meets the calibration gas requirements in § 85.2217. If the values for these two parameters are specified to achieve approximately the same results as achieved by the current procedures, then alternative QC procedures meeting the limit would meet the statutory criteria. It is also possible for the Administrator to determine that the statutory criteria are met with certain values for the parameters, without direct comparison to the current procedures.

EPA proposes that if a State or other unit of government can show that 95% of the analyzers in a given I/M program will be within ±5% of a calibration gas

that meets the § 85.2217 requirements, then the State can use QC procedures other than those currently in § 85.2217. That is, EPA proposes to determine that the 95% and ±5% requirements meet statutory criteria insofar as analyzer accuracy is concerned. With these requirements, the number of errors of commission due to analyzer inaccuracy will certainly be not more than 2.5%, assuming an equal number of high and low errors among the 5% of analyzers which may be more than ±5% in error. The actual error of commission rate due to instrument error will likely be much less since only a fraction of inspected vehicles which should pass will be close enough to the inspection standards to have their pass/fail outcome changed by the typical analyzer which has an error of more than +5%. EPA believes that these requirements will result in approximately the same rate of accuracy achieved by the QC procedures currently specified. However, the comparison with the current procedures is not essential to EPA's proposed determination; EPA proposes to find that the 95% and ±5% requirements directly fulfill the statutory criteria.

This approach will require a demonstration in practice and a survey to support each request. The following is an example of this type of demonstration. A State with a decentralized I/M program desires to require inspectors to use the leak test specified in the short test regulations, but at a frequency of once every two weeks instead of the specified frequency of once per week. In this hypothetical I/M program, different inspectors have purchased different types of analyzers, all of them accredited for use in the I/M program by State regulations and all meeting 40 CFR 85.2215. The State would then require inspectors to perform leak checks once every two weeks for a reasonable period, and then undertake a survey of a representative sample of the analyzers to determine if 95% of the analyzers are within ±5% immediately before their next biweekly check.

There may be requests which can be demonstrated equivalent to the current procedures without any demonstration in practice. An example of this could be where only one type of analyzer is used in an I/M program, where a laboratory evaluation on one of these analyzers concludes that a newly developed leak check procedure is equivalent in its ability to detect leaks to the specified leak check procedure, and where the I/M program intends to use the new leak check procedure once per week. EPA does not wish to force expensive demonstrations where not necessary, and so is including a general equivalency provision.

EPA therefore proposes to amend §85.2211 "Alternative Standards and Procedures" so that a third paragraph is added which says that States and other I/M authorities may request to use QC procedures which are different than those in § 85.2217. Requestors must supply relevant test data or technical support that substantiates that the alternative procedures are as effective as the current procedures *or* that they result in 95% of the instruments in an I/M program being accurate to within ±5% of a calibration gas which meets the specifications in § 85.2217. The accuracy of a given instrument type must be measured by flowing a known concentration calibration gas through the probe to yield a total error value which would include any leak or electronic drift errors.

The Administrator will evaluate the alternative procedures, and upon a preliminary determination that the procedures meet one or both of these criteria, will publish a **Federal Register** notice explaining the request and EPA's preliminary determination on the alternative procedure. Data or technical support relative to the procedure will be placed in a docket that is referenced by the notice. Interested parties may review the notice, data and technical information, and may provide comments within 30 days of publication of the notice. If comments received by EPA during the 30 day period do not provide a basis for EPA to conclude that its preliminary determination was in error, a final notice will be published allowing the State to use the alternative procedure.

The short test regulations would not be amended by this process. Although this process avoids informal rulemaking proceedings to allow for what is basically EPA's application of a technical standard on a case-by-case basis, EPA believes that all interested parties will have adequate notice and opportunity for comment on each request under the process described above.

C. *Effects of Proposed Action.* This action would have two primary effects. First, it would encourage States and other I/M authorities to develop new QC procedures and techniques that may be more efficient and less costly, and result in procedural accuracy that is equal or better than the current QC procedures.

The second effect of this action would be to serve EPA and requestors' time by not having to initiate rulemaking to amend the short test regulations with every request for an alternate procedure.

D. *Alternatives Not Proposed.* The only alternative to what is proposed is for EPA to initiate rulemaking for each state request. EPA does not believe the issues likely to surround such requests are such that rulemaking is necessary to protect the interests of all parties, and can be adequately dealt with through the more informal, but thorough, process proposed herein. EPA believes the process proposed herein conforms to all applicable procedural requirements specified by statute.

E. *Request for Comments.* EPA invites comments on this proposal to establish a procedure for evaluating and approving alternate quality control procedures, and will consider such comments in making a final decision. In particular, EPA requests comments on whether the criterion of 95% of the analyzers being accurate within ±5% meets the statutory requirements of section 207(b) of the Clean Air Act.

V. Limits for Instrument Adjustments

A. *Introduction.* The short test regulations currently state that inspection analyzers shall be checked with gas traceable to NBS ±2% once per week, and that the analyzers "be adjusted, if necessary" (§ 85.2217(d)(1)). The regulations do not clearly specify when an adjustment is necessary; consequently, the I/M authority or the individual I/M inspector is left to decide when it is necessary to adjust an inspection analyzer. The regulations may therefore lead to a lack of uniformity within I/M programs and between I/M programs with respect to in-use analyzer accuracy. EPA proposes to specify the limits at which analyzers require adjustments so that the accuracy of inspection analyzers is more uniform.

B. *Discussion.* EPA is proposing to amend the regulations to require adjustments to analyzers if they are not accurately reading within ±2% if checked through the calibration port or ±5% if checked through the probe. These specifications are equivalent. The reason for the difference in limits is that when an analyzer is checked through the probe, the resulting error could be a leak error, an electronic error, or both, whereas when an analyzer is checked through its calibration port, the resulting error is electronic only. Under the short test regulations, the maximum allowable leak is 3% (§ 85.2217). Therefore, if an analyzer with a 3% leak is found to have a −2% electronic error when checked through the calibration port, its error

when checked through the probe should be −5%. EPA is not not proposing to alter the requirement for a leak check in addition to the calibration check.

C. *Effects of Proposed Action.* This proposal should improve I/M program uniformity without putting additional administrative burdens on I/M programs, since EPA is specifying only when adjustments need to be made. I/M programs that are already meeting the terms of the short test regulations are checking the calibration of their analyzers once per week for calibration and leak errors. The proposed action will help prevent cases in which a warranty claim is made because too large a tolerance was thought appropriate by the person performing the calibration check, and thereby protect manufacturers. It may also reduce cases in which a manufacturer and a vechicle owner dispute whether a warranty claim is valid.

D. *Request for Comments.* EPA invites comments on this proposal to set limits beyond which analyzers require adjustments, and will consider such comments before the Administrator makes a final decision.

VI. Effective Model Year

EPA proposes that all of the changes proposed in this notice be effective for the 1981 and later model years. EPA believes this is consistent with the provisions of Section 207(b) of the Clean Air Act, for reasons discussed below. EPA invites comments on this proposal as discussed below.

Section 207(b) of the Act directs the Administrator to prescribe regulations which shall require manufacturers to warrant emission control devices and systems of each new vehicle which is "manufactured in a model year beginning after the Administrator first prescribes warranty regulations under this paragraph." EPA first prescribed such regulations on May 22, 1980 (45 FR 34829). Therefore, manufacturers must warrant emission control devices and systems of 1981 and later model year vehicles.

The Act does not prevent changes in the methods and procedures (i.e., short tests and short test standards) associated with the warranty from beging effective for model years which are already in progress at the time EPA issues the final rule for the changes, or for previous model years as far back as the 1981 model year. The requirement that the warranty initially apply only to subsequent model years allowed manufacturers to adjust new car prices in anticipation of higher warranty costs during their useful lives. Congress did not anticipate that manufacturers would require lead time to make design changes to their vehicles, and did not provide lead time for such changes, because the warranty does not impose any additional performance requirement on vehicles.

The performance requirement was and is that vehicles conform to the new vehicle emission standards prescribed under Section 202 of the Act. Because the short tests used in conjunction with the warranty must meet the statutory requirements for correlation with the more complex test (the Federal Test Procedure) on which the Section 202 standards are based, the requirement that manufacturers warrant their vehicle to pass the short test imposes no performance requirement not already imposed by Section 202. Furthermore, once a manufacturer knows it will be liable for warranty repairs on vehicles which do not meet this performance requirement in use and has adjusted its new car prices to recover whatever portion of the warranty costs it wishes to recover, it does not matter to the manufacturer what short tests are used to trigger the warranty provided each short test meets the statutory criteria for correlation with the FTP. This is especially true when, as is the case for each of the tests proposed here, the short test is so similar to an existing short test that virtually identical vehicle-by-vehicle results can be expected from the two tests, in addition to the condition that both correlate to a third test, the FTP.

EPA also believes that the other amendments proposed herein (Simultaneous Sampling, Provision for Approving Alternative Instrument Quality Control Procedures, and Limits for Instrument Adjustments) give no cause for postponing the applicability of the amended warranty and short test regulations beyond the 1981 model year. Therefore, there is no statutory or policy reason not to make this entire proposed action effective for the 1981 and subsequent model years. There are sound policy reasons for making the new tests effective for these model years, since it will protect Ford Motor Company from the potential problems that may occur with the existing test and will allow I/M programs to use a simpler common short test (the 2500 rpm/Idle Test or the Engine Restart 2500 rpm/Idle Test) for 1981 and later model year vehicles if they so choose.

In some later model year, Ford Motor Company could alter its vehicle designs so that the existing short tests presented no potential problems of the sort which have motivated Ford to seek this rulemaking. Ford has stated that it is studying the idea of lengthening the timer period in future Ford vehicles so that they do not have to be tested with the special test. If this occurs, EPA hopes Ford will so notify it in a timely fashion, so the simpler tests can be re-established for those Ford vehicles. EPA will monitor the designs of Ford vehicles, and may itself initiate rulemaking to re-establish the simpler tests when appropriate.

EPA is interested in other parties' views on this issue. EPA invites comments on the model years for which the changes proposed here may be effective under statutory provisions and the model years for which they should be effective for reasons of practicality and policy. EPA will consider the comments it receives before the Administrator makes a final determination.

Administration Designation:

Under Executive Order 12291 EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it involves no negative cost impacts and has no sigificant adverse effect on competition, productivity, investment, employment, or innovation.

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Effect on Small Entities

Pursuant to Section 605 of the Regulatory Flexibility Act, I certify that the proposed changes to the regulation will not have any significant impact on small entities. The few small entities which manufacture new vehicles for sale in the U.S. must provide owners with an Emission Control Performance Warranty pursuant to existing regulations (40 CFR Part 85, 45 FR 34802). However, these proposed optional tests are no more stringent than the existing Mission Performance Warranty short tests, so there should be no additional effect on small entities manufacturing vehicles than is present in the existing warranty program. These same comments apply to small entity manufacturers of aftermarket parts, also. Therefore, no small entities should see any significant impact.

Impacts of Reporting Requirements

The reporting or recordkeeping provisions in this rule have been submitted for approval to the Office of Managment and Budget (OMB) under section 3504(b) of the Paperwork Reduction Act of 1980 U.S.C. 3501 et seq. Any final rule will explain how its

reporting or recordkeeping provisions respond to any OMB or public comments.

List of Subjects in 40 CFR Part 85

Imports, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Research Warranties.

Dated: February 28, 1983.

Anne M. Burford,

Administrator.

For the reasons set forth in the preamble, it is proposed that Subpart W—Emission Control System Performance Warranty Short Tests, Part 85 of Chapter I, Title 40 of the Code of Federal Regulations be revised to read as follows:

PART 85—CONTROL OF AIR POLLUTION FROM MOTOR VEHICLES AND MOTOR VEHICLE ENGINES

Sec.

85.2201 Applicability.
85.2202 General provisions.
85.2203–81 Short test standards for 1981 and later model year light-duty vehicles.
85.2204–81 Short test standards for 1981 and later model year light-duty trucks.
85.2205 to 85.2207 [Reserved]
85.2208 Alternative standards and procedures.
85.2209 2500 rpm/Idle Test.
85.2210 Engine restart 2500 rpm/Idle test.
85.2211 Engine restart Idle test.
85.2212 Idle test.
85.2213 Two speed idle test.
85.2214 Loaded test.
85.2215 Exhaust sampling system.
85.2216 Dyamometer.
85.2217 Calibrations, adjustments.
85.2218 Test report.

Authority: Section 207, 301(a), Clean Air Act as amended (42 U.S.C. 7545 and 7601(a)).

§ 85.2201 Applicability.

This subpart contains the short tests and standards to be employed in conjunction with the Emissions Performance Warranty, Subpart V. Vehicles manufactured by Ford Motor Co. must be tested with either the Engine Restart 2500 rpm/Idle Test procedure described in § 85.2210, or the Engine Restart Idle Test procedure described in § 85.2211, or the Loaded Test procedure described in § 85.2114 in order to be eligible for coverage under the Emissions Performance Warranty. All other vehicles are eligible to receive warranty coverage using any of the short test procedures.

§ 85.2202 General provisions.

The definitions and abbreviations in Subpart A of Part 86 of this chapter apply to this subpart.

§ 85.2203–81 Short test standards for 1981 and later model year light-duty vehicles.

(a) For 1981 and later year light-duty vehicles at low altitude, and for 1982 and later model year light-duty vehicles at high altitude to which high altitude certification standards of 1.5 g/mile HC and 15 g/mile CO or less apply, short test emissions shall not exceed:

(1) 2500/Idle Test, high speed mode.
(i) *Hydrocarbons:* 220 ppm as hexane.
(ii) *Carbon monoxide:* 1.2%.
(2) 2500/Idle Test, idle mode.
(i) *Hydrocarbons:* 220 ppm as hexane.
(ii) *Carbon monoxide:* 1.2%.
(3) Engine-Restart 2500/Idle Test, high-speed mode.
(i) *Hydrocarbons:* 220 ppm as hexane.
(ii) *Carbon Monoxide:* 1.2%.
(4) Engine Restart 2500/Idle Test, idle mode.
(i) *Hydrocarbons:* 220 ppm as hexane.
(ii) *Carbon Monoxide:* 1.2%.
(5) Engine Restart Idle Test.
(i) *Hydrocarbons:* 220 ppm as hexane.
(ii) *Carbon monoxide:* 1.2%.
(6) Idle Test.
(i) *Hydrocarbons:* 220 ppm as hexane.
(ii) *Carbon monoxide:* 1.2%.
(7) Two speed idle test, idle mode. The lowest readings from the two idle modes shall be used to determine compliance.
(i) *Hydrocarbons:* 200 ppm as hexane.
(ii) *Carbon monoxide:* 1.0%.
(8) Two speed idle test, high speed mode.
(i) *Hydrocarbons:* 200 ppm as hexane.
(ii) *Carbon monoxide:* 1.0%.
(9) Loaded test, idle mode.
(i) *Hydrocarbons:* 220 ppm as hexane.
(ii) *Carbon monoxide:* 1.2%.
(10) Loaded test, low speed mode.
(i) *Hydrocarbons:* 220 ppm as hexane.
(ii) *Carbon monoxide:* 1.2%.

§ 85.2204–81 Short test standards for 1981 and later model year light-duty trucks.

(a) For 1981 and later model year light-duty trucks at low altitude, and for 1982 and later model year light-duty trucks at high altitude to which high altitude certification standards of 2.0 g/mile HC and 26 g/mile CO or less apply, short test emissions shall not exceed:

(1) 2500/Idle Test, high speed mode.
(i) *Hydrocarbons:* 220 ppm as hexane.
(ii) *Carbon monoxide:* 1.2%.
(2) 2500/Idle Test, idle mode.
(i) *Hydrocarbons:* 220 ppm as hexane.
(ii) *Carbon monoxide:* 1.2%.
(3) Engine Restart 2500/Idle Test, high-speed mode.
(i) *Hydrocarbons:* 220 ppm as hexane.
(ii) *Carbon Monoxide:* 1.2%
(4) Engine Restart 2500/Idle Test, high-speed mode.
(i) *Hydrocarbons:* 220 ppm as hexane.
(ii) *Carbon Monoxide:* 1.2%
(5) Engine-Restart Idle Test.
(i) *Hydrocarbons:* 220 ppm as hexane.
(ii) *Carbon Monoxide:* 1.2%
(6) Idle Test.
(i) *Hydrocarbons:* 220 ppm as hexane.
(ii) *Carbon Monoxide:* 1.2%
(7) Two speed idle test, idle mode. The lowest readings from the two idle modes shall be used to determine compliance.
(i) *Hydrocarbons:* 200 ppm as hexane.
(ii) *Carbon monoxide:* 1.0%.
(8) Two speed idle test, high speed mode.
(i) *Hydrocarbons:* 200 ppm as hexane.
(ii) *Carbon monoxide:* 1.0%.
(9) Loaded test, idle mode.
(i) *Hydrocarbons:* 220 ppm as hexane.
(ii) *Carbon monoxide:* 1.2%.
(10) Loaded test, low speed mode.
(i) *Hydrocarbons:* 220 ppm as hexane.
(ii) *Carbon monoxide:* 1.2%.

§ 85.2205 through 85.2207 [Reserved]

§ 85.2208 Alternative standards and procedures.

(a)(1) As a part of the certification process, as set forth in § 86.078 et seq., a manufacturer may request an alternative short test standard or short test procedure for any vehicle or engine for which the standards or procedures specified in this subpart are not appropriate. The manufacturer shall supply relevant test data and technical support to substantiate his claim and shall also recommend alternative test procedures and/or standards for the Administrator's consideration. Upon an acceptable showing that the general standards or procedures are not appropriate, the Administrator shall set through rulemaking procedures alternative standards or procedures. The administrative provisions of the certification process (see § 86.078 et seq.), apply to such a request for alternative standards or procedures.

(2) Any such alternative standards or test procedure must be specified on the emission control information label to be effective for that particular vehicle or engine. The Administrator may waive this requirement if it is determined that a given model year of production for which an alternative test procedure is requested is too far advanced to make such a requirement practical. The requirement is so waived for 1981 and 1982 model year Ford vehicles.

(b) A State or other I/M authority conducting or supervising tests under this subpart may request to use quality control procedures which are different than those in § 85.2217. The Administrator shall approve the requested procedures provided the

requested procedures are equivalent to those in § 85.2217 or result in 95% of the inspection analyzers in the I/M program being accurate to within ±5% of the concentration of a calibration gas which meets the calibration gas specifications of § 85.2217. This accuracy must be determined by comparing analyzer readings to a calibration gas which is traceable to NBS standards ±2%, when the gas is flowed through the probes of a representative sample of analyzers in the I/M program at a time when the number of inaccurate analyzers can be reasonably expected to be at its maximum. The requestor shall supply relevant test data or technical support to substantiate its claim that the procedures meet the specifications described herein.

§ 85.2209 2500 rpm/idle test.

(a) *General requirements.* Vehicles shall be tested in as-received condition. Engines shall be at normal operating temperature and not overheating (as indicated by gauge warning light or boiling radiator) with all accessories off.

(b) *Test Sequence.* (1) Analyzers shall be warmed-up, in stablized operating condition and adjusted as required in § 85.2217.

(2) Attach tachometer pick up.

(3) With engine idling and transmission in neutral, the sample probe shall be inserted into the tailpipe.

(4) The engine speed shall be increased to 2500 ± 300 rpm, with transmission in neutral. Record exhaust concentrations after stabilized readings are obtained or at the end of 30 seconds, whichever occurs first. This process shall be repeated as necessary for multiple exhaust pipes, or hardware which is capable of simultaneously sampling multiple tailpipes may be used. Neither multiple readings nor simultaneous sampling hardware is necessary for exhaust systems in which the exhaust pipes originate from a common point.

(5) The engine speed shall be reduced to free idle with transmission in neutral. Record exhaust concentrations after stabilized readings are obtained or at the end of 30 seconds, whichever occurs first. Repeat as specified in subparagraph (4) for multiple exhaust pipes, if necessary.

(6) For vehicles with multiple exhaust pipes, the separate results from each pipe for each mode (subparagraphs (4) and (5) above shall be numerically averaged for each pollutant, unless hardware which is capable of simultaneously sampling multiple exhaust pipes has been used.

(7) Exhaust concentration measurements from both the idle mode and the high speed mode are required.

§ 85.2210 Engine restart 2500 rpm/idle test.

(a) *General requirements:* Vehicles shall be tested in as-received condition. Engines shall be at normal operating temperature and not overheating (as indicated by gauge warning light or boiling radiator) with all accessories off.

(b) *Test Sequence.* (1) Analyzers shall be warmed-up, in stabilized operating condition and adjusted as required in § 85.2217.

(2) Attach tachometer pick up.

(3) With engine idling and transmission in neutral, the sample probe shall be inserted into to tailpipe.

(4) The engine shall be turned off and then restarted.

(5) The engine speed shall be reduced to free idle with transmission in neutral. Record exhaust concentrations after stabilized readings are obtained or at the end of 30 seconds, whichever occurs first. This process shall be repeated as necessary for multiple exhaust pipes, or hardware which is capable of simultaneously sampling vehicles with multiple tailpipes may be used. However, if this hardware is not used, exhaust concentrations from each pipe shall be measured within the 30 second period if stable readings can be obtained from both pipes before the 30 seconds have elapsed. If this is not possible, the procedures shall be conducted through step (6) for the first pipe and then the entire procedure beginning from step (4) shall be repeated for the second pipe. Neither multiple readings nor simultaneous sampling hardware is necessary for exhaust pipes originating from a common point.

(6) The engine speed shall be reduced to free idle with transmission in neutral. Record exhaust concentrations after stabilized readings are obtained or at the end of 30 seconds, whichever occurs first. This process shall be repeated as necessary for multiple exhaust pipes, or hardware which is capable of simultaneously sampling vehicles with multiple tailpipes may be used. However, if this hardware is not used, exhaust concentrations from both pipes shall be measured in this step (6) within the 30 second period if stable readings can be obtained before the 30 seconds have elapsed. If this is not possible, the entire procedure beginning from step (4) shall be repeated for the second pipe. For vehicles with multiple exhaust pipes only one of which was measured in step (5) before the 30 seconds at 2500 ±300 rpm had elapsed, the entire procedure beginning from step (4) shall be repeated for the second pipe after this step (6) is completed for the first pipe. Neither multiple readings nor simultaneous sampling hardware is necessary for exhaust pipes originating from a common point.

(7) For vehicles with multiple exhaust pipes, the separate results from each pipe for each mode (subpargraphs (5) and (6) above) shall be numerically averaged for each pollutant, unless hardware which is capable of simultaneously sampling multiple exhaust pipes has been used.

(8) Exhaust concentration measurements from both the idle mode and the high speed mode are required.

§ 85.2211 Engine restart idle test.

(a) *General requirements.* Vehicles shall be tested in as-received condition. Engines shall be at normal operating temperature and not overheating (as indicated by gauge warning light or boiling radiator) with all accessories off.

(b) *Test Sequence.* (1) Analyzers shall be warmed-up, in stabilized operating condition and adjusted as required in § 85.2217.

(2) Attach tachometer pick up.

(3) With engine idling and transmission in neutral, the sample probe shall be inserted into the tailpipe.

(4) The engine shall be turned off and then restarted.

(5) The engine speed shall be increased to 2500 rpm ± 300 rpm, with transmission in neutral, for 30 seconds.

(6) The engine speed shall be reduced to free idle with transmission in neutral. Record exhaust concentrations after stabilized readings are obtained or at the end of 30 seconds, whichever occurs first. this process shall be repeated as necessary for multiple exhaust pipes, or hardware which is capable of simultaneously sampling vehicles with multiple tailpipes may be used. However, if this type of hardware is not used, exhaust concentrations from each pipe shall be measured within the 30 second period if stable readings can be obtained from both pipes before the 30 seconds have elapsed. If this is not possible, the entire procedure beginning from step (4) shall be repeated for the second pipe. Neither multiple readings nor simultaneous sampling hardware is necessary for exhaust systems in which the exhaust pipes originate from a common point.

(7) Multiple readings from multiple exhaust pipes shall be numerically averaged, if taken.

§ 85.2212 Idle test.

(a) *General requirements.* Vehicles shall be tested in as-received condition.

Engines shall be at normal operating temperature and not overheating (as indicated by gauge warning light or boiling radiator) with all accessories off.

(b) *Test Sequence.* (1) Analyzers shall be warmed-up, in stabilized operating conditions and adjusted as required in § 85.2217.

(2) *Optional.* The engine may be preconditioned by operating it at 2500±300 rpm for up to 30 seconds.

(3) With engine idling and transmission in neutral, the sample probe shall be inserted into the tailpipe. Record exhaust concentrations after stabilized readings are obtained or at the end of 30 seconds, whichever occurs first. This process shall be repeated as necessary for multiple exhaust pipes, or hardware which is capable of simultaneously sampling vehicles with multiple tailpipes may be used. Neither multiple readings nor simultaneous sampling hardware is necessary for exhaust systems in which the exhaust pipes originate from a common point.

(4) Multiple readings from multiple exhaust pipes shall be numerically averaged, if taken.

§ 85.2213 Two speed idle test.

(a) *General requirements.* Vehicles shall be tested in as-received condition. Engines shall be at normal operating temperature and not overheating (as indicated by gauge warning light or boiling radiator) with all accessories off.

(b) *Test Sequence.* (1) Analyzers shall be warmed-up, in stabilized operating conditions and adjusted as required in § 85.2217.

(2) Attach tachometer pick up.

(3) With engine idling and transmission in neutral, the sample probe shall be inserted into the tailpipe. Record exhaust concentrations after stabilized readings are obtained or at the end of 30 seconds, whichever occurs first. This process shall be repeated as necessary for multiple exhaust pipes, or hardware which is capable of simultaneously sampling vehicles with multiple tailpipes may be used. Neither multiple readings nor simultaneous sampling hardware is necessary for exhaust systems in which the exhaust pipes originate from a common point.

(4) The engine speed shall be increased to 2500 ±300 rpm, with transmission in neutral. Record exhaust concentrations after stabilized readings are obtained or at the end of 30 seconds, whichever occurs first. Repeat as in subparagraph (3) for multiple exhaust pipes, if necessary.

(5) The engine speed shall be reduced to free idle with transmission in neutral. Record exhaust concentrations after stabilized readings are obtained or at the end of 30 seconds, whichever occurs first. Repeat as specified in subparagraph (3) for multiple exhaust pipes, if necessary.

(6) For vehicles with multiple exhaust pipes, the separate results from each pipe for each mode (subparagraph (3), (4), and (5)) shall be numerically averaged for each pollutant, unless hardware which is capable of simultaneously sampling multiple tailpipe vehicles has been used.

(7) The idle mode final results shall be the lowest HC and lowest CO readings from steps (3) and (5).

(c) Exhaust concentration measurements from both the idle mode and the high speed mode are not required. The short test may be used to evaluate emissions from either mode alone or from both modes, the choice being made by the jurisdiction implementing the inspection program. If exhaust concentrations are not measured on a given mode, the vehicle shall be operated at the specified test condition for 15 to 30 seconds. The final idle mode, paragraph (b)(5) of this section, may be omitted if only high speed mode exhaust concentrations are to be measured or if the vehicle is below idle standards on the first measurement, paragraph (b)(3) of this section. The high speed mode and final idle mode may be omitted if only idle mode exhaust concentrations are to be measured and if the vehicle is below idle standards on the first measurement.

§ 85.2214 Loaded test.

(a) *General requirements.* Vehicles shall be tested in as-received condition. Engines shall be at normal operating temperature and not overheating (as indicated by gauge, warning light or boiling radiator) with all accessories off. An auxilliary cooling fan is optional.

(b) *Test Sequence.* (1) The dynamometer and analyzers shall be warmed-up, in stabilized operating conditions and adjusted as required in §§ 85.2216 and 85.2217.

(2) The vehicle shall be placed on the dynamometer.

(3) The sample probe shall be inserted into the tailpipe.

(4) *Opitonal:* A high speed mode, maximum 50 mph and 30 seconds duration, is permitted if vehicle overheating does not occur.

(5) Drive for automatic or 3rd gear for manual transmissions shall be used. The vehicle shall be operated at 30±1 mph roll speed while measuring exhaust HC and CO. Record exhaust concentrations after stabilized readings are obtained or at the end of 30 seconds, whichever occurs first. This process shall be repeated as necessary for multiple exhaust pipes, or hardware which is capable of simultaneously sampling vehicles with multiple tailpipes may be used. Neither multiple readings nor simultaneous sampling hardware is necessary for exhaust system in which the exhaust pipes originate from a common point.

(6) The vehicle shall be idled in neutral. Record exhaust concentrations after stabilized readings are obtained or at the end of 30 seconds, whichever occurs first. Repeat as specified in subparagraph (5) of this paragraph for multiple exhaust pipes, if necessary.

(7) For vehicles with multiple exhaust pipes, the separate results from each pipe for each mode (subparagraph (5) and (6) of this paragraph) shall be numerically averaged for each pollutant, unless hardware which is capable of simultaneously sampling multiple tailpipe vehicles has been used.

(c) Exhaust concentration measurements from both the loaded mode and the idle mode are not required. The short test may be used to evaluate emissions from either mode alone or from both modes, the choice being made by the jurisdiction implementing the inspection program. If exhaust concentratins are not measured on the loaded mode the avehicle shall be operated at the specified test condition for 15 to 30 seconds. If idle exhaust concentrations are not measured, the idle mode may be omitted.

§ 85.2215 Exhaust sampling system.

(a) The exhaust sampling system shall consist of a sample probe, moisture separator and analyzers for HC and CO.

(b)(1) The HC analyzer shall have an accuracy of ±15 ppm at 200 to 220 ppm concentration HC (as hexane): the CO analyzer shall have an accuracy of ±0.10% CO from 1.0% to 1.2% concentration.

(2) Response time of the analyzers shall be 15 seconds to 95% of the final reading.

(3) Analyzer drift (up-scale and down-scale zero and span wander) shall not exceed ±0.11% CO and ± 15 ppm HC (as hexane) on the lowest range capable of reading 1.0% or 200 ppm HC (as hexane) during a one-hour period.

§ 85.2216 Dynamometer.

(a) The loaded test dynamometer shall be adjusted to produce a load of 9.0 ±1.0 hp at 30 mph.

(b) Speed shall be measured from the dynamometer roll(s) with an accuracy of ±1.5 mph at 30 mph true roll speed.

§ 85.2217 Calibrations, adjustments

(a) Equipment shall be calibrated in accordance with the manufacturers' instructions.

(b) Within one hour prior to a test, the analyzers shall be zeroed and spanned. Ambient air is acceptable as a zero gas; an electrical span check is acceptable. Zero and span checks shall be made on the lowest range capable of reading the short test standard.

(c) Within eight hours prior to a loaded test, the dynamometer shall be checked for proper power absorber settings.

(d)(1) Tha analyzers shall have been spanned using gas traceable to NBS standards +2% within one week of the test. Adjustments to the analyzer are required if the analyzer reading does not agree with the gas concentration within +2% of checked via the calibration port, and are required if the analyzer is not within +5% of the calibration gas if checked by the probe. The span gas used shall have concentrations either:

(i) Between the standards specified in this subpart and the jurisdictions inspection standards of 1981 model year light duty vehicles, or

(ii) Be within −50% to +100% of the standards in this subpart.

(2) For analyzers with a separate calibration or span port, CO readings using calibration gas through the probe and through the calibration port shall be made; discrepancies of over 3% shall require repair of leaks. No analyzer adjustments shall be permitted during this check.

§ 85.2218 Test report.

(a) Upon failure of a short test, the vehicle's operator or owner shall be furnished with a test report containing:

(1) Vehicle description, including either license plate or manufacturer identification number, and odometer readings.

(2) Date of test.

(3) Name of individuals or organization performing the test and location thereof.

(4) Type of short test performed.

(5) Test results, exhaust concentrations for each mode measured.

(b) The test report shall certify that the short test was performed in accordance with these regulations and it shall be signed by an individual who either performed the test or has actual knowledge of the performance of the test.

(c) For purposes of this section, "failure of a short test" means that the vehicle exceeded the standards in this subpart of the Inspection/Maintenance standards of the jurisdiction, whichever is less stringent.

[FR Doc. 83-5793 Filed 3-18-83; 8:45 am]

BILLING CODE 5660-50-M

federal register

Monday
March 21, 1983

Part IV

Department of Transportation

Federal Railroad Administration

Signal and Train Control; Proposal

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 233, 235, and 236

[Docket No. RSSI-78-5, Notice No. 8]

Signal and Train Control; Miscellaneous Proposed Amendments

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend the Signal and Train Control (S&TC) Regulations and Orders. The proposed amendments would revise and clarify existing rules and would eliminate certain rules no longer considered necessary for safety. This action is taken by FRA to improve the effectiveness of its safety regulatory program and to reduce unnecessary and burdensome regulations.

DATES: (1) *Written Comments:* Written comments must be received before May 2, 1983. Comments received after that date will be considered so far as possible without incurring additional expense or delay.

(2) *Public Hearing:* A public hearing will be held at 10:00 a.m. on April 19, 1983. Any person who desires to make an oral statement at the hearing should notify the Docket Clerk before April 15, 1983.

ADDRESSES: (1) *Written Comments:* Written comments should identify the docket number and the notice number and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Persons desiring to be notified that their written comments have been received by FRA shall submit a stamped, self-addressed postcard with their comments. The Docket Clerk will indicate on the postcard the date on which the comments were received and will return the card to the addressee. Written comments will be available for examination, both before and after the closing date for written comments, during regular business hours in room 7321A of the Nassif Building at the above described address.

(2) *Public Hearing:* A public hearing will be held in Room 2230 of the Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590. Persons desiring to make an oral statement at the hearing should notify the Docket Clerk by telephone 202-426-2761 or by writing to: Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, at the above mentioned address.

FOR FURTHER INFORMATION CONTACT:
Principal Author:
Principal Program Person: S. H. Stotts, Office of Safety, RRS-11, Federal Railroad Administration, Washington, D.C. 20590, phone 202-472-4094.
Principal Attorney: J. Thomas Furphy, Office of Chief Counsel, RCC-3, Federal Railroad Administration, Washington, D.C. 20590, phone 202-426-9416.

SUPPLEMENTARY INFORMATION:

I. Background

A. Review of S&TC Regulations

During 1978 the FRA initiated a General Railroad Safety Inquiry for the purpose of evaluating and improving the effectiveness of its safety regulatory program. The inquiry and the notice of public hearings related to the S&TC systems portion of this regulatory program were published in the May 8 and December 12, 1978, and the January 3, 1979 issues of the **Federal Register** (43 FR 19696, 43 FR 58100, and 44 FR 925). A two-day public hearing on S&TC systems was held on February 22 and 23, 1979.

The purpose of conducting those two-day hearings was to elicit information from the public to assist FRA in reviewing its present safety regulatory programs with respect to S&TC systems. The Signal Inspection Act (49 U.S.C 26) authorizes the FRA to adopt regulations governing S&TC systems, to order the installation of S&TC systems, and to require reporting of failures of S&TC systems. It also requires common carriers by railroad to obtain FRA approval prior to discontinuance or material modification of any S&TC system. The existing orders and regulations on S&TC systems are contained in Interstate Commerce Commission (ICC) Docket Nos. 13413 and 29543 and also in 49 CFR Parts 233, 235 and 236.

B. Historical Perspective of the S&TC Systems

In 1922 an order was issued in ICC Docket No. 13413 requiring individual railroads to install automatic train stop (ATS) or train control (ATC) devices on designated portions of their lines. For over 40 years numerous proceedings were held in connection with petitions by individual railroads requesting discontinuance of these systems or other relief such as the substitution of automatic cab signal (ACS) devices for train stop or train control devices. Railroad mergers have increased the complexity of the decisions rendered in this matter.

The Signal Inspection Act was enacted on August 26, 1937 and charged the ICC with the responsibility of administering and enforcing the provisions of that law. The ICC issued the initial rules pertaining to S&TC systems on September 24, 1937 (2 FR 1959) by notifying all carriers that such systems may no longer be discontinued or materially modified without ICC approval; that each carrier was required to file its rules, standards and instructions for such systems with the ICC within six months after the enactment of the amendatory provision; and that each carrier owning or maintaining such systems must immediately report each accident resulting from failure of such system, device or appliance to indicate or function as intended.

On December 1, 1937 the ICC issued detailed instructions on procedures to be followed when submitting applications for approval of a discontinuance or material modification and for reporting of signal failures and accidents on published forms beginning with the month of January 1938 (2 FR 2847-2848 December 17, 1937.).

The order contained in ICC Docket No. 29543 was issued in 1947 and required carriers to install a manual block system or an automatic block signal system where freight trains are operated at 50 or more miles per hour or passenger trains are operated at 60 or more miles per hour and an automatic train stop, train control or cab signal system where any train is operated at 80 or more miles per hour. With few exceptions, Order 29543 has remained unchanged.

Part 233 requires the immediate reporting to FRA of each accident caused by the failure of any S&TC device, the reporting within five days of each failure which results in a false proceed signal indication, and the filing of annual reports concerning S&TC systems.

The Instructions Governing Applications for Approval of a Discontinuance or Material Modification of a Signal System (Part 235) were initially issued in 1937 and have been amended several times in attempts to clarify the requirements. Despite these amendments, railroad representatives and interested parties to the numerous proceedings under this Part have frequently alleged inconsistency in decisions. FRA hopes to eliminate this problem through this further revision.

The Rules, Standards and Instructions for Installation, Inspection, Maintenance

and Repair of Systems, Devices and Appliances (Automatic Block Signal Systems, Interlockings, Traffic Control Systems, Automatic Train Stop, Train Control and Cab Signal Systems, and Other Similar Appliances, Methods and Systems) (RS&I) are contained in Part 236. The RS&I were initially issued in 1939, underwent a major revision in 1950 and were revised again to a lesser degree in 1966. In addition, amendments have also been made to individual rules at various times. Nevertheless, most of the RS&I have remained unchanged since 1950. The FRA believes that the RS&I are long overdue for an in-depth review to assess their relevancy in light of more recent technological developments in S&TC devices, appliances and systems.

C. Discussion of the Proposal

Since the hearings were held in 1979, there have been during the period from August 5, 1981 through January 17, 1983, a number of informal meetings by FRA representatives with staff members of the Association of American Railroads (AAR), the Brotherhood of Locomotive Engineers (BLE), the Brotherhood of Railroad Signalmen (BRS), the International Brotherhood of Electrical Workers (IBEW), the Railway Labor Executives' Association (RLEA) and other interested parties concerning these very technical S&TC systems regulations. See, e.g., 35 FR 12463 (1970) for an indication of prior agency practice. The proposals made by the various parties during these meetings have been recorded by FRA employees and copies have been included in the public docket to these proceedings.

After thoroughly reviewing the entire record in this matter, the FRA is issuing this NPRM. The changes in this proposed notice are also responsive to information developed as part of the General Safety Inquiry and to recommendations made by representatives of labor and management as well as other interested parties, who participated in the above mentioned informal meetings, regarding possible regulatory changes. The FRA appreciates the assistance of the AAR, the BLE, the BRS, the IBEW and the RLEA in focusing attention on those regulatory provisions that they believe are in need of revision and in furnishing specific regulatory language expressing their agreement on the revisions required. References in this NPRM to "the parties" will include the AAR and one or more of the unions.

II. Section-By-Section Analysis

A. Order 13413

Order 13413 was issued by the ICC in 1922 under the applicable provisions of section 26 of the Interstate Commerce Act of 1920. The Signal Inspection Act of 1937 contains identical language. Thus, Order 13413 should have been closed long ago. Since the pertinent language in the Interstate Commerce Act of 1920 is expressly covered by the Signal Inspection Act of 1937, the FRA proposes to permanently close Order 13413.

B. Order 29543

The FRA is proposing to codify the provisions of Order 29543 under the applicable provisions of § 236.0 of this NPRM. By this action, the FRA also proposes to permanently close Docket No. 29543.

C. Part 233—Signal System Reporting Requirements

Section 233.1 Scope.

This section does not now clearly establish that all signal and train control systems are subject to this Part. The proposed change specifically sets forth those methods, appliances and systems that are subject to the FRA's reporting requirements, which clarifies and simplifies the matter.

Section 233.5 Accidents resulting from signal failure.

The current provisions of § 233.5 do not comport with similar requirements in the FRA's Accident/Incident Reporting Requirements (49 CFR Part 225) and the FRA's Railroad Locomotive Safety Standards (49 CFR Part 229). The proposed revision will achieve a standardized reporting requirement in the several disciplines within the FRA. Thus, this revision will reduce the reporting burden currently placed on the railroad industry.

Section 233.7 Signal failure reports.

This section currently requires each respondent railroad to report each failure of an appliance, or of a device, method or system to function or indicate as intended in a manner detrimental to the safety of train operation within 5 days of the failure. In addition, if no such failure occurs within a calendar month, each carrier is required to report that fact.

The proposed revision would provide 15 days within which each such failure must be reported. The agency has found that 5 days frequently does not provide sufficient time in which to determine the cause of such failures. Therefore, 15 days is a more logical time frame in which to make such a determination, prepare the report and allow it to reach the FRA. Further, the proposed revision eliminates the requirement for a negative replort during months in which no failure occurs. The proposed changes will further reduce the paperwork burden now placed on the railroad industry by the current rule as prescribed in the Paperwork Reduction Act of 1980, Pub. L. No. 511, 96th Cong., 2d sess. (1980), 94 Stat. 2812, 44 U.S.C. 3502 et seq. However, the railroads should be aware that under this proposed revision all failures of appliances, devices, methods or system to function as intended must be reported. The FRA feels the proposed changes provide the carriers with more latitude under the requirements, but due to the recognized seriousness of such failures, the FRA must insist that each report of a failure be documented.

Section 233.9 Annual reports.

Only a minor modification is proposed in § 233.9. Section 233.9 presently requires an annual report to be submitted by January 15 of each year. This is an extremely busy time for the railroads when they are gathering statistics, reviewing and planning budgets, and determining depreciation, taxes, and other similar matters. In order to reduce these kinds of burdens, which are associated with this seasonal workload, the FRA proposes the annual report be submitted no later than April 1 of each year, which gives these common carriers an additional two and one half months in which to accumulate the necessary information and prepare the report.

Section 233.11 Civil penalty.

A significant modification is proposed for § 233.11. This section currently provides for a penalty of not less than $250 and not more than $2,500 for each failure to comply with this Part, 49 CFR 233.11. For all practical purposes, the relaxation of the reporting requirements proposed in § 233.7 places this industry on the honor system as far as compliance is concerned. Since this Part has been revised to eliminate costly and unnecessary burdens previously imposed on the railroads, the FRA believes that imposition of the maximum penalty—$2,500—for each failure to file the required report is necessary for the purpose of securing meaningful compliance with the safety considerations implicit in this Part.

C. Part 235—Instructions Governing Applications for Approval of a Discontinuance or Material Modification of a Signal System

The initial instructions governing filing of applications were published by the ICC in 2 FR 2847 on December 17, 1937. The instructions subsequently were modified several times to provide direction for various circumstances involved with the need to make changes in S&TC systems. As a consequence the current provisions are difficult to read; this tends to produce varying, even conflicting, interpretations. The instructions and procedures currently prescribed require substantial expenditures of the FRA's resources and, in many instances, cause unnecessary delay to S&TC projects badly needed by the industry. Therefore the FRA proposes to make significant modifications of this Part, which will make the FRA more cost effective and efficient in responding to petitions and applications. The proposed modifications will satisfy the FRA's statutory responsibilities in this area while streamlining the procedures for obtaining more expeditiously the FRA's approval of certain requested signal changes without any reduction in railroad safety. Thus, both the government and industry will benefit from the proposed revisions.

Section 235.1 Scope.

Existing § 235.1 consists of language which is vague and overly legalistic in tone. The proposed revision expresses the scope of this Part in clear and simple terms.

Section 235.3 Application.

This proposed section is new and was extracted from existing § 235.1 for the purposes of clarity mentioned above.

Section 235.5 Changes requiring filing of application.

This proposed section comports with existing § 235.2. The existing provisions are difficult to interpret. The term "decrease in area covered" is subject to debate and all too often is not considered when signal changes are planned by the railroads. This proposal clarifies when an application is required subject only to the exception clause.

Section 235.7 Changes not requiring filing of application.

This proposed revision comports with existing § 235.3. The existing provisions contain the most controversial language in this Part. The requirements are broadly stated to cover varied circumstances. There are frequent misunderstandings of what constitutes a material modification, a discontinuance, a catastrophic occurence, a track change, or closing of an interlocking or a block station.

In order to clarify those terms, proposed § 235.7 contains three paragraphs. The first paragraph, (a), addresses discontinuances and identifies those circumstances where signal systems or appliances could be discontinued or removed without FRA's approval.

The second paragraph, (b), addresses decreases in the area covered and identifies those circumstances in which the limits of a system could be reduced without the FRA's approval. This paragraph also incorporates the provisions of the present footnote of § 236.410 that provide for removal of electric locks from hand-operated switches in traffic control territory, which further reduces the paper work and related costs presently imposed on the railroads that unnecessarily require obtaining FRA approval for removal of such locks. Further, § 236.410 will now be brief and more to the point.

The third paragraph, (c), addresses material modifications and identifies those particular signal changes that could be made without the FRA's approval.

Section 235.8 Relief from the requirements of Part 236.

For purposes of clarity, consistency and simplicity, all relief from the requirements of Part 236 is now being incorporated into Part 235. Since all other S&TC applications are filed under Part 235, this will consolidate all applications concerning S&TC systems and relief from the RS&I governing S&TC systems into one Part 235.

Section 235.9 Civil penalty.

This proposed section is new and will provide for the maximum penalty of $2,500 where unauthorized changes are made in S&TC systems. The proposed modification to this Part removes costly and unnecessary burdens previously imposed on the railroads. Therefore, for the purpose of securing meaningful compliance with the very important safety requirements now contained in this Part, the FRA would seek collection of the maximum penalty of $2,500 for each violation.

Section 235.10 Application format, contents.

Existing § 235.10 provides for applications to be submitted by a letter setting forth information required by § 235.11. For purposes of clarity and simplicity, the proposed modification combines the provisions of §§ 235.10 and 235.11. Thus, § 235.11 would be deleted.

Section 235.13 Filing procedure.

The changes proposed in this section are the elimination of examples of numerous carrier officials who may now submit applications and the address to which the application is to be addressed. Proposed § 235.13 would simply provide for applications to be submitted by an authorized officer of the railroad.

Section 235.14 Notice.

Existing § 235.14 requires the posting of a public notice to cover the filing of an application with copies to be mailed only to all interested parties. The proposed revision will also require the posting of a public notice to cover a request for reconsideration of an application. Thus, all parties would be aware of all actions by the FRA involving S&TC applications, which provides consistency in the administration of this Part.

Section 235.20 Protests.

The only change proposed in this section is the address to which protests are to be filed.

E. Part 236—Installation, Inspection, Maintenance, and Repair of Systems, Devices and Appliances

Section 236.0 Applicability of this Part, relief and instructions governing applications for relief.

The existing § 236.0 prescribes the rules, standards and instructions for each carrier subject to the Interstate Commerce Act. In addition, the current provisions provide for the granting of relief from the requirements and sets forth the procedures to be followed when relief is sought.

Interested parties, namely the AAR and the RLEA, have proposed that FRA continue the existing requirements with some modification for purposes of clarity. These parties also recommend that the provisions contained in ICC Order 29543, which by virtue of the Department of Transportation Act of 1966 (49 U.S.C. 1651–59) is now administered by the FRA, be codified into this section. The FRA feels that merely codifying Order 29543 into this section with the existing requirements will cause considerable confusion about the overall requirements of the section. Therefore, for purposes of clarity the FRA proposes to move the provisions for relief from § 236.0 to Part 235. This action would put all requirements and instructions pertaining to S&TC block signal applications and applications for

relief from the RS&I into one Part, 235. Accordingly, section 236.0 would be recaptioned as it would contain only provisions of applicability and the codified requirements now contained in Order 29543; 273 I.C.C. 660 (1949); 268 I.C.C. 547 (1947).

Originally there was a wide disparity in the recommendations of the parties to codify Order 29543. The AAR recommended that block signal systems not be required except where trains would be operated at a speed of 60 or more miles per hour and that automatic cab signal, train stop or train control system not be required except where trains would be operated at a speed of 100 or more miles per hour.

The RLEA originally recommended that block signal systems be required where trains would be operated at a speed of 30 or more miles per hour; that automatic cab signal, train stop or train control system be required where trains would be operated at 50 or more miles per hour; and that such systems be required where hazardous materials would be hauled over Class 2 track or better.

The parties carefully reconsiderd this matter and determined that the existing requirements of Order 29543 are adequate in today's railroad environment. The requirements of Order 29543 have served well as the criteria to determine the need for signaling systems. The parties recommend that the existing requirements of Order 29543 be codified without change.

In Order 29543 the ICC found that fast transportation is desirable, but the safety of passengers and employees must come first. This consideration is still essential. Accordingly, the FRA proposes to codify the provisions of Order 29543 into the proposed § 236.0.

The proposed change would subject the RS&I contained in this Part to each common carrier by rail subject to the Signal Inspection Act, 49 U.S.C. 26. In addition, the proposed change would establish speed limits for passenger trains and freight trains that cannot be exceeded except by the installation of a manual block system that conforms to the requirements contained in this section, or, by the installation of a roadway block signal system that conforms to the requirements contained in this Part. Finally, the proposed change woud establish speed limits for all trains, above which an automatic train stop, automatic train control or automatic cab signal system will be required.

The remaining proposed changes merely clarify that nothing in this Part authorizes the discontinuance of systems covered by this Part without the express written approval of the FRA.

Subpart A—Rules and Instructions: All Systems General

Section 236.1 Plans, where kept.

The current rule names in detail the various plans required to be kept and also requires a copy of those plans to be kept at many specified field locations, divisional, regional and system offices.

The proposed rule would provide that the necessary plans for proper maintenance of the subject S&TC system will be available for use at each automatic signal, controlled point and interlocking. While the proposed rule would reduce the regulator burden by eliminating the requirement for plans at certain locations mentioned above, which is costly and unnecessary, there would be no diminution in safety since the field personnel will have ready access to the plans referred to in § 236.1. It is clear that the proposed rule would include track layout plans, circuit plans, locking sheets, dog charts and profiles, as appropriate. Such plans would also be maintained in the carrier's system office and would be correct, legible and available for use by the FRA's representatives as required by the existing rule.

Section 236.3 Locking of instrument cases and interlocking machine cabinets.

The present rule requires the use of locks or seals on specific types of signal housings. The rule also excepts signal mechanism housings at interlockings where maintenance forces are continuously on duty.

The proposed rule leaves to the managerial discretion of the carrier the specific manner in which the signal housings are secured and the rule will apply to all signal housings. The proposed rule also removes the exception regarding signal mechanisms at interlockings where maintenance forces are continuously on duty. Since all the housings will now be secured, it should reduce vandalism—frequently a problem—and be of economic benefit to the carriers.

The proposed rule would apply to power interlocking machine cabinets, time releases, emergency releases, and electric locks on interlocking machines; all such devices would be required to be secured. That requirement is consistent with the present rule. Certain traffic control machines and electric cabinets do not contain apparatus that, if interfered with by unqualified personnel, would result in an unsafe condition. Thus, such machines and cabinets would not be covered by the proposed rule.

Section 236.4 Interference with normal functioning of device.

The parties suggested that the words "for insuring" be deleted and the phrase "to provide for" be substituted in its place. The FRA agrees to the proposed editorial change.

Section 236.8 Operating characteristics of electromagnetic, electronic or electrical apparatus.

The present rule applies only to electromagnetic apparatus but does not adequately address electronic devices currently used in railroad signaling.

The proposed modification would require that all electromagnetic and electronic devices or their components be maintained in accordance with the limits within which such apparatus is designed to operate.

This change would permit management to utilize the newest technological advances and encourage innovation by the carriers to obtain economic savings without any reduction in the existing level of safety of train operation.

Section 236.11 Adjustment, repair, or replacement of component.

Section 136.11, (now § 236.11) which has been very controversial, was adopted in 1950 to consolidate four separate 1939 rules referring to replacement or repair of defective signal apparatus. Section 136.11 required "Any piece of appartus or any part thereof which fails to perform its intended function shall be promptly adjusted, replaced, or repaired."

In 1964 certain changes were proposed in § 136.11. The main change was to add the phase "without undue delay" and delete the word "promptly". The proposed rule would read: "When any component of a system or interlocking except track rails, the proper functioning of which is essential to the safety of train operation, fails to perform its intended function, it shall be adjusted, repaired or replaced without undue delay." The discussions and finding of the ICC hearing officer in 1964 were (1) that changing the word "apparatus" to "component" clarified the rule and should be adopted; (2) that a change to exclude track rail from the rule was discussed; (3) that the whole theme of the Signal Inspection Act and the duly adopted rules and regulations is to promote the safety of train operations and the proposed language "the proper functioning of which is essential to the safety of train operation" was perfectly

consistent with the true purpose and objective of this Act and the rules and regulations promulgated thereunder; (4) that "the fact that a false stop or false restrictive signal may cause great inconvenience and expense seems to require its prompt repair as a matter of efficient management" but on the record then before the Examiner it did not appear to pose a safety problem; and (5) that the purpose of substituting "without undue delay" for the word "promptly" was to clarify the situation regarding the need to repair a signal system outside of normal working hours. Simply stated, the intent of this rule was that repairs or adjustments be made before the next movement over the line. Finally, the Examiner then found that, in the best interests of safety and clear and effective administration of this rule, the phrase "without undue delay" should be adopted and so interpreted. No final action was taken on the 1964 proposal until 1966.

During the 1966 hearings on this matter the question of repair of broken rails was again discussed. The AAR submitted that the Commission did not have the authority to require a carrier to repair a broken rail.

In response to this position the Commissioners of Division 3 stated in their report: "The AAR's agrument to the effect that the Commission has no jurisdiction to require repair of a broken track rail which normally functions as a component of a signal system is contrary to section 25 which, as here pertinent, provides that a signal system may not be discontinued or materially modified without approval of the Commission.

"In order to insure that rule 11 is not susceptible of a construction that it applies to tracks generally, we believe that the language of the present rule should be clarified by adding 'signaling' before 'function' and our order will so provide. This modification should dispel the fears of the AAR that rule 11 goes beyond the Commission's authority in section 25.

"Rule 11 was promulgated to insure that if a piece of signal apparatus, such as a relay, switch circuit controller, an electric lock, a switch-and-lock-movement or some other similar device was found defective to such an extent that it failed to perform its intended function, it should be adjusted, repaired or replaced as soon as practicable." 329 I.C.C. 717, 722–723 (1966).

The interpretation of the phrase "without undue delay" was defined by the ICC. At page 723 of 329 I.C.C., the ICC said: "We find that the record does not support a rule which would require that repairs be made before the next movement in all situations. Such a rule would be unduly restrictive since adequate temporary safety measures can be taken until necessary repairs are made. We further find that the phrase 'without undue delay' is a reasonable provision considering the infinite variety of factual situations in which Rule 11 is applicable." Thus, the present rule was adopted in 1966 after consideration of the historical data and the summation of the 1964 and 1966 hearings.

The proposed changes in this rule at this time would require a carrier to investigate and determine the cause of each signal aspect that is not in accordance with known operating conditions. The regulatory language was proposed by the parties. The FRA has seriously considered the matter and agrees to include the suggested language to obtain assurance that a "stop" signal or a "stop and proceed signal," which is caused by an unknown condition, will require the carrier to determine the reason for such signal aspects. If that condition affects the safety of train operation, action would be required to correct that condition.

Section 236.12 Spring switch signal protection; where required.

This rule, as originally adopted on June 29, 1950, provides that spring switches installed after the effective date, October 1, 1950, would be provided with signal protection. All such installations in service before that date would be exempted from these requirements.

The parties have agreed to propose deleting from the rule the phrase "hereafter installed" and, in lieu thereof, to add the following note:

"Note.—Does not apply to spring switch installed prior to October 1, 1950 in automatic block signal, automatic train stop, train control or cab signal territory."

This will clarify the intent of this section that only spring switches installed after the original adoption of the rule would be subject to these requirements.

Section 236.16 Electric lock main track releasing circuit.

The parties agreed to the need for a new rule which will prescribe standards for a main track releasing circuit at an electrically locked hand-operated switch. The advent of new technology, such as the audio frequency overlay, has resulted in widely varied designs for such releasing circuits, and a need has developed for safety standards regarding the installation of the main track releasing circuit. The present installations on the major carriers throughout the nation have been installed within guidelines similar to the requirements of the proposed rule. Thus, the adoption of this rule will clearly not result in a significant economic impact.

Section 236.17 Pipe for operating connections, requirement.

Proposed § 236.17 is not a new rule but was adopted in 1950 and followed closely the requirements of its predecessor which was included in the 1939 rules. The present rule, § 236.313, applies only to interlockings.

The parties have proposed that this rule apply to all systems so that all such pipe-connected switches, derails facing point locks and other pipe-connected appurtenances will be covered with equal consistency. Therefore, the FRA proposes to move the requirements to Subpart A by recaptioning § 236.313 as § 236.17.

Roadway Signals and CAB Signals

Section 236.21 Location of roadway signals.

The 1939 rule, § 136.2(b)(1), required that signals be aligned to give the best possible indication for approaching trains and that, "signals shall be installed to avoid, so far as possible, the liability of mistaking the indication of one signal for the indication of another signal, or confusion between signal and other lights." The rule adopted in 1950 (then § 136.21) required: "Each roadway signal hereafter installed shall be located over or to the right of the track it governs." The rule was effective October 1, 1950 and remained unchanged until 1970.

On June 11, 1970 the FRA considered proposed changes to this rule to relieve what the carriers felt was an unnecessary burden. The FRA found that the safety of train operation did not require roadway signals to be placed only to the right or above the track governed on single-track territory, but to prevent confusion and assure safety of operation in multiple track territory, the roadway signals should be placed over to the right of the track governed in other than single track territory. The FRA also added language to require that each roadway signal shall be properly positioned and aligned so that the indication it displays can be clearly associated with the track it governs, 35 FR 9926 (1970). It is felt that a requirement to mandate that roadway signals be located to the right of the track governed is unnecessary. The record shows that the present rule is still regarded by the carriers as too restrictive. A great many applications for relief from this rule have been filed

with the FRA and almost without exception, each request for relief has been approved. The FRA proposes to delete the provision of the rule requiring that a roadway signal be located over or to the right of the track governed. However, the carriers are here put on notice the FRA will depend heavily on its inspectors' judgment whether the location and alignment of a signal complies with the intent of this section and that the signal aspect is clearly associated with the track governed.

Section 236.23 Aspects and indications.

The 1939 rules provided as follows: "Signal indications shall be given by positions, by colored lights, or by both. A single white light shall not be used for a proceed indication."

The existing rule, adopted in 1950, is more detailed and provides a desirable standardization of signal aspects for the nation's railroads. The only carrier then objecting to the adoption of this rule was the Great Northern who used a white light for a signal aspect. Section 236.23 as adopted in its present form on July 19, 1950 and made effective October 1, 1950.

The present rule is well written and has served the industry well, but the parties to this proceeding agree that certain changes need to be made. Accordingly, the FRA proposes to revise paragraph (b) to permit the use of illuminated numerals as cab signal aspects.

The FRA proposes to revise paragraph (e) of this section for clarity with no change in the intent of the rule that a carrier shall furnish its employees and the FRA a copy of its current rules regarding signal names, aspects and indications. That portion of the rule which indicates approval by the FRA is deleted because the FRA's primary function is to review those rules for compliance with applicable FRA rules or regulations.

In addition the FRA proposes to delete existing § 236.25 and add those provisions to this section along with new requirements that the absence of a qualifying appurtenance shall not cause a signal to display a less restrictive aspect than intended. The FRA proposes to add these provisions in a new paragraph (f) of this section.

It should be clearly understood that the FRA does not intend hereafter to permit the use of night aspects which depend upon external light for illumination in lieu of those fundamental indications prescribed in paragraph (d) of this section.

Section 236.25 False restrictive position of semaphore signal arm or failure of lamp in light signal.

The FRA proposes to delete this rule and the requirements would be written into § 236.23(f).

Section 236.27 Phantom signal aspect.

The FRA proposes to delete this rule. It is the position of one of the parties that, due to its serious nature, it is not necessary to tell a carrier to prevent a phantom false proceed signal aspect. The existing rule does not require action until after a phantom signal aspect has occurred. The rule is not readily enforceable because the phantom indication is normally caused by conditions beyond the control of the carrier, such as reflected sun light. Other contributing factors are covered by other rules. Thus, FRA proposes to delete this section.

Track Circuits

Section 236.51 Track circuit requirements.

The present rule prescribes the standard by which all track circuits are designed. The original 1939 rules required all track circuits to be so installed and maintained that the track relay would be in deenergized position and track circuit of ACS, ATC or ATS systems be deenergized in the rear of the point of a rail that is broken or when a rail or frog is removed; when a train, engine or car occupies any part of a track section; and where switch shunting is used, when a switch point is not in proper position or switch and lock movement is not locked or an independently operated fouling point derail equipped with a switch circuit controller is not in the derailing position.

The 1950 rules provided for the same requirements and additionally imposed restrictions that shunt fouling could not be used on turnouts where speeds exceeded 45 miles per hour. The 1950 rules also adopted certain exclusions in that the provisions regarding broken rails or removal of rails do not apply to shunt fouling section or to a rail broken within the confines of a joint bar; it is not a violation if leakage of a foreign current in the rear of a broken rail or a removed rail energizes the track circuit; and it is not a violation if rust, grease or other foreign material prevents effective shunting of the track circuit.

In 1966 the rule was further relaxed to provide that rails broken within the limits of rail joint bond, appliance or other protective device which provides a bypath for the electric current would also be exempt from the requirement that the track relay be in the deenergized position. The present rule has served well and its requirements are reasonable. However, within the last ten years, several signal systems have been developed in this country that do not have a track relay associated with the systems's track circuits. Instead there is an electronic device that functions similar to a track relay. After seriously considering the matter, the FRA now feels that this is the time to realistically modify this rule so that it is clear to all concerned that the provisions of this rule apply equally to track circuits with track relays and track circuits which have electronic devices instead of relays. While considering the first paragraph, it is well to note the carriers have submitted that this section should not be applied to circuits such as annunciator circuit, approach lighting circuit and such circuits that do not affect the safety of train operation. The FRA proposes to modify this section to apply only to those track circuits which affect the safe movement of trains.

In order that this first paragraph be properly interpreted a definition of "most restrictive state" is proposed in the definition section, subpart G, section 236.813a.

The parties to this proceeding agree that, whenever a rail is removed, the track circuit should detect the removal of that rail regardless of circumstances. Accordingly, the FRA proposes to delete the words "or a rail is removed" from paragraph (a)(2) of this section.

Section 236.54 Minimum length of track circuit.

This rule is virtually unchanged since 1939. In 1950 the wording was added, "or special circuit not used for control of signaling facilities." Presumably this was done to exempt such circuits as annunciator circuits.

In recent years the industry has developed several ways to detect track occupancy of short track sections without resorting to trap circuits. The FRA proposal to change this rule will recognize advances of such technology in the industry and will not preclude the use of those devices which provide protection equal to or better than a trap circuit.

Section 236.55 Dead section; maximum length.

The 1939 rule required a special circuit if a dead section exceeded 35 feet or the length of the wheelbase of any engine or car.

The 1950 rule was modified to provide the dead section should not exceed 35 feet or the outer wheelbase of any locomotive operating over such dead

section. The FRA proposes to insert the word "a" after "35 feet" at the end of the first sentence as a mere editorial change.

Section 236.56 Shunting sensitivity.

The 1939 rule provided that a track circuit should be energized sufficiently to properly operate in wet weather with minimum ballast resistance but would not be over-energized to the extent that it would not shunt properly during dry weather under conditions of maximum ballast resistance.

The rule was changed in 1950 to its present form which prescribes a track circuit be maintained so the track relay will be in deenergized position when a shunt of 0.06 ohm resistance is connected to the rails of the track circuit. The rule in its present form does not address the issue of track circuits having electronic devices which detect track occupancy. Such circuits have no track relay.

The FRA proposes changes to the rule's language to recognize the electronic devices and make this rule applicable to all track circuits regardless of the type of track occupancy detection device.

The carriers submit that certain track circuits, such as annunciator circuits, do not affect the safety of train operation and should be exempted from the requirements of this rule. The FRA agrees the requirements of this section should not address track circuits that do not affect safety of train operation. Accordingly, the FRA's proposed modification would cover only those track circuits that control home signals.

Section 236.57 Shunt wires.

The 1939 rule required that, "shunt wires, preferably in duplicate, shall provide adequate conductivity to ensure effective shunting and shall be kept in place and in good condition." That rule did not refer to fouling wires and did not mandate the use of two conductors.

The revision of the rules in 1950 changed this section to its present form which requires the use of two conductors for shunt and fouling wires, except shunt wires to switch circuit controllers, through which signal control circuits are controlled and track circuits are shunted.

Interpretation of this rule has permitted the use of a single unit shunt or fouling wire having two conductors with a single plug on each end. This duplex fouling or shunt wire has the disadvantage that, if either of the two plugs were broken off the rail, a dangerous condition could possibly result. The intent of the proposed revision is clearly to preclude such a dangerous condition from occurring.

The interested parties to this proceeding agree the rule should be changed to require two separate conductors. However, a need exists to recognize the severe economic burden that would be placed on the nation's carriers if they would be immediately required to comply. The proposed revision will grandfather existing installations. The language used to make these rules applicable to electronic devices as previously discussed in § 236.51 also applies here. Further, the proposed rule will not apply to shunt wires where signal control circuits are controlled through the switch circuit controller.

Section 236.58 Turnout, fouling section.

This rule referring to fouling section specifically was adopted in 1950. It simply requires: "Fouling section of turnout shall extend to clearance point."

There are problems with this rule since the FRA does not prescribe the location of "clearance point" and there is no requirement that the fouling section be bonded. The fouling section of a turnout is part of the track circuit on the main track and as such must comply with § 236.56, which requires that all portions of the track circuit offer effective shunting. In order to assure the shunting is effective, it is the practice of the nation's carriers to bond the fouling section. The parties have agreed on an alternative to the use of the words "clearance point". The FRA has considered this recommendation, and it will be incorporated into the proposed rule.

Section 236.60 Shunting of track circuits.

A new rule, § 236.60, is proposed. It has long been recognized that the shunting of track circuits by a switch circuit controller attached to the switch point is not completely fail safe.

It was suggested that a new rule be adopted to prohibit the use of such track circuit shunting at switches and at other protective devices, such as slide fences.

There are presently more than 37,000 hand-operated switches in signaled territory of which at least 50% are equipped with track circuit shunting. To require the carriers to bring the existing installations into compliance with the provisions of the proposed new rule would impose a very severe economic burden on the industry. To obviate that unnecessary burden, the parties have agreed and the proposed rule so provides that the proper protection to such switches or devices would apply to track shunts installed after the effective date of the rule.

Wires and Cables

Secton 236.71 Signal wires on pole line and aerial cables.

The 1939 rules required that pole lines carrying signal circuits be properly installed and maintained; that wires be properly tied in on insulators; and that broken insulators be replaced. The revisions of 1950 resulted in the present rules, §§ 236.71 and 236.75.

The FRA proposes to consolidate the requirements of §§ 236.71 and 236.75 into one section that would prescribe the requirements for pole lines and aerial cables carrying signal circuits. The resulting § 236.71 would more clearly define the requirements regarding pole lines and aerial cables. Existing § 236.75 would be deleted.

Section 236.72 Clearance of overhead signal wires and cables.

The requirements for overhead signal wires and cables contained in the 1939 rules were continued in the 1950 revision, which resulted in the wording of the present section, § 236.72. This rule required wires and cables to be maintained at least 27 feet above the top of the rail to preclude a low hanging wire or cable from knocking a person from the top of a railroad car. The requirement no longer has relevance to the railroad industry of today because walkways are no longer provided on the top of railroad cars and the railroads no longer permit employees to ride on top of cars. The FRA proposes to delete this section.

Section 236.75 Insulated wires and cables; support.

As previously stated herein, for purposes of clarity the FRA proposes that the requirements of this rule be included in § 236.71 and this section would be deleted.

Section 236.76 Interference of wires with operating parts of mechanisms.

The FRA proposes that the requirements of this section and those contained in § 236.77 be combined into one section for purposes of brevity and clarity. This editorial change would require § 236.76 to be recaptioned and would permit § 236.77 to be deleted.

Section 236.77 Tagging of wires.

The FRA proposes to combine the requirements contained in this section with those of § 236.76. Accordingly, the FRA proposes to delete this section.

Section 236.78 Lightning arrester.

This rule requires that lightning arresters be connected to a well maintained ground. The rule does not require the use of lightning arresters, but if lightning arrestors are used, they must be connected to a ground that will provide a good path for electrical discharges.

The parties agree this rule serves no safety oriented function and enforcement serves no useful purpose. Therefore, the FRA proposes to delete this rule.

Inspections and Tests; All Systems

Section 236.101 Purpose of inspections, and tests; removal from service of relay failing to meet test requirements.

This rule prescribes that certain FRA required tests shall be made and that all such tests are to be made to determine the apparatus and/or equipment is in condition to perform its intended function. Such inspections and tests must be made in accordance with the carriers specifications which are subject to the FRA's approval. The rule further requires that any apparatus and/or equipment failing to meet the requirements of a specific test shall not be continued in service but must be replaced, repaired or adjusted.

The existing requirements were contained in several sections of the 1939 rules. The revisions in 1950 consolidated those requirements into the present rule.

The current rule has served well and is a good rule. However, the parties agree that the language of the rule needs to be revised to recognize the technological advances in present day signal systems. The electronic or solid state signal system needs to be recognized. The proposed rule reflects these important considerations.

Section 236.102 Signal mechanism.

The 1939 rules required a signal mechanism to be inspected to ensure the apparatus was in safe condition. Tests were required as specified by the carrier, subject to approval by the ICC, and such tests had to be made at least once every two years.

The revision in 1950 resulted in the present rule which mandates inspections every six months and tests every two years.

The current rule refers to signal mechanisms. A difference of opinion among signal people has existed for many years as to whether this rule applies to both semaphore and searchlight signal mechanisms. The FRA and its predecessor, the ICC, applied this rule equally to semaphore and searchlight signals.

The parties agree that a clarification of the rule is needed. The parties have suggested that a change be made in the language of § 236.102 so it will only apply to semaphore signals and a new section be written, § 236.102a, which will only apply to searchlight signals. The FRA has reviewed this matter and proposes to recaption and amend this section to adopt the suggested clarification. The FRA proposes to revise the rule so that paragraph (a) would cover semaphore signal mechanism test requirements and paragraph (b) would cover searchlight signal mechanism test requirements.

Section 236.103 Switch circuit controller.

The 1939 rule required a switch circuit controller to be inspected frequently and to be tested quarterly.

This rule was revised in 1950 as follows: "Switch circuit controller shall be inspected and tested at least once every three months."

There has been some confusion within the railroad industry concerning the application of this rule. Some carriers have believed that this rule applies to point detectors of power-operated switches. The FRA has never applied these requirements to such point detectors, but does agree that point detectors of power-operated switches should be tested.

The parties have proposed the rule be expanded to include test of point detectors because they realize that the carriers already make the test, and some submit, therefore, that such tests should be required. The FRA proposes to recaption this section and include the requirements that switch circuit controllers, point detector or circuit controller of hand-operated, mechanically-operated or power-operated switches be inspected and tested at least once every three months.

Section 236.106 Relays.

The 1939 rule required all relays to be tested every 2 years and a relay would be removed from service if such relay failed to meet the requirements of the specified test. The 1950 revision kept the 2 year testing requirement, exempted locomotive relays and moved to § 236.101 the requirement that relays be removed from service if the relay failed to meet the test requirements. The test period for most relays can be extended without any reduction of safety. However, research has revealed that certain types of relays need to be tested at least every 2 years—some even more often.

A review of the false proceed signal indications reported to the FRA by the nation's carriers since 1977 indicates that almost 30% of the false proceed signal indications attributed to defective relays were caused by AC centrifugal, AC vane and polar relays. The AC centrifugal relays alone represent 12% of the total of false proceed failures, although centrifugal relays make up less than 1% of the total relays in the nation. There are also still in service certain relays which use soft iron instead of silicon steel for the magnetic structure of the relay. This type of relay is subject to being permanently magnetized which would result in a significant safety hazard.

The FRA's proposed revision would relieve the industry from the expensive burden of unnecessarily testing relays which do not affect safety of train operations or relays which have no record of significant failures. However, it would retain the requirements of more frequent testing of those types of relay that present a significant safety hazard.

Section 236.107 Lightning arresters.

The 1939 rules required as follows: "Lightning arrestors shall be inspected frequently during the seasons of the year when lightning occurs, and gas and vacuum types tested annually and record made of date of tests".

However, as pointed out in the discussion of § 236.78, there was no rule requiring the use of lightning arresters.

The 1950 revisions recognized that lightning arresters were not required and that some carriers chose not to install them. The present rule, § 236.107, was adopted requiring testing of gas and vacuum type lightning arresters. The railroad industry has gradually discontinued the use of the gas or vacuum type arrestors on signal circuits and such lightning arresters are considered by most carriers to be obsolete.

There is no need to retain a section requiring testing of apparatus no longer in general use. Therefore, the FRA proposes to delete the present rule.

Section 236.107 Ground tests.

During consideration of §§ 236.2 and 236.108, the FRA determined that a need exists for a rule requiring periodic testing of signal circuits for grounds. Section 236.2 requires that circuits be kept free of grounds but does not require the carrier to perform tests that will provide definite information as the ground free condition of the circuits. On the other hand, § 236.108 requires testing of insulation resistance of wires and cables every 5 to 8 years.

The parties proposed the requirements of § 236.108 be changed to relieve the

burden of what they consider to be unnecessary testing. But, in order to maintain the integrity and safety of the signal systems, the parties have recommended and agreed that a new rule should be adopted requiring a periodic ground test of all circuits affecting the safety of train operation. The parties agreed the proposed revision of § 236.108 and the proposed recaptioned new rule, § 236.107, would have the net result of providing significant relief from the testing requirements pertaining to the condition of insulation of signal conductors, but the integrity and safety of the signal systems would be maintained. It is the consensus of the parties to these proceedings that an improvement in safety would result if this proposal were adopted. The FRA concurs and proposes to adopt this new requirement.

Section 236.108 Insulation resistance tests.

The requirements of the rules adopted in 1939 regarding insulation resistance testing have remained virtually unchanged until the present time. The existing rule requires that low voltage conductors not designed for underground installation and installed underground or in trunking be tested every 5 years and minimum allowable resistance be maintained at 1 megohm. In addition, the rule requires that low voltage wires and cables not underground or in trunking, low voltage wires and cable designed for underground use and installed underground or in trunking, and local signal wiring will be tested every 8 years and minimum allowable resistance be maintained at 1 megohm. Lead covered signal power cables are required to be tested every 8 years and minimum allowable resistance must be maintained to at least 100 megohms. Underground signal power lines not lead sheathed must be tested every 5 years and minimum allowable resistance is 40 megohms for voltages up to 660 volts and 100 megohms for voltages over 660 volts.

It was submitted that this rule puts an unncessarily large and costly testing burden on the carriers and the rule needs to be changed. It was proposed that a new rule, § 236.107, be adopted to require a periodic ground test of all signal circuits. Thus, the testing rule for signal wires and cables can safely be relaxed. It is the parties' position that protection and safety would actually be maintained and enhanced. The parties have agreed to this proposed revision of § 236.108. The FRA has carefully considered these suggestions and proposes to reception and revise the rule.

Section 236.109 Results of tests.

The requirements for records of tests have not been changed significantly since the adoption of the 1939 rules. The 1950 revision merely changed the numbers of the rules referred to in accordance with the new numbers of the 1950 rules and clarified the matter by providing that the records will be kept in the office of a divisional officer of the division where the tests were made.

Current technology permits the carriers to use data processing equipment to store information and print out test reports to be completed by field personnel. The parties agree such procedures would be desirable and recommend changes to the rule to recognize the computerized test forms.

The existing section requires that a record of tests be filed and kept at the office of the carrier officer responsible for such tests. Currently, there is no requirement for retention of such records. The parties agree that each record should be retained until the next record for that test is received but in no case less than one year.

This rule needs to be changed to reflect the changes proposed in this Part and make the rule more flexible to permit the use of data processing technology for recordkeeping and assure that records will be kept for a certain specified period of time rather than for an indeterminate period. The existing rule is vague and this proposal, which the FRA considers desirable in the interests of clarity, assures that cost effectiveness and safety will thus be achieved.

A proposal contained hereinafter would move § 236.385 to subpart A. The FRA proposes to reception § 236.385 as 236.109 to maintain the logical order of this subpart. Therefore, the FRA proposes the provisions contained in existing § 236.109 be revised as herein discussed and adopted as § 236.110.

Subpart B—Automatic Block Signal Systems Standards

Section 236.204 Track signaled for movements in both directions, requirements.

The parties have recommended an editorial change be made in the last sentence of this rule to more clearly state the intent of the rule. The FRA has considered the change and agrees it will be beneficial because it does clarify the rule. The FRA proposes to revise the last sentence to read: "In absolute permissive block signaling when a train passes a head block signal, it shall cause the opposing head block signal to display an aspect with an indication not more favorable than stop." This revision would clarify that a train stopped at such a headblock signal could not proceed except by authority of the dispatcher or under flag protection.

Section 236.205 Signaled control circuits; requirements.

The requirements of the existing rule were contained in section 208 of the 1939 rules. The requirements were adopted with editorial changes in 1950 and have remained unchanged since that time. While the existing rule has served well and its requirements are still valid, the railroad industry has begun using electronic devices in lieu of track relays. These technological advances were discussed in connection with the changes proposed in §§ 236.51 and 236.56. Those considerations apply to the instant rule.

Therefore, the FRA proposes to revise paragraph (d) of this section to recognize the use of electronic or solid state devices and prescribe their signaling performance.

Section 236.207 Electric lock on hand-operated switch; control.

This rule was adopted in 1950 and prescribes the standards of an electric lock installed in automatic block signal territory. These provisions establish the minmum standards of performance when an electric lock is installed in automatic block signal territory.

The parties have proposed a mere editorial change in the wording of this rule. They feel the words, "signals governing movements over such switch," is more descriptive of the requirements than the present wording, "protecting such switch."

The FRA agrees and proposes to make the suggested changes in this rule.

Subpart C—Interlocking Standards

Section 236.302 Track circuits and route locking.

The 1939 rules required as follows: "Track circuits shall be provided throughout the interlocking limits except when otherwise authorized by the Commission."

The 1950 revision of this rule deleted that portion, "except when authorized by the Commission," and added two footnotes. The first footnote provided that relief from the requirements of this rule would be granted on an adequate showing by a carrier and the second provided that all installations not in compliance would be brought into compliance on a percentage basis each

year until 1955 when all installations would be required to be in compliance.

In 1964, as a result of the circumstances involved in a collision at an interlocking, a change was proposed to require that route locking be effective when the first pair of wheels of an engine passes a point not more than five feet in advance of the signal governing its movement. The five-foot requirement was found to be unduly restrictive and the final rule adopted in 1966 set the distance at thirteen feet.

The existing rules, adopted in 1950, have a requirement that a loss of shunt of 5 seconds or less will not permit an established route to be changed at an automatic interlocking (§ 236.309).

The interlockings existing at that time were largely either automatic or locally controlled manual interlockings. These circumstances have now changed so that there are a large number of remotely controlled interlockings where the loss of shunt within interlocking limits poses a distinct safety hazard where a remotely controlled switch might be operated under a train.

The parties have recommended revision of the existing rule to specifically identify the point from where the 13 feet is to be measured. In addition, they suggest the revision include a five-second loss of shunt requirement for route locking. However, the cost of retrofitting the existing installations would be prohibitive, and for the purpose of assuring that this rule will be cost beneficial, all parties agree the requirements for loss of shunt should apply only to those power-operated switches installed after the adoption of the proposed rule.

The recommended method of measuring the 13-foot standard is already followed by the FRA and the proposed section details this method.

The FRA agrees safety would be enhanced by requiring loss of shunt protection for power-operated switches hereafter installed. However, the FRA does not believe that this section (and later, § 236.408) is the appropriate place to add such provisions. The FRA believes § 236.309, captioned "Loss of shunt at automatic interlockings," should be revised to include power-operated switches hereafter installed. Thus, revision of § 236.309 will be proposed later in this NPRM.

Section 236.307 Indication locking.

The 1939 rules required: "Signals governing movements over switches, movable point frogs and derails shall be so controlled that indications to proceed can be displayed only when such units are in proper position," and also stated: "Indication locking or equivalent shall be provided for approach signals of semaphore type and power-operated home signals at manually operated interlockings."

The existing rule consolidating those provisions was adopted in 1950, and added an indication locking requirement for all approach signals installed thereafter except light signals controlled by coded track circuits or double wire line circuits. The language of the existing rule is vague and the term "double wire line circuit" has been subject to many interpretive arguments. Further, recent technological developments have provided other more cost effective means to safely control the approach signal aspects.

The parties propose changing the language of the rule to clarify it and to permit the use of other more cost effective circuits for approach signal control circuits. The FRA has considered these suggestions and proposes to change this section accordingly.

Section 236.309 Loss of shunt at automatic interlocking.

During the discussion of §§ 236.302 and 236.408, the parties recommeded that loss of shunt protection be required on route locking for power-operated switches. It was further discussed that to require the carriers to come into compliance with such provisions would be a costly burden on the entire industry. A suggestion was made that loss of shunt protection be required on power-operated switches but all existing installations be grandfathered. The FRA proposes that § 236.309 be recaptioned and so revised that loss of shunt protection would be required on the route locking of all power-operated switches hereafter installed and will further propose to revise § 236.401 to make § 236.309 applicable to traffic control systems.

Section 236.311 Signal control circuits, selection through track relays, and through signal mechanism contacts and time releases at automatic interlocking.

The 1939 rules provided in pertinent part: ". . . that proceed control circuits for home signal at automatic interlocking be selected; through track relays for all track circuits within the interlocking; through signal mechanism contacts or relays repeating such signal mechanisms that would indicate all conflicting signals were at stop; and through the normal contacts of time releases for conflicting routes." In the 1939 rule there were no requirements for manual interlockings.

The present rule was proposed in 1950 with the Great Northern Railroad making the only comment regarding its concern that the wording of the rule would preclude the use of relays repeating track circuits. The rule was revised and adopted in 1950 to include repeating relays and remained unchanged until now except for a very minor editorial change in 1966.

The present rule does not recognize improved technology in railroad signaling or permit the use of electronic devices that function as track relays. The parties have proposed that this rule be changed to achieve this purpose. The FRA agrees and proposes the rule be recaptioned and revised accordingly.

Section 236.312 Movable bridge, interlocking of signal applicances with bridge devices.

The 1939 rules required that, when movable bridge was protected by interlocking, provision would be made to insure that movements of bridge devices succeed each other in a predetermined order and the bridge and track devices be locked in their proper positions with proper mechanisms to accurately align, surface and secure the movable span and track in place.

The rule adopted in 1950 consolidated the requirements into a single rule and specified that the bridge locking members be within one inch of their proper position and the track rail on the movable span be within three-eighths of an inch of correct surface and alignment. The rule also specified the bridge and track must be locked.

The 1966 revision changed this rule to the existing language because the more modern installations no longer used rail locks but used self aligning frogs with switch circuit controllers or other type of electric devices to assure correct track surface and alignment. The present rule adopted in 1950, and revised in 1966, requires the bridge to be locked and the track to be correctly aligned.

The operating panel of each drawbridge usually provides for an "emergency release" or "by pass" switch or device to permit the bridge to be operated when trouble occurs with signal circuits protecting the bridge. This switch or device is usually provided with a means to lock or seal the switch or device. However, there is no existing requirement that the switch or device be locked or sealed.

The parties have recommended that a sentence be added to the end of this rule to make the use of the emergency switch or by pass device more difficult so it cannot be used for routine operations. Therefore, the FRA proposes to add a provision requiring emergency bypass

switches and devices to be locked or sealed.

Section 236.313 Pipe for operating connections; requirements.

As previously noted, the FRA proposes to move this section to subpart A, as § 236.17, and make it applicable to all systems.

Rules and Instructions

Section 236.327 Switch, movable-point frog or split-point derail.

Section 136.4, paragraph 4, of the 1939 rules required: "Switch shall be so maintained that it cannot be locked when one-fourth-inch rod is placed between stock rail and switch point 6 inches back from the point of switch. Locking edges shall be kept square.

The revision of the rules in 1950 relaxed the requirements. The one-fourth inch was changed to a three-eighths inch and the requirements, concerning locking edges being square, were dropped from the rule.

The parties agree that the present requirements of this rule are reasonable and should be retained. However, they feel that the language of the rule should be revised to omit the reference to an "obstruction" of the switch point. The FRA agrees. In the interest of clarity, the FRA proposes to omit the word "obstruction" and to make it abundantly clear that this rule only applies to switches, movable-point frogs, or split-point derails that are equipped with lock rods since not all switches are so equipped. The FRA's inspectors will test this adjustment by placing an obstruction 6 inches back from the point of switch and operating the switch-and-lock movement until the slide bar strikes the lock rod.

Section 236.331 Repairs to switch and signal valves and cylinders.

The present rule was adopted in 1950 and provides that repairs to pneumatic switch and signal valves and cylinders shall not be made while they are in service to ensure that unsafe conditions are not created by the repair of such devices.

The parties suggest that § 236.4 of these rules provides the necessary requirements to ensure the needed safety and that § 236.331 should be deleted. The FRA has studied the matter and agrees with them. Therefore, The FRA proposes to delete this section.

Section 236.332 Air distribution system; draining condensation.

The existing rule requires that carriers take certain actions to reduce the amount of condensation in air distribution lines of pneumatic signal apparatus. These provisions have remained unchanges since the 1939 rules were originally adopted. The parties agree that this is not a safety related rule and should be deleted.

The FRA has considered the matter and concurs that this rule is not necessary for safety and should be deleted.

Section 236.333 Pole changer on electric switch operating mechanism.

The requirements of this section have not been changed since 1939. Minor editorial changes were made in 1950.

The parties agree that the requirements of this section are adequately covered by §§ 236.8 and 236.11. They suggest that this section be deleted as being unnecessary. The FRA has reviewed §§ 236.11 and 236.333 and has determined that §§ 236.8 and 2136.11 provide the necessary requirements to obtain the safety objectives of § 236.333. Therefore, the FRA proposes to delete § 236.333.

Inspection and Tests

Section 236.376 Mechanical locking.

The provisions of this section have remained unchanged since the original 1939 rules were adopted. Only editorial changes were made in 1950.

These provisions are applicable to mechanical interlocking machines. The FRA notes that the present technology of the railroad industry makes the installation of mechanical interlocking uneconomical. No new mechanical interlockings have been installed in the last several years, and the average age of such interlockings is approaching 60 years. The locking beds and mechanical parts of these interlockings are becoming worn and no longer meet the manufacturers' original specifications. The 1939 and 1950 rules dealt with the testing of mechanical interlockings in relatively good condition, while the present rules must deal with the devices near the end of their effective use. In the interest of economy, efficiency and safety, the FRA recommends this old, antiquated equipment should be tested more frequently and proposed to the parties that the test period be lowered to 2 years on mechanical interlocking machines. The parties agree with the FRA. Therefore, the FRA proposes to revise this section to the extent mechanical locking shall be tested when locking is installed, a change is made, locking becomes disarranged or at least once every two years.

Section 236.377 Approach locking.

The requirement that approach locking be tested once each year was contained in the 1939 rules and remained unchanged in the 1950 rules. The rule was written to require testing of approach locking of mechanical, electro-mechanical and electric interlockings.

Approach locking is achieved by electrical circuits which will continue to give satisfactory performance unless the circuits are modified, disarranged or interfered with. The test period of one year can be extended to two years without a reduction in safety, but approach locking needs to be tested when installed or when circuit changes are made, and a definite need exists for a periodic test to assure continued safety. The FRA has proposed, and the parties have agreed, that the rule be so revised.

Section 236.378 Time locking.

The testing requirements for time locking have not changed since 1939. These provisions require testing of time locking at mechanical, electro-mechanical and electric interlockings at least once each year. Time locking may be achieved either electrically or mechanically. The record shows that time locking is not subject to frequent failure, and seldom are defective conditions detected in routine tests of time locking. However, there is a definite need to test time locking when it is installed, when circuits are modified or for some reason disarranged. In the interest of safety, a periodic test also needs to be made to continually monitor the condition of the vital locking circuits of all interlockings.

The test period of one year can be extended to two years without a reduction in safety. In the interests of safety and also to make this rule more cost effective, the FRA has proposed, and the parties have agreed, to the proposed revisions.

Section 236.379 Route locking.

The present rule requires, as follows: "Route or other type of switch locking shall be tested at least once every three months." The requirements of the present rule have remained unchanged since 1939 except for the making of mere editorial changes.

When the original rules were adopted, route locking was achieved by mechanical means (detector bars) as well as by using electrical circuits. Mechanical locking was subject to wear and needed frequent testing and adjustment. Route locking is now achieved by electrical circuits and electromagnetic devices such as electric locks on levers of mechanical interlockings. These electrical circuits and electro-magnetic devices will

continue to function as intended until such time as changes are made in the circuits or they are disturbed in some manner.

The FRA recognizes the unnecessary testing burden placed on the industry and proposes to change the requirements of this rule to relieve this burden of making such unnecessary tests but to also retain the intended safety.

The parties also agree that such changes should be made.

Section 236.380 Indication locking.

The present rule adopted in 1950 requires: "Indication locking for semaphore signals and for switch or lock levers shall be tested at least once a year and for light signals at least once every two years."

Similar testing requirements were contained in the 1939 rules and the need for such testing is still valid.

However, the industry has improved its design of signal systems over the years and no longer installs semaphore signals or mechanically locked switch or lock levers. The mechanical interlocking machines still in service will be tested more frequently than heretofore under proposed § 236.376.

Indication locking achieved by all electric locking circuits is not subject to wear of mechanical locking parts. Such electric locking will continue to function as intended until the circuit is modified or disarranged in some manner. The parties agree the rule should be relaxed to the extent that indication locking be tested every two years but would require additional tests if the circuit is changed or disturbed.

After throughly considering this suggested change, the FRA proposes this revision be adopted.

Section 236.381 Traffic locking.

Adopted in 1950 the present rule reads: "Traffic locking shall be tested at least once a year."

This testing requirement was first adopted in 1939 and at that time applied for the most part to electrically locked mechanical interlocking levers or locking within the mechanical interlocking machine.

Mechanical or electro-mechanical traffic locking is no longer installed and is being replaced by the industry with electrical circuits as conditions dictate. The electric traffic locking circuits do not have mechanical components that wear or break, but will continue to function as intended until the circuit is changed or disrupted in some manner. The FRA proposes to revise this rule by inserting language identical to that used in the previous three sections.

Section 236.382 Switch obstruction test.

The 1939 rules required the following: "Switch obstruction test shall be made quarterly to ensure proper maintenance and adjustment of switches."

The 1950 revision of the rules resulted in the present rule which reads as follows: "Switch obstruction test shall be made at least once a month."

It has been suggested that a safety void exists because no test is required at the time a lock rod is installed. The FRA has considered the suggested revision and proposes that the rule be revised to provide for switch obstruction testing of lock rods when installed and at last once a month thereafter.

Section 236.383 Valve locks, valves and valve magnets.

Adopted in 1950, the present rule has the same testing requirements that was provided in the original 1939 rules. The revision of 1950 merely edited the rule's language for the sake of brevity.

The present rule reads: "Valve locks on valves of the non-cut-off type, valves and valve magnets shall be tested at least once every three months."

In considering this rule, the FRA notes that the valve lock on the non-cut-off type is an internal mechanical lock which serves a vital safety function to prevent the pneumatic switch from being operated beneath the wheels of a train. The valves and valve magnets themselves are a different matter. Should they fail to function the switch simply will not operate. Further, the C valve of the non-cut-off type has been replaced with the modern CP valve which does not have this internal mechanical arrangement.

In the interest of making these requirements more cost effective but consistent with safety, the FRA proposes that valve locks of the cut off type still be tested once every three months but that testing of valves and valve magnets be tested at least once every year.

Section 236.384 Cross protection.

The present rule reads: "Cross protection shall be tested at least once every three months."

The testing requirements of this rule were included in the 1939 rules. The 1950 revisions edited the previous rule for brevity and defined cross protection in the definitions. This rule applies to only those interlockings that are provided with an arrangement to prevent the movement of switches, signals or other signal appliances as the result of a cross in the electrical circuits.

FRA previously proposed in this NPRM to require ground tests every three months (proposed new § 236.107), and the parties feel it is no longer necessay to test cross protection as frequently if the new ground test reuirement is adopted. Therefore, the parties recommend that the test period be extended from every three months to every six months. The FRA concurs and proposes the change be adopted.

Section 236.385 Time releases and timing relays.

The requirements of the existing section, 236.385, were contained in the 1939 rules as § 136.4(c)(11). Editorial changes were made in 1950 but the requirements remained unchanged and the current rule reads: "Time releases and timing relays shall be tested at least once every three months. The timing shall be maintained at not less than 90 percent of the predetermined time interval, which shall be shown on the plans or marked on the time release or relay." The existing section applies only to interlockings and traffic control systems.

The parties have recommended that this section be moved to Subpart A and made applicable to all systems. Further, they have suggested that the testing period be extended to one year since the design of the time releases and time relays has given the industry timing devices which are very stable in their timing cycles. It was submitted that the carriers' records indicate no significant problems exist with timing devices. It was also pointed out the newest timers are electronic timers.

The FRA has considered the merits of the application of this rule to all systems and of the extension of the test period from 3 months to one year. The FRA believes making all systems subject to the requirements of this section would benefit safety and the extension of the test period would relieve the carrier of unnecessary testing without reducing the existing level of safety. The FRA proposes to revise this section as discussed and move the requirements to Subpart A and recaption it as § 236.109.

Subpart D—Traffic Control Systems Standards

Section 236.401 Automatic block signal system and interlocking standards applicable to traffic control systems.

In § 236.309, the FRA proposed that § 236.309 be recaptioned and so revised that loss of shunt protection would be required on the route locking of all power-operated switches hereafter installed and further proposed to revise § 236.401 to make § 236.309 applicable to

traffic control systems. Thus, FRA now proposes to revise § 236.401 by adding § 236.309 to the other sections presently listed in § 236.401.

Section 236.403 Signals at controlled points.

This rule was contained in the 1939 rules as § 136.5(a), (6). The revisions of 1950 made minor editorial changes so that the present rule reads: "Signals at a controlled point shall be so interconnected that those aspects to proceed cannot be displayed simultaneously for conflicting movements."

The parties have agreed to add the following: "except that opposing signals may dislay an aspect indicating 'proceed at restricted speed' at the same time on a tract used for switching movements only, * * *"

The parties pointed out that the companion rule governing interlockings, § 236.308, has such a provision excepting switching tracks from compliance. The FRA has considered the recommendation and proposes that the rule be revised to be consistent with § 236.308.

Section 236.406 Indication of track circuit occupancy at controlled points.

In the 1939 rules, § 136.5(a)(10) required: "A track diagram or other means shall be provided at control station to indicate occupancy of track sections at controlled points."

The language of the rule was changed for reasons of clairty during the 1950 revisions resulting in existing § 236.406.

The parties have submitted that the requirements of this rule do not address safety-related issues so the rule should be deleted. They believe that the occupancy of track circuits at controlled points and between controlled points could be registered in other ways than indications on a control panel. Further, the issue is moot since the dispatcher or the system must have train location information in order to function efficiently. The parties recommend deletion of this rule.

The FRA agrees with the recommendation presented by the parties. Accordingly, the FRA proposes to delete this rule.

Section 236.407 Approach or time locking; where required.

The 1939 rules required approach or time locking shall be provided. The 1950 revisions required approach or time locking on controlled signals and electrically locked hand-operated switches. The 1966 revision deleted from the requirements the reference to electric locks and the existing rule, § 236.407, now reads: "Approach or time locking shall be provided for all controlled signals."

It was suggested that some controlled signals are, in fact, nothing more than "holding signals" used to hold a train at a specific location. Therefore, the parties agree that approach or time locking need only be provided at locations where routes can be changed or direction of traffic can be reversed, and the proposed rule reflects this change.

Section 236.408 Route locking.

The requirement that route locking shall be provided for all power operated switches has remained unchanged since 1939. The last sentence of the existing rule regarding the location where such route locking shall be effective was adopted in 1966 after a particular accident which resulted from the effective insulating joint being too far in advance of the signal. After discussing the matter, the parties have agreed that language should be added to the rule to specify the 13 feet referred to in the last sentence be measured from the signal or the center of the signal mast. It was pointed out by various parties during discussions that a loss of shunt protection similar to the requirements of § 236.309 is desirable in traffic control systems, particularly over power-operated switches in those systems that are controlled by computers or switching systems which automatically operate the power-operated switches. Further, the parties also agree that a loss of shunt requirement should be added to this rule.

The FRA has considered these suggested changes and believe it is in the interest of safety to adopt the proposed changes.

As previously explained in the analysis of §§ 236.302 and 236.309, the FRA does not believe adding requirements for loss of shunt protection to this section is appropriate. The FRA has instead proposed that § 236.309 be revised to accomplish this change.

The FRA does propose to revise existing § 236.408 to include a procedure for determining the 13-foot requirements.

Section 236.409 Control machine; indication of switch operation.

The requirements of the existing rule have remained essentially unchanged since 1939. The rule as written requires the control panel to indicate when a power-operated switch has completed its movement and is locked up.

New technology using computers stores such information without need of indicators. Further, the rule does not address a safety issue because all safety circuits are in the field control circuits. The parties agreed to deletion of this rule.

The FRA has considered the recommendation of the parties and proposes to delete this rule.

Section 236.410 Locking, hand-operated switch.

The current provisions of § 236.410 identify those hand-operated switches in traffic control systems that are required to be provided with an electric or mechanical lock. Additionally, the manner in which the locks must perform is prescribed and provisions are made for removal of locks under specific conditions.

The 1939 rules did not contain requirements that hand-operated switches in traffic control systems be provided with electric locks. The 1950 revision of the rules recognized the need to electrically lock hand-operated switches in traffic control systems in order to enhance the integrity of operating trains by signal indications. Accordingly, § 136.410 (now § 236.410) was adopted requiring, among other things, that each hand-operated switch installed after October 1, 1950 in traffic control territory be electrically locked where train speeds exceed 20 miles per hour. In 1961 this section was further revised to the extent that mechanical locks may be used in lieu of electric locks and that locks were only required at hand-operated switches where speeds exceeded 20 miles per hour and trains were permitted to clear the main track in systems or at switches installed after October 1, 1950. In 1966 the rule was again revised to permit removal of electric or mechanical locks from hand-operated switches in traffic control territory where trains were not permitted to clear the main track or speeds did not exceed 20 miles per hour, or both, in accordance with procedures appended to the rule in a footnote.

The activity surrounding § 236.410 indicates that the requirements contained in this section have continually been made more reflective of railroad operating problems. Still there is substantial need for additional change. During the informal meetings extensive discourse occurred between the parties concerning the need for further revision. These discussions failed to result in a unanimous concensus. However, as a result of the information provided by the interested parties, the FRA believes § 236.410 can be modified to provide more flexible requirements for railroad operating conditions without sacrificing the level

of safety existing under the current requirements.

The FRA proposes to amend paragraph (a) of § 236.410 to require each hand-operated switch in signaled track in traffic control territory be provided with either an electric or mechanical lock unless: (1) Train speeds over the switch do not exceed 20 miles per hour; (2) trains are not permitted to clear the signaled track at such switch; (3) both switch and traffic-control system were installed prior to October 1, 1950; or (4) a signal is provided to govern train movement from the auxiliary track to the signaled track.

The FRA proposal that a new exception be added to paragraph (a) will permit the use of a signal in lieu of an electric or mechanical lock. The signal will clearly provide the same continuity of operation by signal indication as an electric or mechanical lock.

The FRA also proposes to modify § 236.410 by the addition of paragraph (c). This modification will prescribe the performance of a signal installed to govern train movements from the auxiliary track to the main track in lieu of an electric or mechanical lock on a hand-operated switch.

The final change proposed by the FRA will delete the footnote to § 236.410. The FRA has proposed placing provisions for removal of electric or mechanical locks in Part 235, § 235.8. The FRA has determined the industry is capable of achieving compliance of train operations prescribed by the footnote in procedures more suitable to individual properties. Therefore, the real change here reduces the paper burden and does not affect safety of train operation.

The parties concur with these proposals.

Section 236.476 Interlocking inspections and tests applicable to traffic control systems.

This section provides that certain inspections and tests pertaining to interlockings also apply to traffic control systems. The FRA has proposed to move the requirements of § 236.385 to Subpart A, which is applicable to all systems. Therefore, the FRA proposes to delete from § 236.476 the reference to § 236.385.

Subpart E—Automatic Train Stop, Train Control and CAB Signal Systems Standards

Section 236.504 Operation interconnected with automatic block-signal system.

The 1939 rules required the ATS or ATC systems operate in connection with fixed signals of a wayside system and be so interconnected with the wayside system that the ATS or the ATC would perform its function if the engineer fails to obey a signal indication.

As adopted in 1950, the present rule provides that the ATS or ATC system shall be interconnected with the signal system which may or may not have wayside signals. Further, the rule requires the system to perform its intended function if the engineer fails to obey a signal requiring a reduction in speed. In 1966 the wording of the rule was changed by adding the words "main tracks" so that the rule only applied to signals governing movements on the main track. This revision relieved the carriers of the requirement for an inductor, circuit or device to be associated with a signal on a siding.

In informal meetings it was stated that an intermittent ATS system cannot comply with that portion of the present rule which requires the system to perform its intended function if the engineer fails to obey a main track signal. The engineer can simply acknowledge the restrictive signal and continue the train movement at maximum authorized speed.

One party proposed new language for this rule that clarifies the rule, makes the rule more meaningful and at the same time retains the true purpose and intent of the rule. The other parties have reviewed this proposal and agreed to the suggested changes.

The FRA has reviewed these suggestions and proposes to revise this section accordingly.

Section 236.508 Interference with application of brakes by means of brake valve.

The requirements of the existing rule were contained in the 1939 rules as § 136.7(12). Those requirements were continued unchanged in the 1950 revisions when only editorial changes were made.

One party now submits that the language of the existing rule seems to preclude the use of electrical braking systems or of blended braking systems. It has suggested the word "air" be deleted from the rule so that the rule will apply to all types of braking systems which are presently used or which might be developed in the future. The other parties agree. Therefore, the FRA proposes to revise this section to permit the use of a blended braking or other system equally or more efficient than the present air brake system.

Section 236.510 Conformance with established clearances.

This rule requires all ATS, ATC and ACS apparatus installed on locomotives to conform with the carriers' established clearances.

One party submitted that, since the FRA prescribes no clearances and each carrier may establish whatever clearances it wants, the rule is unenforceable. Further, it does not bear upon the safety performance of the signal system. This party suggests this rule be deleted and the other parties agree with this stated position.

The FRA also concurs and proposes the rule be deleted.

Section 236.513 Audible indicator.

Sections 236.513 and 236.516 are companion rules applying to the audible indicator of ATS, ATC and ACS.

The parties have agreed that the two sections should be consolidated for purposes of simplicity and clarity.

The FRA also agrees and proposes to consolidate these rules.

Section 236.515 Visibility of cab signals.

The present rule reads as follows: "The cab signals shall be plainly visible to members of the locomotive crew from their stations in the cab."

It is true that occasionally there is only one crew member in the locomotive, particularly on commuter cars. The AAR feels the wording of the present rule implies that a locomotive crew shall consist of more than one person.

Thus, one party proposed, and the other parties agreed, to add the words "member or" to the rule to clearly denote that there may be only one locomotive crew member. The FRA concurs and proposes to so revise this section.

Section 236.516 Cab indicator; requirement.

As previously stated in this NPRM the provisions contained in this rule would be consolidated into § 236.513. Therefore, this section would be deleted.

Section 236.516 Power supply.

During the discussions of other rules regarding cab signals, specifically § 236.551, *"Power supply voltage; requirements,"* the parties realized that a serious problem had developed with regard to automatic cab signal, train stop and train control power supplies on certain locomotives.

The original 1939 rules addressed the problems of a generator type of power supply which furnished power to only the headlight and the on-board cab signal, train stop, or train control equipment. However, during the past decade solid state power supplies have

been developed that can supply control devices.

The problem has developed because a particular type of ATC has been manufactured that uses a power supply common to all other electrical control circuits on the locomotive. This type of power supply is almost impossible to keep clear of grounds. For example, the circuit can be grounded by carbon dust on the frames of blower motors.

During the discussions of these problems, the involved parties suggested that power supplies for ACS, ATS and ATC systems should be a separate and distinct power supply to eliminate interference from other electrical control circuits. The FRA has considered the matter and proposes the adoption of a new rule to correct this problem. However, if the existing installations were required to be brought into compliance, a severe economic burden would be placed on certain carriers. Therefore, the FRA proposes to make this section applicable only to systems hereafter installed. This proposal recaptions § 236.516 and contains these changes.

Rules and Instructions; Roadway

Section 236.527 Roadway element insulation resistance.

The present rule applies to intermittent inductive and intermittent magnetic ATS systems. The magnetic train stop is obsolete and is no longer in service in the United States. The FRA proposes to delete the words "or magnetic winding" from this rule.

Section 236.529 Roadway element inductor; height and distance from rail.

The filing of the specifications with the FRA as required by this section serves no useful purpose. The parties recommend the deletion of the words "on file with the FRA" from the last sentence of this rule. The FRA concurs and proposes adoption of the recommended change.

Section 236.530 Ramp; height and distance from rail.

The FRA proposes to delete this rule because the type of system to which it applies is obsolete and is no longer used in this country.

Section 236.531 Trip arm; height and distance from rail.

The parties propose to delete the words "on file with the FRA". The FRA agrees to relieve the carriers from another unnecessary filing burden and proposes to delete those words from this rule.

Section 236.532 Strap iron inductor; use restricted.

The FRA proposes to delete from this rule the words "short ramp" because the ramp type of train stop is now obsolete.

Section 236.533 Track magnet; height.

Because the magnetic type of train stop is obsolete and is no longer used in the United States, the FRA proposes to delete this rule.

Rules and Instructions: Locomotives

Section 236.552 Insulation resistance; requirement.

In the 1939 rules, § 136.8(c)(2) read as follows: "Insulation resistance between wiring when dry and ground shall be not less than 1 megohm."

The 1950 revisions relaxed this requirement to 250,000 ohms for continuous inductive ATS, ATC and ACS, and to 20,000 ohms for intermittent inductive ATS. This was done in response to carrier comments that the one megohm was impossible to maintain since the electrical circuits on the steam locomotives were subject to moisture from steam leaks and severe vibration of the locomotives.

During the informal discussions concerning daily or after trip tests and the periodic tests, insulation resistance was also discussed.

During these informal meetings, the FRA proposed a change in the requirement of § 236.586 be made so that a daily or after trip test would not be required if a periodic test is performed at intervals of not more than two months. The reference to 6,000 miles would be eliminated from § 236.586. The environment on the modern diesel locomotive makes it easier to obtain the higher insulation resistance originally required by the 1939 rules. Therefore, the FRA proposes to raise the insulation resistance requirement to one megohm on continuous inductive ATS, ATC and ACS systems and to 250,000 ohms on intermittent inductive ATS systems at the time the periodic test is made. When the systems are tested between periodic tests, the insulation resistance would be maintained at not less than 250,000 ohms for continuous inductive ATS, ATC and ACS systems, and not less than 20,000 for intermittent inductive ATS.

The parties agree to the proposed changes.

Section 236.557 Receiver, intermittent inductive; location with respect to rail.

Since the words "on file with the FRA" impose an unnecessary paperwork burden on the railroads, the FRA proposes to delete that phrase from this rule.

Section 236.558 Contact shoe; location with respect to rail.

Since the provisions of this section apply to an obsolete system no longer in service in the United States, the FRA proposes to delete this section.

Section 236.559 Receiver, intermittent magnetic; location with respect to rail.

Since the provisions of this section apply to an obsolete system no longer in service in the United States, the FRA proposes to delete this section.

Section 236.560 Contact element, mechanical trip type; location with respect to rail.

The parties proposed the words "on file with the FRA" be deleted from the last sentence of this rule.

The FRA agrees with the interested parties that the requirement to file this information with the FRA serves no useful purpose. The deletion of this requirement would relieve the carriers of an unnecessary burden. The FRA proposes to delete the words "on file with the FRA" from the last sentence of the rule.

Section 236.561 Safety chain or safety hanger.

This rule no longer serves a useful purpose. There is no rule to require a safety chain or safety hanger. The FRA proposes to delete this rule. The parties agree to this deletion.

Section 236.562 Minimum rail current required.

The parties suggested words "on file with the FRA" be deleted from this rule.

The FRA agrees with the interested parties that the requirement to file this information with the FRA serves no useful purpose and is an unnecessary burden on the carriers. Therefore, the FRA proposes to delete the words "on file with the FRA" from the last sentence of this rule.

Inspections and Tests: Roadway

Section 236.577 Test, acknowledgement and cut-in circuits.

The current provisions of this section require that test, acknowledgement and cut-in circuits at test points along the wayside or on equipped locomotives that are used to determine the onboard equipment is functioning as intended be tested for proper calibration at least once every six months. The FRA proposes to lengthen this periodic test requirement to once every twelve (12) months. Based on the FRA's experience,

the modern apparatus that controls these circuits do not vary from proper calibration often enough to justify testing once every six months.

During shipment this equipment is often subjected to damage that affects calibration. This damage is more likely to be cause for repairs then the proposed extended test period. This change should reduce the number of spare test units affected carriers are now required to have on hand in order to comply with the existing provisions.

Inspections and Tests; Locomotives

Section 236.586 Daily or after trip tests.

The caption of this rule is derived from the time frame in which the test may be performed—either daily before departure of the equipped locomotive from its initial terminal or immediately upon completion of a trip by the equipped locomotive. The current provisions of this section require that each locomotive operating in equipped territory be tested either once every 24 hours or within 24 hours before departure upon each trip. There is an exception provided from these requirements for diesel-electric and electric locomotives where the periodic test prescribed in § 236.588 is performed each 6000 miles or at intervals of not more than two (2) months, whichever shall occur first.

The FRA finds § 236.586 imposes the largest burden of all reporting requirements contained in the RS&I. Accordingly, during the informal meetings, the interested parties labored long to reduce that burden without affecting the level of safety provided by the existing requirements. During deliberations they concluded that a need exists for all equipped locomotives to be inspected visually for damage that may have resulted on the previous trip caused by such things as chafing of cables as a result of loosened fasteners or brackets or damage inflicted by flying debris beneath the locomotive. They also determined that measurement of power supply voltages and insulation resistance values could be deleted from the test until such time as the need may show they should be reinstated. Further, they concluded that since automatic cab signal systems depend on a modulated carrier received from the track circuit, the test of pickup value of coded cab signals could be deleted. The proposed changes are premised on each equipped locomotive being inspected and tested by an employee capable of detecting defective conditions and taking corrective action prior to the locomotive being dispatched from its initial terminal.

Accordingly, the FRA proposes to require daily or after trip test except where tests prescribed by § 236.588 are performed at intervals of not more than two months. The proposal will require the inspection and test to be made each calendar day or within 24 hours before departure upon each trip. Revised § 236.586 would require the apparatus of locomotives equipped with intermittent inductive ATS, non-coded continuous inductive ATS or ATC to be tested to determine the pickup of the device is within specified limits and responsive to wayside equipment. In addition, the proposed change would require such equipment to be cycled to determine that it functions as intended.

The interested parties concur and the FRA proposes to revise this section accordingly.

Section 236.587 Departure test.

The purpose of the departure test is to assure the ATS, ATC or ACS apparatus is in service and is functioning properly. This section provides the test may be made over track elements or test circuits permanently installed in the track or with portable test equipment. Recent technological developments permit the test device to be mounted onboard the locomotive. Therefore, the FRA proposes that this section be revised to include onboard test devices as a permissible means of testing such equipment. No other changes are proposed.

Section 236.588 Periodic test.

The current provisions of this section require ATS, ATC and ACS apparatus to be tested at least once every three months, except as provided in § 236.586, and multiple unit cars as specified by the carrier subject to approval of the FRA. During the informal meetings, the AAR pointed out that tests of locomotives required in 49 CFR Part 229 are prescribed at 92 day intervals.

Accordingly, the FRA proposes to revise this section to require periodic testing of apparatus on equipped locomotives at 92 day intervals. This minor revision will coincide with the FRA's locomotive rules and regulations and permit more efficient utilization of locomotives by the industry. In view of the proposed revision of § 236.586, the FRA intends that the periodic test prescribed by this section be a thorough and indepth test of ATS, ATC and ACS apparatus. The periodic test shall be made in a manner that determines the apparatus is installed and maintained to meet the rules, standards and instructions contained in Subpart E of this Part. Each defective condition shall be immediately corrected during the periodic test which shall consist of at least the following tests and inspections:

1. Examination of the electrical cables and wires including measurement of insulation resistance;
2. Measurement of the power supply voltage;
3. Measurement of the pickup value required to restore the device to normal condition;
4. Measurement of the release value of the device in continuous non coded systems;
5. Test of sensitivity in intermittent inductive ATS systems;
6. Measurement of acknowledging time;
7. Measurement of delay time;
8. Measurement of reset time in train stop and train control systems;
9. Measurement of height of ATS or ATC receivers, except in continuous inductive coded systems, and tripper mechanism of mechanical trip stop system;
10. Test of audible indicator;
11. Replacement of relays with dates that expire prior to next scheduled periodic test;
12. Replacement of pneumatic apparatus with cleaning dates that expire prior to next scheduled periodic test;
13. Measurement of accuracy of speed governor in train control system; and
14. Cycle test of apparatus to determine that if functions as intended.

The FRA again emphasizes the proposed changes in § 236.586 would require very thorough periodic tests which will assure proper operation between tests. The FRA wishes to clarify that this Part contains no provisions for out-of-service time credits. Therefore, the apparatus and its components are required to be tested, cleaned or replaced as required without regard to the days the locomotives may be out-of-service under the provisions of 49 CFR 229.

Section 236.589 Relays.

The requirements of the current rule have remainded unchanged since the original rules were adopted in 1939.

The rule requires that every 4 years all relays shall be removed from the onboard ACS, ATS, or ATC equipment and sent to a shop, where the relays will be thoroughly tested and repaired. The relays shall not be placed back in service unless the relay meets the specifications for the operating characteristics applicable to that relay.

These test requirements for onboard relays are different from the testing

requirements for wayside signal relays which must be tested every 2 years, but are not required to be removed and sent to a shop for inspection, testing and repair.

The FRA considered several different proposals to reduce the burden of this rule. The experience of the carriers has shown that very few relays are found to be defective by this 4 year cycle of removal from service for testing and repair.

However, certain types of onboard relays have caused a significant number of false proceed signal failures in systems that use continuous non-coded ACS, ATS or ATC track current. The FRA proposes to extend the 4 year removal and test period to 6 years for most relays, but to require more frequent testing for those types of relays which have a history of causing false proceed signal failures. The overall effect will be to reduce the testing burden on the industry but will maintain or increase the safety results of this type of testing. The interested parties to this proceeding agree with the proposed changes.

Section 236.590 Pneumatic apparatus.

One party has proposed, and the other parties have agreed, to change the current 24 month test period to 736 days which will be uniform with other FRA air brake testing rules. This will permit all pneumatic apparatus on locomotives to be tested together.

The FRA has had some difficulty in determining when this type of apparatus was last inspected or cleaned. Such information is vital for the proper maintenance of the pneumatic apparatus as well for meaningful enforcement of this rule. The carrier must have a method of determining the last cleaning date if the apparatus is to be cleaned on a definite schedule as it should be.

The FRA proposes that the revised rule also address the change of testing period and the lack of information concerning the last test date. The FRA proposal will not impose any significant burden on the carriers.

Subpart G—Definitions

Section 236.704 Aspect, phantom signal.

The FRA proposes to delete this definition. It is no longer necessary because the rule concerning phantom aspects (§ 236.27) is also being deleted.

Section 236.715 Chain safety.

The FRA proposes to delete this definition since the FRA also proposes to delete § 236.561 pertaining to safety chain.

Section 236.716 Changer, pole.

The FRA proposes to delete this definition since it also proposes to delete § 236.333 pertaining to pole changer.

Section 236.717 Characteristics, operating.

The parties recommended this definition be changed to include electronic equipment. The FRA agrees and proposes this definition be changed to achieve that purpose.

Section 236.744 Element, roadway.

The words "magnet, ramp" refer to obsolete systems which are no longer in service. Therefore, the FRA proposes to delete them from this definition.

Section 236.746 Feature, restoring.

The FRA proposes to revise this definition to make it abundantly clear that the restoring feature is found only on electro-pneumatic switches and does not apply to electric switch machines.

Section 236.748 Hanger, safety.

The FRA proposes to delete this section because it also proposes deletion of § 236.561 pertaining to safety hanger.

Section 236.781 Point, clearance.

The FRA proposes to delete this definition since, with the proposed change to § 236.58, it is no longer needed.

Section 236.812 Speed, restricted.

The present definition of restricted speed was adopted in 1950. In the intervening years the operating conditions and train operations have changed considerably. In 49 CFR, Part 218, Subpart C—"Protection of Trains and Locomotives," § 218.35(b)(2) provides: "Trains and engines, except designated class trains, within yard limits must move prepared to stop within one-half the range of vision but not exceeding 20 miles per hour unless the main track is known to be clear by block signal indictions."

The FRA proposes to revise the definition contained in § 236.812, so that it will correspond to similar language used in 49 CFR 218.35(b)(2).

Section 236.813a State, most restrictive.

The use of electronic devices in signal systems of today makes this new definition essential. The words "most restrictive state" are used in the proposed revisions of §§ 236.51, 236.56, 236.57, 236.205 and 236.311. This definition means the mode of an electric or electronic device that functions equivalent to a track relay when any condition described in paragraph (a), (b), or (c) of § 236.51 exists. The FRA proposes to adopt this definition in order to clarify the revisions to those sections listed above.

Section 236.820a Switch, power-operated.

One of the parties suggested that a power-operated switch should be defined as a switch operated by an electric, hydaulic, or pneumatic switch-and-lock movement. The FRA has considered the suggestion and proposes adoption of this definition.

Section 236.831 Time, delay.

The definition of delay time that is provided in § 236.563 has been frequently misinterpreted as the period of time between the loss of track circuit current and application of the train brakes. All train control or train stop apparatus have inherent delays from time the track circuit current is changed until the apparatus detects that change. When the apparatus detects the change of track circuit current, an automatic brake application is initiated. The train brakes are kept from applying by the delay time. The FRA proposes to clarify that the delay time is that period of time after the onboard ATC or ATS apparatus detects the change in track circuit current until the train brakes start to apply.

Regulatory Impact

This proposal has been evaluated in accordance with existing regulatory policies including Executive Order 12291 issued on February 17, 1981 (46 FR 1391). This proposal primarily contains clarifying and technical revisions of the existing regulations. In addition, some mere editorial changes have also been made.

Generally, the revision would tend to reduce the economic burdens of the existing regulations as has been explained previously in the section-by-section analysis. Moreover, the revisions, as drafted, would not add any requirements. The proposed changes would extend the frequencies of periodic testing and result in a significant economic benefit through a reduction in the hours of work expended. The FRA has been unable to quantify the economic impact of this regulation as it is extremely difficult to assess the precise impact on the railroads involved. In addition, it is not clear how extensively the railroads can or would utilize these changes. Therefore, the FRA does not believe the proposal constitutes a major rulemaking

under the terms of Executive Order 12291 or a significant rulemaking under DOT's Regulatory Policies and Procedures. However, after FRA has received comments made in response to this proposal and has had an opportunity to study them, it will again review this determination.

The proposal will have a primary impact economically on large railroads which own and operate hundreds of miles of signal systems. The impacts on small railroads which possess few or no signal systems will be indirect and insignificant. Based on these facts, it is certified that this proposal will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The proposed rules would also effect reductions in paperwork burdens and related costs. For instance, the proposal would eliminate the requirement for negative reports and reduce the paperwork burden by at least 40% by more precisely identifying when applications must be submitted for approval of block signal changes or discontinuances.

Additionally, the proposal has also been considered and reviewed pursuant to the FRA procedures for ensuring full consideration of the environmental impact of FRA's actions as required by the National Environmental Policy Act (42 U.S.C. 4321 et seq.), other environmental statutes, executive orders, and DOT Order 5610.1c.

These FRA procedures require that an "environmental assessment" be performed prior to all major FRA actions. The precedures contain a provision that enumerates seven criteria which, if met, demonstrate that a particular action is not a "major" action for environmental purposes. These criteria involve disparate factors, including environmental controversiality; availability of adequate relocation housing; the possible inconsistency of the action with Federal, State or local law; the possible adverse impact on natural, cultural, recreational, or scenic environments; the use of properties covered by section 4(f) of the DOT Act; and the possible increase in traffic congestion. The proposed revision of the S&TC requirements meets the seven criteria which establish an action as a non-major one.

Due to the above-described reasons, the FRA has determined that the proposed revision of Parts 233, 235 and 236 of Title 49 of the CFR does not constitute a major FRA action requiring an environmental assessment.

Participating in this Proceeding

Written Comments and Hearing

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should identify the regulatory docket number and the notice number, and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before May 2, 1983 will be considered before final action is taken on the proposed rules. All comments received will be available for examination by interested persons at any time during regular working hours in Room 7321A, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

In addition, the FRA will conduct a public hearing on April 19, 1983. The hearing will be informal, and will not be a judicial hearing. It will be conducted in accordance with FRA's published rules of practice in 49 CFR Part 211. The purpose of the hearing is to elicit information that will assist the FRA to make a final decision concerning these proposed revisions.

A staff member of the FRA will make an opening statement outlining the matter set for hearing. Interested persons will then have an opportunity to present their oral or written statement at the hearing. After these statements have been made, each person will be permitted to make an additional comment, or, if deemed appropriate by that person, a rebuttal statement. These rebuttal statements will be made in the same order in which the original statements were made.

The FRA hearing panel may ask questions of the persons making statements. Further, the hearing officer will receive questions from persons attending the hearing that they wish to be asked of a person making a statement. The hearing officer will pose, as appropriate, the questions so received. There will be no cross examination of persons making statements.

All statements will be made a part of the record of the hearing. Any person who wishes to make an oral statement at the hearing should notify the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. (Phone 202-426-2760), before April 15, 1983.

The proposals contained in this notice may be changed in light of the oral statements made at the public hearing or the written comments submitted in response to this notice.

List of Subjects

49 CFR Part 233

Railroad safety, Reporting and recordkeeping requirements.

49 CFR Part 235

Administrative practice and procedure, Railroad safety.

49 CFR Part 236

Railroad safety.

III. The Proposed Rules

In consideration of the foregoing, the FRA proposes the following:

A. 49 CFR Part 233 is revised to read as follows:

PART 233—SIGNAL SYSTEMS

Reporting Requirements

Sec.
233.1 Scope.
233.3 Application.
233.5 Accidents resulting from signal failure.
233.7 Signal failure reports.
233.9 Annual reports.
233.11 Civil penalty.
233.13 Criminal penalty.

Authority: Section 25, Interstate Commerce Act, as amended (49 U.S.C. 26); Section 6(e)(6)(A) of the Department of Transportation Act (49 U.S.C. 1655(e)(6)(A)); Secs. 202 and 208, Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 431 and 437); § 1.49(g) and (n) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.49(g) and (n)).

§ 233.1 Scope.

This part prescribes reporting requirements with respect to methods of train operation, block signal systems, interlockings, traffic control systems, automatic train stop, train control and cab signal systems or other similar appliances, methods and systems.

§ 233.3 Application.

This part applies to each common carrier by railroad subject to the Signal Inspection Act, 49 U.S.C. 26.

§ 233.5 Accidents resulting from signal failure.

Each carrier shall report within 24 hours to the Federal Railroad Administration by toll free telephone, number 800-424-0201, whenever it learns of the occurrence of an accident/incident arising from the failure of an appliance, device, method or system to function or indicate as required by Part 236.

§ 233.7 Signal failure reports.

Each carrier shall report within 15 days each failure of an appliance, device, method, or system to function or indicate as required by Part 236. Form FRA F6180–14, Signal Failure Report, shall be used for this purpose and completed in accordance with instructions printed on the form.

§ 233.9 Annual reports.

Not later than April 1 of each year, each carrier shall file a report for the preceding calendar year on Form FRA F6180–47, Signal Systems Annual Report, in accordance with instructions and definitions on the reverse side thereof.

§ 233.11 Civil penalty.

A carrier that fails or refuses to file reports as required by this part is liable to the maximum civil penalty of $2500 for each offense as prescribed by the Signal Inspection Act, 49 U.S.C. 26. Each day failure or refusal continues is a separate offense.

§ 233.13 Criminal penalty.

Whoever knowingly and willfully—

(a) Makes, causes to be made, or participates in the making of a false entry in reports required to be filed by this part; or

(b) Files a false report or other document required to be filed by this part is subject to a $5,000 fine and 2 years imprisonment as prescribed by sec. 20 of the Interstate Commerce Act, 49 U.S.C. 20.

B. 49 CFR Part 235 is revised to read as follows:

PART 235—INSTRUCTIONS GOVERNING APPLICATIONS FOR APPROVAL OF A DISCONTINUANCE OR MATERIAL MODIFICATION OF A SIGNAL SYSTEM OR RELIEF FROM THE REQUIREMENTS OF PART 236

Sec.

235.1 Scope.
235.3 Application.
235.5 Changes requiring filing of application.
235.7 Changes not requiring filing of application.
235.8 Relief from the requirements of Part 236.
235.9 Civil penalty.
235.10 Contents of application.
235.12 Additional required information—points.
235.13 Filing procedure.
235.14 Notice.
235.20 Protests.

Authority: Section 25, Interstate Commerce Act, as amended (49 U.S.C. 26); Section 6(e)(6)(A) of the Department of Transportation Act (49 U.S.C. 1655(e)(6)(A)); Secs. 202 and 208, Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 431 and 437); § 1.49 (g) and (n) of the regulations of the Office of the Secretary of Transportation (49 CFR 1.49 (g) and (n)).

§ 235.1 Scope.

This part provides for relief from Part 236 and prescribes application for approval to discontinue or materially modify block signal systems, interlocking, traffic control systems, automatic train stop, train control or cab signal systems, or other similar appliances, devices, methods or systems.

§ 235.3 Application.

This part applies to each common carrier by railroad subject to the Signal Inspection Act, 49 U.S.C. 26.

§ 235.5 Changes requiring filing of application.

(a) Except as provided in § 235.7, applications shall be filed to cover the following:

(1) The discontinuance of a block signal system, interlocking, traffic control system, automatic train stop, train control or cab signal system or other similar appliance or device;

(2) The decrease of the limits of a block signal system, interlocking, traffic control system, automatic train stop, train control or cab signal system; or

(3) The modification of a block signal system, interlocking, traffic control system, automatic train stop, train control or cab signal system.

§ 235.7 Changes not requiring filing of application.

(a) It is not necessary to file an application for approval of the following discontinuances:

(1) Removal of block signal system, interlocking, traffic control system, automatic train stop, train control or cab signal system from track approved for abandonment by formal proceeding;

(2) Removal of devices and associated signals used to provide protection against unusual contingencies such as landslide, burned bridge, high water, high and wide load or tunnel protection when the unusual contingency no longer exists;

(3) Removal of an interlocking where a drawbridge has been permanently closed by the formal approval of another government agency; or

(4) Removal from service not to exceed six months of block signal system, interlocking, or traffic control system necessitated by catastrophic occurrence such as derailment, flood, fire or hurricane.

(b) When the resultant arrangement will comply with Part 236 of this chapter, it is not necessary to file for approval to decrease the limits of a system as follows:

(1) Decrease of the limits of an interlocking when interlocked switches, derails or movable-point frogs are not involved;

(2) Removal of electric or mechanical lock from hand-operated switch in automatic block signal or traffic control territory where train speed over switch does not exceed 20 miles per hour; or

(3) Removal of electric or mechanical lock from hand-operated switch in automatic block signal or traffic control territory where trains are not permitted to clear the main track at such switch.

(c) When the resultant arrangement will comply with Part 236 of this chapter, it is not necessary to file an application for approval of the following modifications:

(1) A modification which is required to comply with an order of the Federal Railroad Administration or any section of Part 236;

(2) The installation of an automatic block signal or a traffic control system to replace manual block or non-signaled territory;

(3) The installation of a traffic control system to replace a roadway automatic block signal system (discontinuance of an automatic cab signal system is not permitted without FRA approval);

(4) The installation of automatic train stop, train control or cab signal system in existing automatic block or traffic control system;

(5) The installation of continuous inductive automatic train stop to replace an existing intermittent inductive automatic train stop system;

(6) The installation of continuous inductive automatic train stop to supplement an existing automatic cab signal system;

(7) The installation of automatic train control to replace an existing automatic train stop system or to supplement an existing automatic cab signal system;

(8) The installation of interlocking to replace existing stop signs, gates or pipe-connected derails protecting a railroad crossing at grade;

(9) The installation of all relay type locking to replace existing mechanical or electromechanical locking of an interlocking;

(10) The installation of additional controlled point in existing traffic control system;

(11) The installation of an interlocking in an existing block signal system;

(12) The conversion of a hand-operated switch or hand-operated switch locked either electrically or mechanically, or a spring switch to a power-operated switch;

(13) The conversion of a spring switch to a hand-operated switch, or to a hand-

operated switchlocked either electrically or mechanically;

(14) The removal or relocation of signals associated with a spring switch converted to hand operation;

(15) The installation, relocation or removal of signals to specifically provide adequate stopping distance;

(16) The change of aspects;

(17) The relocation of a signal to improve preview of signal aspect visibility;

(18) To replace a signal with a signal of another type;

(19) To change an approach signal to operative or inoperative signal, or remove an approach signal not required by § 236.310;

(20) The change in location of a machine from which an interlocking or traffic control system is controlled;

(21) The closing of a manual block station or the change in hours during which a manual block station is attended;

(22) The change in hours during which a manual interlocking is attended provided the interlocking operates for all routes over which train movements are permitted;

(23) The installation of devices used to provide protection against unusual contingencies such as landslide, burned bridges, high water, high and wide loads or dragging equipment;

(24) The installation, relocation, or removal of signals, interlocked switches, derails, movable-point frogs or electric locks in an existing system directly associated with:

(i) The installation of new track;

(ii) The elimination of existing track other than a second main track;

(iii) The extension or shortening of a passing siding;

(iv) Elimination of second main track where signal system on retained main track is arranged to provide both opposing and following protection for train movements provided second main track is physically removed; or

(v) A line relocation; or

(25) The temporary or permanent arrangement of existing systems necessitated by highway rail separation construction. Temporary arrangements shall be removed within six months following completion of construction.

§ 235.8 Relief from the requirements of Part 236.

Relief from the requirements of the Rules, Standards and Instructions contained in Part 236 of this chapter will be granted upon an adequate showing by an individual carrier. Relief heretofore granted to any carrier shall constitute relief to the same extent as relief granted under the requirements of this Part.

§ 235.9 Civil penalty.

A carrier that fails or refuses to file an application required by this Part is liable to the maximum civil penalty of $2,500 for each offense as prescribed by the Signal Inspection Act, 49 U.S.C. 26. Each day a failure or refusal continues is a separate offense.

§ 235.10 Contents of applications.

(a) The application may be submitted by letter and shall contain the following information:

(1) The corporate name of each applicant;

(2) The manner in which applicant is involved;

(3) The location of the project, giving name of operating division and nearest station;

(4) Track or tracks involved;

(5) Complete description of proposed changes as they would affect the existing facilities or of the section from which relief is sought;

(6) Reason for propsoed changes or justification for relief from the requirements;

(7) Approximate dates of beginning and completion of project;

(8) Changes in operating practices, temporary or permanent;

(9) Whether safety of operation will be affected, and if so, how; and

(10) Whether proposed changes will conform to the Federal Railroad Administration's Rules, Standards and Instructions (Part 236 of this chapter).

§ 235.12 Additional required information—prints.

(a) A print or prints, size 8 inches by 10½ inches or 8½ inches by 11 inches or folded to 8 inches by 10½ or 8½ inches by 11 inches shall be furnished with each application.

(b) The print or prints shall be to scale or by indicated dimensions, using Association of American Railroad graphic symbols.

(c) The following information shall be shown on the print or prints:

(1) Present and proposed arrangement of tracks and signal facilities,

(2) Name or carrier,

(3) Operating division,

(4) Place and State, and

(5) Timetable directions of movements.

(d) If stopping distances are involved, the following information shall also be shown:

(1) Curvature and grade.

(2) Maximum authorized speeds of trains.

(3) Length and signal control circuits for each signal indication displayed.

(e) The following color scheme is suggested on prints:

(1) Installations, relocations, and added signal aspects should by colored preferably in yellow.

(2) Removals, discontinuances, and abandonments should be colored, preferably in red.

(3) Existing facilities not pertinent to change proposed in application should be shown uncolored.

§ 235.13 Filing procedure.

(a) Applications or requests for reconsideration of an application shall be submitted by an authorized officer of the carrier.

(b) The original and two copies of each application with supporting papers should be filed.

(c) The application and correspondence in reference thereto should be addressed to the Associate Administrator for Safety, Federal Railroad Administration, Washington, D.C. 20590.

(d) A separate application shall be filed for each project.

(e) At a joint facility where changes are proposed in the automatic block signal system, interlocking, traffic control system, automatic train stop, train control or cab signal system on the tracks of more than one carrier, or if more than one carrier will be affected by the proposed changes or relief sought, a joint application signed by all carriers affected shall be filed.

(f) Where only one carrier at a joint facility is affected by the discontinuance or modification of the installation or relief sought, it shall be responsible for filing the application. It shall also certify that the other joint carriers have been notified of the filing of its application.

§ 235.14 Notice.

The FRA will post public notice of the filing of an application or a request for reconsideration of an application in the FRA Office of Public Affairs and will mail copies to all interested parties.

§ 235.20 Protests.

(a) A protest against the granting of an application shall set forth specifically the grounds upon which it is made, and contain a concise statement of the interest of protestant in the proceeding.

(b) The original and two copies of any protest shall be filed with the Associate Administrator for Safety, Federal Railroad Administration, Washington, D.C. 20590, and one copy shall be furnished to each applicant.

(c) Protests should be filed within the time limit set forth in the public notice.

(d) The protestant shall certify that service of a copy of its protest was made upon each applicant.

(e) Request for hearing must be accompanied with a showing why the protestant is unable to properly present his position by written statements.

C. Part 236 of this Title, 49 CFR, is amended as follows:

PART 236—INSTALLATION, INSPECTION, MAINTENANCE AND REPAIR OF SYSTEMS, DEVICES AND APPLIANCES

1. Section 236.0 is revised to read as follows:

§ 236.0 Applicability of this Part.

(a) The rules, standards and instructions contained in this Part apply to each common carrier subject to the Signal Inspection Act, 49 U.S.C. 26.

(b) Where a passenger train is operated at a speed of 60 or more miles per hour, or a freight train is operated at a speed of 50 or more miles per hour, a block signal system complying with the provisions of this part shall be installed or a manual block system shall be placed permanently in effect which shall conform to the following conditions:

(1) A passenger train shall not be admitted to a block occupied by another train except under flag protection;

(2) No train shall be admitted to a block occupied by a passenger train except under flag protection;

(3) No train shall be admitted to a block occupied by an opposing train except under flag protection; and

(4) Freight trains, including work trains, may be authorized to follow a freight train, including a work train, into a block but the following train must proceed prepared to stop within one-half the range of vision but not exceeding 20 miles per hour.

(c) Where any train is operated at a speed of 80 or more miles per hour, an automatic cab signal, automatic train stop or train control system complying with the provisions of this Part shall be installed.

(d) Nothing in this section authorizes the discontinuance of a block signal system, interlocking, traffic control system, automatic train stop, train control or cab signal system without approval of the Federal Railroad Administration.

Subpart A—Rules and Instructions: All Systems

2. Section 236.1 is revised to read as follows:

§ 236.1 Plans, where kept.

As required for maintenance, plans shall be kept at all interlockings, automatic signals and controlled points. Plans shall be legible and correct.

3. Section 236.3 is revised to read as follows:

§ 236.3 Locking of signal apparatus housings.

Signal apparatus housings shall be secured against unauthorized entry.

4. Section 236.4 is revised to read as follows:

§ 236.4 Interference with normal functioning of device.

The normal functioning of any device shall not be interfered within testing or otherwise without first taking measures to provide for safety of train operation which depends on normal functioning of such device.

5. Section 236.8 is revised to read as follows:

§ 236.8 Operating characteristics of electromagnetic, electronic or electrical apparatus.

Signal apparatus, the functioning of which affects the safety of train operation, shall be maintained in accordance with the limits within which the device is designed to operate.

6. Section 236.11 is revised to read as follows:

§ 236.11 Adjustment, repair or replacement of component.

When any component of a signal system, the proper functioning of which is essential to the safety of train operation, fails to perform its intended signaling function or is not in correspondence with known operating conditions, the cause shall be determined and the faulty component adjusted, repaired or replaced without undue delay.

7. Section 236.12 is revised to read as follows:

§ 236.12 Spring switch signal protection; where required.

Signal protection shall be provided for facing and trailing movements through spring switch within interlocking limits and through spring switch installed in automatic block signal, train stop, train control or cab signal territory where train movements over the switch are made at a speed exceeding 20 miles per hour, except that signal protection shall be required only with the current of traffic on track signaled for movement in only one direction.

Note.—Does not apply to spring switch installed prior to October 1, 1950 in automatic block signal, automatic train stop or automatic train control territory.

8. Add a new § 236.16 to read as follows:

§ 236.16 Electric lock, main track releasing circuit.

When an electric lock releasing circuit is provided on the main track to permit a train or an engine to diverge from the main track without time delay, the circuit shall be of such length to permit occupancy of the circuit to be seen by a crew member stationed at the switch. When the releasing circuit extends into the fouling circuit, train or engine on the siding shall be prohibited from occupying the releasing circuit by a derail either pipe-connected to switch point or equipped with an independent electric lock.

9. Redesignate § 236.313 as § 236.17 and revise to read as follows:

§ 236.17 Pipe for operating connections, requirements.

Steel or wrought-iron pipe one inch or larger, or members of equal strength shall be used for operating connections for switches, derails, movable-point frogs, facing point locks, rail-locking devices of movable bridge protected by interlocking, and mechanically operated signals, except up-and-down rod which may be three-fourths inch pipe or solid rod. Pipe shall be fully screwed into coupling and both ends of each pipe shall be riveted to pipe plug with 2 rivets. Pipeline shall not be out of alignment sufficiently to interfere with proper operation, shall be properly compensated for temperature changes, and supported on carriers spaced not more than 8 feet apart on tangent and curve of less than 2° and not more than 7 feet apart on curve of 2° or more. With lever in any position, couplings in pipe line shall not foul carriers.

Roadway Signals and CAB Signals

10. Section 236.21 is revised to read as follows:

§ 236.21 Location of roadway signals.

Each roadway signal shall be positioned and aligned so that its aspects can be clearly associated with the track it governs.

In § 236.23, paragraphs (a)(2), (b) and (e) are revised and new paragraph (f) is added to read as follows:

§ 236.23 Aspects and indications.

(a) * * *

(2) Reflector lenses or buttons or other devices which depend for visibility upon reflected light from an external source shall not be used hereafter in night aspects, except qualifying appurtenances.

(b) The aspects of cab signals shall be shown by lights or by illuminated letters or numbers.

* * * * *

(e) The names, indications and aspects of roadway and cab signals shall be defined in the Carrier's Operating Rule Book or Special Instructions on file with the FRA. Modifications shall be filed with the FRA within thirty days after such modifications become effective.

(f) The absence of a qualifying appurtenance, the failure of a lamp in a light signal or a false restrictive position of an arm of a semaphore signal shall not cause the display of a less restrictive aspect than intended.

Track Circuits

12. Section 236.51 is amended by revising the introductory paragraph and paragraph (a)(2) to read as follows:

§ 236.51 Track circuit requirements.

Track relay controlling home signals shall be in deenergized position or device that functions as a track relay controlling home signals shall be in its most restrictive state and the track circuit of an automatic train stop, train control, or cab signal system shall be deenergized in the rear of the point where any of the following conditions exist:

(a) * * *

(2) as result of leakage current or foreign current in the rear of a point where a break occurs.

* * * * * *

13. Section 236.54 is revised to read as follows:

§ 236.54 Minimum length of track circuit.

When track circuit shorter than maximum inner wheelbase of any locomotive or car operated over such track circuit is used for control of signaling facilities, other means shall be used to provide the equivalent of track circuit protection.

14. Section 236.55 is revised to read as follows:

§ 236.55 Dead section; maximum length.

Where dead section exceeds 35 feet, a special circuit shall be installed. Where shortest outer wheelbase of a locomotive operating over such dead section is less than 35 feet, the maximum length of the dead section shall not exceed the length of the outer wheelbase of such locomotive unless special circuit is used.

15. Section 236.56 is revised to read as follows:

§ 236.56 Shunting sensitivity.

Track circuit controlling home signal or approach locking shall be so maintained that track relay is in deenergized position, or device that functions as a track relay shall be in its most restrictive state if, when track circuit is dry, a shunt of 0.06 ohm resistance is connected across the track rails of the circuit, including fouling sections of turnouts.

16. Section 236.57 is revised to read as follows:

§ 236.57 Shunt and fouling wires.

(a) Except as provided in paragraph (b) of this section, shunt wires and fouling wires hereafter installed shall consist of at least two discrete conductors and each shall be of sufficient conductivity and maintained in such condition that the track relay will be in deenergized position, or device that functions as a track relay will be in its most restrictive state when the circuit is shunted.

(b) This rule does not apply to shunt wires where signal control circuits are controlled through the switch circuit controller.

17. Section 236.58 is revised to read as follows:

§ 236.58 Turnout, fouling section.

Rail joints within the fouling section shall be bonded, and fouling section shall extend at least to a point where sufficient track centers and allowance for maximum car overhang and width will prevent interference with train, locomotive or car movement on the adjacent track.

18. Add a new § 236.60 to read as follows:

§ 236.60 Shunting of track circuits.

Switch shunting circuit shall not be hereafter installed, except where track or control circuit is opened by the circuit controller.

Wires and Cables

19. Section 236.71 is revised to read as follows:

§236.71 Signal wires on pole line and aerial cable.

Signal wire on pole line shall be securely tied in on insulator properly fastened to crossarm or bracket supported by pole or other support. Signal wire shall not interfere with, or be interfered by, other wires on the pole line. Aerial cable shall be supported by messenger.

20. Section 236.76 is revised to read as follows:

§236.76 Tagging of wires and interference of wires or tags with signal apparatus.

Each wire shall be tagged or otherwise so marked that it can be identified at each terminal. Tags and other marks of identification shall be made of insulating material and so arranged that tags and wires do not interfere with moving parts of apparatus.

Inspections and Tests: All Systems

21. Section 236.101 is revised to read as follows:

§236.101 Purpose of inspection and tests; removal from service of relay or device failing to meet test requirements.

The following inspections and tests shall be made in accordance with specifications of the carrier subject to approval of the FRA to determine if the apparatus and/or equipment is maintained in condition to perform its intended function. Electronic device, relay or other electromagnetic device which fails to meet the requirements of specified tests shall be removed from service, and shall not be restored to service until its operating characteristics are in accordance with the limits within which such device or relay is designed to operate.

22. Section 236.102 is revised to read as follows:

§236.102 Semaphore or searchlight signal mechanism.

(a) Semaphore signal mechanism shall be inspected at least once every six months, and tests of the operating characteristics of all parts shall be made at least once every two years.

(b) Searchlight signal mechanism shall be inspected and the mechanical movement shall be observed while operating the mechanism to all positions at least once every six months. Tests of the operating characteristics shall be made at least once every two years.

23. Section 236.103 is revised to read as follows:

§ 236.103 Switch circuit controller/point detector.

Switch circuit controller/point detector and circuit controller operated by switch-and-lock movement shall be inspected and tested at least once every three months.

24. Section 236.106 is revised to read as follows:

§ 236.106 Relays.

Each relay, the functioning of which affects the safety of train operations, shall be tested at least once every four years except:

(a) AC centrifugal relays shall be tested at least once every 12 months;

(b) Alternating current vane relays and direct current polar relays shall be tested at least once every 2 years; and

(c) All relays with soft iron magnetic structure shall be tested at least once every 2 years.

25. Section 236.107 is revised to read as follows:

§ 236.107 Ground tests.

(a) Except as provided in paragraph (b) of this section, tests for grounds on energy buses furnishing power to circuits, the functioning of which affects the safety of train operation, shall be made when placed in service, and shall be made at least once every three months thereafter.

(b) The provisions of this rule shall not apply to track circuit wires, common return wires of grounded common single-break circuits, or AC power distribution circuits grounded in the interest of safety.

26. Section 236.108 is revised to read as follows:

§ 236.108 Insulation resistance tests, wires in trunking and cables.

(a) Insulation resistance of wires and cables, except wires connected directly to track rails, shall be tested when wires, cables, and insulation are dry. Insulation resistance tests shall be made between all conductors and ground, and between conductors of a multiple conductor cable and between conductors in trunking when wires or cables are installed and at least once every ten years thereafter.

(b) When insulation resistance of wire or cable is found to be less than 500,000 ohms, the carrier shall take prompt action to repair or replace the defective wire or cable and until such defective wire or cable is replaced, the carrier shall make insulation resistance tests annually.

(c) In no case shall a circuit be permitted to function on a conductor having an insulation resistance to ground or between conductors of less than 200,000 ohms during the period required for repair or replacement.

27. Section 236.109 is revised to read as follows:

§ 236.109 Time releases, timing relays and timing devices.

Time releases, timing relays and timing devices shall be tested at least once every twelve months. The timing shall be maintained at not less than 90 percent of the predetermined time interval, which shall be shown on the plans or marked on the time release, timing relay or timing device.

28. Section 236.110 is added to read as follows:

§ 236.110 Results of tests.

Results of tests made in compliance with §§ 236.102 to 236.109 inclusive; 236.376 to 236.387 inclusive; 236.576; 236.577; 236.586; 236.588; and 236.589 shall be recorded on preprinted or computerized forms provided by the railroad. Such forms shall show the name of the railroad, place and date, equipment tested, results of tests, repairs, replacements, adjustments made and condition in which the apparatus was left. Each record shall be signed by the employee making the test and shall be filed in the office of a supervisory official having jurisdiction. Each record shall be retained until the next record is filed but in no case less than one year.

Subpart B—Automatic Block Signal Systems Standards

29. Section 236.204 is amended by revising the last sentence to read as follows:

§ 236.204 Track signaled for movements in both directions, requirements.

* * * In absolute permissive block signaling, when a train passes a head block signal, it shall cause the opposing head block signal to display an aspect with an indication not more favorable than stop.

30. Section 236.205 is amended by revising paragraph (d) to read as follows:

§ 236.205 Signal control circuits; requirements.

* * * * *

(d) When a track relay is in de-energized position; or a device which functions as a track relay is in its most restrictive state; or when signal control circuit is deenergized.

31. Section 236.207 is revised to read as follows:

§ 236.207 Electric lock on hand-operated switch; control.

Electric lock on hand-operated switch shall be controlled so that it cannot be unlocked until control circuits of signals governing movements over such switch have been opened. Approach or time locking shall be provided.

Subpart C—Interlocking Standards

32. Section 236.302 is revised to read as follows:

§ 236.302 Track circuits and route locking.

Track circuits and route locking shall be provided and shall be effective when the first pair of wheels of a locomotive or a car passes a point not more than 13 feet in advance of the signal governing its movement, measured from the center of the mast, or if no mast, from the center of the signal.

33. Section 236.307 is revised to read as follows:

§ 236.307 Indication locking.

Indication locking shall be provided for operative approach signals of the semaphore type, power-operated home signals, power-operated switches, movable-point frogs and derails and for all approach signals except light signals, all aspects of which are controlled by polar or coded track circuits or line circuits so arranged that a single fault will not permit a more favorable aspect than intended to be displayed.

34. Section 236.309 is revised to read as follows:

§ 236.309 Loss of shunt protection; where required.

(a) A loss of shunt of 5 seconds or less shall not permit an established route to be changed at an automatic interlocking.

(b) A loss of shunt of 5 seconds or less shall not permit the release of the route locking of power-operated switches hereafter installed.

35. Section 236.11 is revised to read as follows:

§ 236.311 Signal control circuits, selection through track relays or devices functioning as track relays and through signal mechanism contacts and time releases at automatic interlocking.

(a) The control circuits for aspects with indications more favorable than "proceed at restricted speed" shall be selected through track relays or devices that function as track relays for all track circuits in the route governed.

(b) At automatic interlocking, signal control circuits shall be selected (1) through track relays, or devices that function as track relays, for all track circuits in the route governed and in all conflicting routes within the interlocking; (2) through signal mechanism contracts or relay contacts closed when signals for such conflicting routes display stop aspects; and (3) through normal contacts of time releases, time element relays or timing devices for such conflicting routes or contacts of relays repeating the normal postion or normal state of such time releases, time element relays or timing devices.

38. Section 236.312 is amended by adding a new last sentence to read as follows:

§ 236.312 Movable bridge, interlocking of signal appliances with bridge devices.

* * * Emergency bypass switches and devices shall be locked or sealed.

Rules and Instructions

37. Section 236.327 is revised to read as follows:

§ 236.327 Switch, movable-point frog or split-point derail.

Switch, movable-point frog or split-point derail equipped with lock rod shall be maintained so that it can not be locked when the point is open three-eighths inch or more.

38. Section 236.376 is revised to read as follows:

§ 236.376 Mechanical locking.

Mechanical locking in interlocking machine shall be tested when new locking is installed; change in locking is made or locking becomes disarranged; or tested at least once every two years, whichever shall occur first.

39. Section 236.377 is revised to read as follows:

§ 236.377 Approach locking.

Approach locking shall be tested when placed in service and thereafter when modified, disarranged or at least once every two years, whichever shall occur first.

40. Section 236.378 is revised to read as follows:

§ 236.378 Time locking.

Time locking shall be tested when placed in service and thereafter when modified, disarranged or at least once every two years, whichever shall occur first.

41. Section 236.379 is revised to read as follows:

§ 236.379 Route locking.

Route locking or other type of switch locking shall be tested when placed in service and thereafter when modified, disarranged or at least once every two years, whichever shall occur first.

42. Section 236.380 is revised to read as follows:

§ 236.380 Indication locking.

Indication locking shall be tested when placed in service and thereafter when modified, disarranged or at least once every two years, whichever shall occur first.

43. Section 236.381 is revised to read as follows:

§ 236.381 Traffic locking.

Traffic locking shall be tested when placed in service and thereafter when modified, disarranged or at least once every two years, whichever shall occur first.

44. Section 236.382 is revised to read as follows:

§ 236.382 Switch obstruction test.

Switch obstruction test of lock rod of each power-operated switch and lock rod of each hand-operated switch equipped with switch-and-lock-movement shall be made when they are placed in service or changed out but not less than once each month.

45. Section 236.383 is revised to read as follows:

§ 236.383 Valve locks, valves and valve magnets.

Valve locks on valves of the non-cut-off types shall be tested at least once every three months and valves and valve magnets shall be tested at least once every year.

46. Section 236.384 is revised to read as follows:

§ 236.384 Cross protection.

Cross protection shall be tested at least once every six months.

Subpart D—Traffic Control Systems Standards

47. Section 236.401 is revised to read as follows:

§ 236.401 Automatic block signal system and interlocking standards applicable to traffic control systems.

The standards prescribed in §§ 236.201 to 236.203 inclusive, 236.205, 236.206, 236.303, 236.307 and 236.309 to 236.311, inclusive, shall apply to traffic control systems.

48. Section 236.403 is revised to read as follows:

§ 236.403 Signals at controlled point.

Signals at controlled point shall be so interconnected that aspects to proceed cannot be displayed simultaneously for conflicting movements, except that opposing signals may display an aspect indicating "proceed at restricted speed" at the same time on a track used for switching movements only.

49. Section 236.407 is revised to read as follows:

§ 236.407 Approach or time locking; where required.

Approach or time locking shall be provided for all controlled signals where route or direction of traffic can be changed.

50. Section 236.408 is revised to read as follows:

§ 236.408 Route locking.

Route locking shall be provided where switches are power-operated. Route locking shall be effective when the first pair of wheels of a locomotive or car passes a point not more than 13 feet in advance of the signal governing its movement, measured from the center of the signal mast or if no mast, from the center of the signal.

51. Section 236.410 is amended by revising paragraph (a) and adding paragraph (c) to read as follows:

§ 236.410 Locking, hand operated switch; requirements.

(a) Each hand operated switch in main track shall be locked either electrically or mechanically in normal position, except where:

(1) Train speeds over the switch do not exceed 20 miles per hour;

(2) Trains are not permitted to clear the main track;

(3) Both switch and traffic-control system were installed prior to October 1, 1950; or

(4) A signal is provided to govern train movements from the auxiliary track to the signaled track.

* * * * *

(c) Where signal is used in lieu of electric or mechanical lock to govern movements from auxiliary track to signaled track, signal shall not display an aspect to proceed until after control circuits of signals governing movement on main track direction over the switch have been opened and approach locking circuits to the switch are unoccupied or a predetermined time has expired.

Inspections and Tests

52. Section 236.476 is revised to read as follows:

§ 236.476 Interlocking inspections and tests applicable to traffic control systems.

The inspections and tests prescribed in §§ 236.377 to 236.380, inclusive, and 236.382, 236.383, and 236.386 shall apply to traffic control systems.

Subpart E—Automatic Train Stop, Train Control and Cab Signal Systems Standards

53. Section 236.504 is revised to read as follows:

§ 236.504 Operation interconnected with automatic block-signal system.

(a) A continuous automatic train stop or train control system shall operate in connection with an automatic block signal system and shall be so interconnected with the signal system as to perform its intended function in event of failure of the engineer to acknowledge or obey a restrictive wayside signal or a more restrictive cab signal.

(b) An intermittent inductive automatic train stop system shall operate in connection with an automatic block signal system and shall be so interconnected with the signal system that the failure of the engineer to acknowledge a restrictive wayside signal will cause the intermittent inductive automatic train stop system to perform its intended function.

54. Section 236.508 is revised to read as follows:

§ 236.508 Interference with application of brakes by means of brake valve.

The automatic train stop, train control or cab signal apparatus shall be so arranged as not to interfere with the application of the brakes by means of the brake valve and not to impair the efficiency of the brake system.

55. Section 236.513 is revised to read as follows:

§ 236.513 Audible indicator.

(a) The automatic cab signal shall be so arranged that when the cab signal changes to display a more restrictive aspect, an audible indicator will sound continuously until silenced by manual operation of an acknowledging device.

(b) The audible cab indicator of automatic cab signal, automatic train stop or automatic train control systems shall have a distinctive sound and be clearly audible throughout the cab under all operating conditions.

56. Section 236.515 is revised to read as follows:

§ 236.515 Visibility of cab signals.

The cab signals shall be plainly visible to member or members of the locomotive crew from their stations in the cab.

57. Section 236.516 is revised to read as follows:

§ 236.516 Power supply.

Automatic cab signal, train stop or train control device hereafter installed shall operate from a separate or isolated power supply.

Rules and Instructions; Roadway

58. Section 236.527 is revised to read as follows:

§ 236.527 Roadway element insulation resistance.

Insulation resistance between roadway inductor and ground shall be maintained at not less than 10,000 ohms.

59. Section 236.529 is revised to read as follows:

§ 236.529 Roadway element inductor; height and distance from rail.

Inductor of the inert roadway element type shall be maintained with the inductor pole faces at a height above the plane of the tops of the rails, and with its inner edge at a horizontal distance from the gage side of the nearest running rail, in accordance with specifications of the carrier.

60. Section 236.531 is revised to read as follows:

§ 236.531 Trip arm; height and distance from rail.

Trip arm of automatic train stop device when in the stop position shall be maintained at a height above the plain of the tops of the rails, and at a horizontal distance from its center line to gage side of the nearest running rail, in accordance with specifications of the carrier.

61. Section 236.532 is revised to read as follows:

§ 236.532 Strap iron inductor; use restricted.

No railroad shall use strap iron inductor or other roadway element with characteristics differing from its standard type on track where speed higher than restricted speed is permitted.

Rules and Instructions; Locomotives

62. Section 236.552 is revised to read as follows:

§ 236.552 Insulation resistance; requirement.

When periodic test prescribed in § 236.588 is performed, insulation resistance between wiring and ground of continuous inductive automatic cab signal system, automatic train control or automatic train stop system shall be not less than one megohm and intermittent inductive automatic train stop system not less than 250,000 ohms. Insulation resistance values between periodic tests shall be not less than 250,000 ohms for continuous inductive automatic cab signal system, automatic train control system or automatic train stop system and 20,000 ohms for intermittent inductive automatic train stop system.

63. Section 236.557 is revised to read as follows:

§ 236.557 Receiver, intermittent inductive; location with respect to rail.

Receiver of intermittent inductive automatic train stop device of the inert roadway element type shall be maintained with bottom of the receiver at a height above the plane of the tops of the rails, and with its outer edge at a horizontal distance from the gage side of the nearest rail, in accordance with specifications of the carrier.

64. Section 236.560 is revised to read as follows:

§ 236.560 Contact element, mechanical trip type; location with respect to rail.

Contact element of automatic train stop device of the mechanical trip type shall be maintained at a height above the plane of the tops of the rails, and a horizontal distance from the gage side of the rail, in accordance with specifications of the carrier.

65. Section 236.562 is revised to read as follows:

§ 236.562 Minimum rail current required.

The minimum rail current required to restore the locomotive equipment of continuous inductive automatic train stop or train control device to normal condition or to obtain a proceed indication of automatic cab signal device (pick-up) shall be in accordance with specifications of the carrier.

Inspection and Tests; Roadway

66. Section 236.577 is revised to read as follows:

§ 236.577 Test, acknowledgement and cut-in circuits

Test, acknowledgement and cut-in circuits shall be tested at least once every twelve months.

Inspection and Tests; Locomotive

67. Section 236.586 is revised to read as follows:

§ 236.586 Daily or after trip test.

(a) Except where tests prescribed by § 236.588 are performed at intervals of not more than 2 months, each locomotive equipped with automatic cab signal, train stop or train control device operating in equipped territory shall be inspected for damage to the equipment and tested at least once each calendar day or within 24 hours before departure upon each trip.

(b) Each locomotive equipped with intermittent inductive automatic train stop or non-coded continuous inductive automatic train stop or train control systems shall be tested to determine the pickup of the device is within specified limits. Each equipped locomotive shall be tested to determine the locomotive equipment is responsive to the wayside equipment and cycled to determine the device functions as intended.

68. Section 236.587 is revised to read as follows:

§ 236.587 Departure test.

A test of the automatic train stop, train control, or cab signal apparatus on each locomotive, except locomotives and multiple-unit cars equipped with mechanical trip stop only, shall be made over track elements or tests circuits, or with portable test equipment or onboard

test device, either on departure of locomotive from its initial terminal, or if locomotive apparatus is cut out between initial terminal and equipped territory, prior to entering equipped territory, to determine if such apparatus is in service and is functioning properly. If a locomotive makes more than one trip in any 24-hour period, only one departure test shall be required in such 24-hour period. If departure test is made by an employee other than the engineer, the engineer shall be informed of the results of such test and a record kept thereof.

69. Section 236.588 is revised to read as follows:

§ 236.588 Periodic test.

Except as provided in § 236.586, periodic tests of the automatic train stop, train control or cab signal apparatus shall be made at least once every 92 days, and on multiple-unit cars as specified by the carrier, subject to approval by the FRA.

70. Section 236.589 is revised to read as follows:

§ 236.589 Relays.

(a) Each relay shall be removed from service, subjected to thorough test, necessary repairs and adjustments made, and shall not be replaced in service unless its operating characteristics are in accordance with the limits within which such relay is designed to operate, as follows:

(1) Master or primary relays of torque type depending on spring tension to return contacts to deenergized postion in noncoded continuous inductive automatic train stop or train control system, at least once every two years; and

(2) All other relays at least once every six years.

71. Section 236.590 is revised to read as follows:

§ 236.590 Pneumatic apparatus.

Automatic train stop, train control, or cab signal pneumatic apparatus shall be inspected and cleaned at least once every 736 days. The pneumatic apparatus shall be stenciled, tagged or otherwise marked to indicate the last cleaning date of the apparatus.

Subpart G—Definitions

72. Section 236.717 is revised to read as follows:

§ 236.717 Characteristics, operating.

As applied to electrical or electronic apparatus, the measure of electrical values at which the apparatus operates, (drop-away, pick-up, maximum and minimum current, working value, etc.).

73. Section 236.744 is revised to read as follows:

§ 236.744 Element, roadway.

That portion of the roadway apparatus of automatic train stop, train control or cab signal system, such as electric circuit, inductor or trip arm to which the locomotive apparatus of such system is directly responsive.

74. Section 236.746 is revised to read as follows:

§ 236.746 Feature, restoring.

An arrangement on an electro-pnuematic switch by means of which power is applied to restore the switch movement to full normal or to full reverse position, before the driving bar creeps sufficiently to unlock the switch, with control lever in normal or reverse position.

75. Section 236.812 is revised to read as follows:

§ 236.812 Speed, restricted.

A speed that will permit stopping within one-half the range of vision but not exceeding 20 miles per hour.

76. Add a new § 236.813a to read as follows:

§ 236.813a State, most restrictive.

The mode of an electric or electronic device that is equivalent to a track relay in its deenergized position.

77. Add a new § 236.820a to read as follows:

§ 236.820a Switch, power-operated.

A switch operated by an electric, hydraulic or pneumatic switch-and-lock movement.

78. Section 236.831 is revised to read as follows:

§ 236.831 Time, delay.

As applied to an automatic train stop or train control system, the time which elapses after the onboard apparatus detects a more restrictive indication until the brakes start to apply.

79. The following sections are removed in their entirety:

§ 236.25 False restrictive position of semaphore signal arm or failure of lamp in light signal. [Removed]

§ 236.27 Phantom signal aspect. [Removed]

§ 236.72 Clearance of overhead signal wires and cables. [Removed]

§ 236.75 Insulated wires and cables; support. [Removed]

§ 236.77 Tagging of wires. [Removed]

§ 236.78 Lightning arrester. [Removed]

§ 236.313 Pipe for operating connections; requirements. [Removed]

§ 236.331 Repairs to switch and signal valves and cylinders. [Removed]

§ 236.332 Air distribution system; draining condensation. [Removed]

§ 236.333 Pole charger on electric switch operating mechanism. [Removed]

§ 236.385 Time releases and timing relays. [Removed]

§ 236.406 Indication of track circuit occupancy at controlled points. [Removed]

§ 236.409 Controlled machine; indication of switch operation. [Removed]

§ 236.510 Conformance with established clearances. [Removed]

§ 236.530 Ramp; height and distance from rail. [Removed]

§ 236.533 Track magnet; height. [Removed]

§ 236.558 Contact shoe; location with respect to rail. [Removed]

§ 236.559 Receiver, intermittent magnetic; location with respect to rail. [Removed]

§ 236.561 Safety chain or safety hanger. [Removed]

§ 236.704 Aspect, phantom signal. [Removed]

§ 236.715 Chain, safety. [Removed]

§ 236.716 Changer, pole. [Removed]

§ 236.748 Hanger, safety. [Removed]

§ 236.781 Point, clearance. [Removed]

(Sec. 25, Interstate Commerce Act, as amended (249 U.S.C. 26); Sec. 6(e)(6)(A) of the Department of Transportation Act (49 U.S.C. 1655(e)(6)(A)); Secs. 202 and 208, Federal Railroad Safety Act of 1970, as amended (45 U.S.C. 431 and 437); § 1.49(g) and (n) of the regulations of the Office of the Secretary of Transportation (49 CFR 1049(g) and (n)).

Issued at Washington, D.C. on March 11, 1983.

Robert W. Blanchette,

Administrator.

[FR Doc. 83-7143 Filed 3-18-83; 8:45 am]

BILLING CODE 4910-06-M

federal register

Monday
March 21, 1983

Part V

Department of Education

Expected Family Contribution Schedule for the Self-Help Grant Program and Expected Family Contribution Schedule for the Pell Grant Program; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 690 and 691

Expected Family Contribution Schedule for the Self-Help Grant Program and Expected Family Contribution Schedule for the Pell Grant Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes alternative regulations for determining a student's family contribution under the "Self-help Grant Program" (Alternative A) and under the Pell Grant Program (Alternative B). The schedule of expected family contributions proposed for the 1984–85 award year under Alternative A is based upon the timely enactment of the Administration's proposed Higher Education Amendments of 1983. These legislative amendments would replace the existing Pell Grant Program with a new grant program entitled the Self-help Grant Program and would also change the expected family contribution schedule to assure that income information is based on the most accurate and verifiable indicators of family financial need.

The proposed regulations under Alternative B would apply to the current Pell Grant Program and are based on the need analysis provisions found in paragraphs (a), (b) and (c) of Section 482 of the Higher Education Act of 1965, as amended, and in sections 4 and 6 of Pub. L. 97–301.

DATES: Comments must be received on or before April 20, 1983.

ADDRESS: Comments should be addressed to Brian Kerrigan, Chief, Pell Grant Policy Section, Division of Policy and Program Development, ROB–3, Room 4318, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Brian Kerrigan or Deborah Cohen, telephone number (202) 472–4300.

SUPPLEMENTARY INFORMATION:

Introduction

The Secretary is proposing legislation for a new Self-help Grant Program for the 1984–85 award year that will, if enacted, encompass and extend the goals of the Pell Grant, Supplemental Educational Opportunity Grant, and State Student Incentive Grant Programs. Under Alternative A of this proposed regulation, a Family Contribution Schedule is provided that would support this new Self-help Grant Program.

The Self-help Grant Program is designed to provide grant aid as a supplement to the family's and student's self-help contributions toward educational costs at postsecondary institutions. The Administration's Fiscal Year 1984 budget request provides for full funding of awards of up to $3,000 for qualified students. As the cost of education increases, students will qualify for larger Self-help Grant awards and will also be asked to make a larger self-help contribution. Therefore, while restoring some of the responsibility for educational costs to the student and family, substantial grant aid is provided to ensure not only access *to* but a wider choice *of* institutions, particularly for low-income students.

Description of the New Self-help Grant Program

There will be two elements for determining a student's financial eligibility for the Self-help Grant Program. The first element will be the expected family contribution as determined by Alternative A of this proposed regulation. The second element will be a self-help contribution from the student which will included in the award calculation.

The expected family contribution determined under Alternative A will incorporate several legislative changes which will focus need analysis on the five most significant indicators of family income. The changes will therefore increase the accuracy of applicant reported data, and will allow for a more complete verification of such data.

The calculation used in determining the student's award will, in general, provide for a minimum self-help expectation of $800 or 40 percent of the cost of attendance. The expectation rises as the cost of attendance increases.

The calculation used to determine a student's grant under this new program will be the lesser of the following:

—Cost of attendance minus $800 minus expected family contribution;
—Cost of attendance minus 40 percent of cost of attendance minus expected family contribution;
—Maximum grant minus expected family contribution;
—$1,200 plus 25 percent of cost of attendance minus expected family contribution.

Cost of attendance not met by the family contribution or the grant represents the student's self-help contribution. The student's self-help contribution can be met either through work earnings, loans, or scholarships.

The allowable cost of attendance for the new program will be direct educational costs (tuition and fees) plus an allowance for indirect costs ($3,000 for students not living at home and $1,500 for students living at home). Except for these numerical changes in the indirect cost allowances, the cost of attendance regulations for the Self-help Grant program will be identical to the current Pell Grant cost of attendance regulations. The cost of attendance regulations for the Self-help Grant will be published later in the year.

The Self-help Grant Program has a number of advantages over the existing Pell Grant Program. Under the new program all students will have a greater opportunity to attend the postsecondary institution of their choice because students will be able to qualify for larger awards at higher cost schools. Under current law, a low income student's Pell Grant would remain the same at any institution with a cost of attendance above $3,600, as its maximum award is $1,800. Under the new program, a student's Self-help Grant would continue to increase up to a cost of attendance of $7,200. The maximum Self-help Grant will be $3,000 for the 1984–85 award year.

Although the Supplemental Educational Opportunity Grant is currently available to some students to meet expenses at higher cost institutions, many postsecondary institutions that participate in the Pell Grant Program do not participate in the Supplemental Educational Opportunity Grant (SEOG) Program. Thus many low income students are currently denied access to higher cost institutions that do not participate in the SEOG Program, even though these same students are eligible to receive a Pell Grant. This restriction would not exist under the Self-help Grant Program. A similar problem of restricted access to certain postsecondary institutions exists under the State Student Incentive Grant Program.

Another advantage to the new grant program is that it more equitably distributes federal financial assistance to students at a wider range of public and private institutions. Under the current Pell Grant Program the grant award for two students with the same expected family contribution is the same at any institution with any cost of attendance above $3,600. Under the new program these two students' grant awards can vary with cost of attendance up to $7,200. In the new Self-help Grant Program, the student's contribution requirement also varies depending upon the cost of attendance.

The Self-help Grant award calculations will reduce the grants of middle income students attending low cost schools as compared to other

students at the same institutions who have a higher financial need. Under the existing program, two students attending the same low cost institution may receive the same award even though one student is from a low income family and another student is from a middle income family.

Proposed Statutory Changes to the Expected Family Contribution Schedule Under Alternative A

To strengthen the integrity of the new grant program, the Secretary is proposing several legislative changes to the schedule of expected family contributions to improve the delivery system for the new program.

There is an urgent need to verify the accuracy of applicant data. This need is based upon the findings of several studies conducted by both GAO and the Department of Education. Most recently a Department of Education study calculated the rate of error in Pell Grant awards during the 1980–81 award year. These findings (based on a sample of 4,000 Pell Grant applications and award calculations by 305 financial aid officers) estimated that approximately $340 million in overpayments and $51 million in underpayments were made to students due to inaccurate information supplied by applicants. This error rate indicates an obvious need for radical changes in order to substantially reduce payment errors.

Simpler and more verifiable applicant data can be expected to reduce these large payment errors and increase program equity. Therefore, the Secretary is proposing to reduce the number of data elements that would be used to determine a student's award from 22 to 5. This reduction would leave those elements that are the most significant indicators of income, easiest to verify, and least prone to applicant error. The remaining five data elements are:

1. Adjusted Gross Income.
2. Federal taxes paid.
3. Household size (based on tax exemptions).
4. Non-taxable income.
5. Liquid assets.

The data elements that the Secretary proposes to delete include: business assets, farm assets, home assets, unusual medical expenses, tuition for elementary and secondary education, the number of family members enrolled in postsecondary education, and income of the dependent student.

The advantage of using the five retained data elements is that applicants are less likely to misreport data that require exact figures and that can be verified. It may be argued that the deleted elements in the existing formula are needed to develop an accurate picture of a student's true need. However, the accuracy of this information has been so unreliable that the use of this additional data has adversely affected the determination of need. For example, misreporting of home equity, household size and the number of family members enrolled in postsecondary education had an associated net dollar error of $85 million in the Department's study. The goal of attaining an accurate picture of a student's need comes into question when the use of additional data elements yields such unreliable figures.

Although the taxable income of the dependent student can be verified if the income that is included in the expected family contribution is from the base year, estimated income is often used instead because the income of a dependent student varies substantially from one year to the next. This problem has been resolved by eliminating dependent student income from the calculation of an expected family contribution. However, it should be noted that the income of the dependent's spouse will be included in the expected family contribution.

Dependent student income is taken into account by the student's self-help contribution, which can range from $800 to $4,200. In 1981–82, only 17 percent of the single dependent students received incomes above their $2,650 income offset. Dependent student income that is not taken into account by the self-help contribution will, in many cases, be considered under the student asset (savings) component of the expected family contribution.

The Department's study also indicates that those students who have been misreporting information overwhelmingly do so for their own benefit. Restricting the data elements to those which can be easily verified should improve the accuracy of reported financial information and result in a more equitable distribution of funds.

In addition to being easier to verify and less prone to error than the other data elements, the five retained data elements are the major indicators of wealth for a family. Thus, the use of only those five data elements will not affect the goal of assisting students from low-income families. A formula that requires additional data elements may reduce the expected family contribution of middle income families, but those additional data elements have little effect on families with discretionary incomes that are already very low. There will be some students from middle income families with unusual financial circumstances that are not taken into account by this simpler formula. However, institutions may take these circumstances into account in determining awards from the College Work-Study Program and the need for a Guaranteed or National Direct Student Loan.

Summary of Other Proposed Changes Under Alternative A

The items described below are changes proposed in the formula from the 1983–84 Pell Grant Family Contribution Schedule.

I. Changes To Income Assessment

1. Social Security Educational Benefits. In 1983–84, social security educational benefits will not be considered in determining a student's eligibility for a Pell Grant. This treatment is based upon the requirements of Pub. L. 97–301. For the 1984–85 award year, the Secretary proposes to assess all Social Security educational benefits received during the 1984–85 award year as income in determining a student's expected family contribution.

2. Multiple Assessment Rates for Family Income. The Secretary is required to set a series of rates for discretionary income. Discretionary income is the income that remains after income taxes and all of the other offsets are subtracted from the total income of the family. The Secretary has proposed that the first $15,000 of discretionary income be divided into three amounts. Under Alternative A, the first $5,000 is assessed at 18 percent, the second $5,000 is assessed at 20 percent and the third $5,000 is assessed at 25 percent. The income of independent students with dependent children would be assessed in the same manner as we assess the income of the parents of dependent students. Single independent students with no dependent children would have their incomes assessed at 75 percent. Married independent students with no dependents other than the spouse would have their incomes assessed at 50 percent.

The assessment rates for Alternative A are based on a full funding level of $2,714.8 million, a maximum award of $3,000, a minimum award of $100, the standard expense allowances proposed by the Secretary for cost of attendance, and the Secretary's legislative proposal to limit Self-help Grants to the least of the four proposed calculation rules.

3. Updating of the Family Size Offsets to Account for Inflation. The Administration's proposal incorporates the provisions of section 6(c) of Pub. L. 97–301 which provides that the family

size offsets for the 1984–85 award year shall be based upon the offsets used in the 1983–84 award year adjusted by a percentage change equal to the percentage increase or decrease in the Consumer Price Index for Wage Earners and Clerical Workers published by the Department of Labor rounded to the nearest $100. The precentage change must be the percentage difference between the arithmetic mean for the period of October 1, 1981, through September 30, 1982, and the arithmetic mean for the period of October 1, 1982, through September 30, 1983. Public Law 97–301 directs the Secretary to publish the family size offset tables for 1984–85 immediately after the Secretary of Labor publishes the Consumer Price Index for September 1983. Therefore, the family size offsets will be published in the **Federal Register** at that time.

II. Changes to Asset Assessment

1. Asset Treatment for Dependent Students, and Their Parents. For 1983–84, the Family Contribution Schedules provide an asset reserve of up to $25,000 against the parent's principal place of residence, $25,000 against other personal assets, and $80,000 against farm and/or business assets. However, the total asset reserve for a family is limited to $100,000 against all of their assets.

Under Alternative A, the Secretary proposes to assess only liquid assets. An asset reserve of up to $10,000 is provided against the liquid assets of the parents, and any liquid assets above the amount of the reserve is assessed at ten percent. The dependent student also has assets that are assessed. These are not included with parental assets. Only dependent students with dependent children would have a separate $10,000 reserve, with liquid assets above $10,000 assessed at ten percent. For other dependent students (regardless of their marital status) all the liquid assets of the student and spouse would be assessed at 33 percent. This is a change from the 1983–84 Family Contribution Schedule which gives all married dependent students an asset reserve.

2. Asset Treatment for Independent Students. Under Alternative A, the liquid assets of an independent student would be treated in the same manner as the liquid assets of a dependent student. If the student has dependent children, there would be an asset reserve of $10,000 and an assessment rate of ten percent. For all other independent students (regardless of their marital status), all liquid assets of the student and spouse would be assessed at 33 percent.

Summary of Proposed Changes Under Alternative B

I. General Background

The Education Amendments of 1980 made substantial changes in the statutory language of the formula that determines the expected family contribution for the Pell Grant Program. Many of these changes are applicable to the 1984–85 award year even though they were not incorporated in the 1982–83 and 1983–84 Family Contribution Schedules because Congress mandated an alternative formula for those award years.

II. Changes in Income Assessment

1. Social Security Educational Benefits. These benefits will be assessed in the same manner as Alternate A, i.e., Social Security educational benefits will be assessed as income.

2. Treatment of Dependent Student Income. The contribution from a dependent student's income has been based on the income he or she received during the calendar year prior to the first calendar year of the award year (i.e., income for 1983 for the 1984–85 award year). This is called base year income. However, in those cases where the student estimated that his or her income for the school year would not exceed 60 percent of the actual income reported for the base year, the Pell Grant formula automatically used the student's estimated income in the computation of the student's eligibility. The income has been assessed, after an offset has been subtracted, at the rate of 75 percent for single students and 25 percent for married students.

For 1984–85, the Secretary proposes adding dependent student income to parental income and that total income would then have the appropriate family size offset applied to it that would be applied to the parental income. The offset for the student's basic living costs is already included in the family's household size offset. The dependent student income offset that has been used in the past would be eliminated. All dependent student income will now be assessed, although, at a lower rate. This change reflects the Secretary's interest in promoting the concept of a self-help contribution from students who apply for financial assistance. All students will now contribute a portion of their income to meet educational expenses.

Estimated dependent student income would not be used in determining the student's eligibility.

3. Use of Income Taxes as an Offset Against Income. The current law requires that "Federal, State, and local taxes paid or payable with respect to . . . income" shall be considered. Thus, State and local income taxes as well as Federal income taxes are subtracted from income.

4. Multiple Assessment Rates for Family Income. The assessment rates used in Alternative A would also apply to the combined discretionary income of the dependent student and his or her parents. These same assessment rates will apply to married independent students and unmarried independent students with dependents. Single independent students with no dependent children will have their incomes assessed at 75 percent.

5. Updating the Family Size Offsets. The same offsets that will be used in Alternative A will also apply to Alternative B. As required by Pub. L. 97–301, these offsets will be published in the **Federal Register** immediately after the Secretary of Labor publishes the Consumer Price Index for September 1983.

II. Changes in Asset Assessment

1. Asset Treatment for Dependent Students. For 1983–84, the Family Contribution Schedules provide an asset reserve of up to $25,000 against the parent's principal place of residence, $25,000 against other personal assets, and $80,000 against farm and/or business assets. However, the total asset reserve for a family is limited to $100,000 against all of their assets. The current law requires that home equity shall be excluded from assets, so there is no longer a need for an asset reserve against the parent's principal place of residence.

The treatment of assets specified in the current law for the 1984–85 award year addresses the assets of both the student and the parents. Thus, under Alternative B an asset reserve would be applied against the combined assets of the parents and the student. However, since under this Alternative, parental assets would be assessed at ten percent and the student's assets at 33 percent, we are proposing that the asset reserve of $10,000 be applied first against the parental assets. If the parents do not have $10,000 of net assets, they would not need the entire asset reserve. In that case, the amount of asset reserve that they do not need would be applied against the student's assets.

Under Alternative B, independent students with dependents would be afforded the same treatment as the parents of dependent students. They would have an asset reserve of $10,000 against personal assets and $50,000 against farm and/or business assets.

The student's spouse is defined as a dependent under Alternative B. As in the past, the assets of a single independent student will be assessed at the rate of 33 percent.

Definition of an Independent Student. The definition of an independent student will be removed from the Family Contribution Schedule. A new definition, which will be more stringent for most undergraduate students, will be published as a Notice of Proposed Rulemaking (NPRM) in the Student Assistance General Provisions regulations. The new definition that results from the NPRM will become effective in the 1984–85 award year.

Executive Order 12291: These proposed regulations have been reviewed in accordance with Executive Order 12291.

They are classified as non-major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification. The Secretary certifies that these regulations will not have a significant economic impact on a substantial number of small entities. These regulations establish the formula for determining student eligibility for financial assistance under the Pell Grant Program. They do not have an impact on small entities.

Invitation To Comment: Interested persons are invited to submit comments and recommendations regarding these proposed regulations. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments submitted on or before the 30th day after publication of this document will be considered before the Secretary issues final regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 4318, ROB-3, 7th and D Streets, S.W., Washington, D.C. 20202, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday of each week except Federal holidays.

List of Subjects in 34 CFR Parts 690 and 691

Administrative practice and procedure, Education, Education of disadvantaged, Grant programs—education, Student aid.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations. These citations appear only in Alternative B. Citations will be added to Alternative A if a statute authorizing that alternative is enacted.

Dated: March 15, 1983.

T. H. Bell,

Secretary of Education.

(Catalogue of Federal Domestic Assistance Number 84.063, Pell (Basic) Grant Program)

The Secretary proposes to add Part 691 to Title 34 of the Code of Federal Regulations as shown below under Alternative A, or to amend Part 690 of Title 34 of the Code of Federal Regulations by revising both the table of contents for subparts C and D and subparts C and D as shown under Alternative B as follows:

Alternative A

PART 691—SELF-HELP GRANT PROGRAM

Subparts A-B—[Reserved]

Subpart C—Expected Family Contribution for a Dependent Student

Sec.
691.31 Indicators of financial strength.
691.32 Special definitions.
691.33 Effective family income.
691.34 Computation of the expected family contribution from the effective family income.
691.35 Computation of the expected contribution from parental liquid assets.
691.36 Computation of the expected contribution from the liquid assets of the dependent student (and spouse).
691.37 Computation of the total expected family contribution.
691.38 Extraordinary circumstances affecting the expected family contribution determination.

Subpart D—Expected Family Contribution for an Independent Student

691.41 Indicators of financial strength.
691.42 Special definitions.
691.43 Effective family income.
691.44 Computation of the expected family contribution from the effective family income.
691.45 Computation of the expected contribution from the liquid assets of the independent student (and spouse).
691.46 Computation of the total expected family contribution.
691.47 Extraordinary circumstances affecting the expected family contribution determination.

Subparts E-H—[Reserved]

Subparts A and B—[Reserved]

Subpart C—Expected Family Contribution for a Dependent Student

§ 691.31 Indicators of financial strength.

"Expected family contribution" for a dependent student means the amount that the student and his or her family may reasonably be expected to contribute toward the cost of his or her education for an award period. Each of the following elements of financial strength will be considered in determining the expected family contribution for a dependent student:

(a) The effective incomes of the student's parents and the student's spouse;

(b) The number of family members in the household of the student's parents; and

(c) The liquid assets of (1) the student and his or her spouse, and (2) the student's parents.

(Pub. L. 98-)

§ 691.32 Special definitions.

For purposes of this subpart:

"Dependent of the student's parents" means the student, the student's spouse and other persons who have been claimed on a 1983 Federal income tax returns as a dependent by the parents, the student and the student's spouse. If the parents have not filed a 1983 Federal income tax return at the time of application, "dependent of the student's parents" means the student, the student's spouse, and other persons who were eligible to be claimed in 1983 by the parents, the student, and student's spouse under the Internal Revenue Code of 1954.

"Dependent student" means any student who does not qualify as an independent student as defined in 34 CFR 668.1a.

"Effective family income" is described in § 691.33.

"Family-size offset" means an allowance to meet the subsistence expenses of a family, including food, shelter, clothing, and other basic needs. This offset is derived from the "Weighted Average Thresholds at the Low Income Level," developed by the Social Security Administration.

"Federal income tax" means: (a) The tax on income paid to the U.S. Government under Subtitle A of the Internal Revenue Code, or (b) the tax on income paid to the Governments of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands under the laws applicable to those jurisdictions, or (c) the comparable taxes paid to the central government of a foreign country.

"Legal guardian" means an individual who has been appointed by a court to be a legal guardian of a person and who is specifically required by the court to use his or her own financial resources to support that person.

"Liquid assets" means cash on hand including amounts in checking and

savings accounts, time deposits, money market funds, trusts, stocks, bonds, mutual funds and other securities.

"Net assets" means the current market value at the time of application of the assets included in the definition of "liquid assets" minus the outstanding liabilities (indebtedness) against those assets.

"Parent" means the student's mother, father or legal guardian. An adoptive parent is considered to be the student's mother or father.

(Pub. L. 98–)

§ 691.33 Effective family income.

(a) Effective family income is the annual adjusted family income minus the Federal income taxes paid or payable on that adjusted family income.

(b) "Annual adjusted family income" means, except as provided in paragraphs (c), (d), (e), (f), (g), and (h) of this section, and § 691.38,

(1) The sum received in 1983 by the student's parents and the student's spouse, if any, from—

(i) Adjusted gross income, as defined in section 62 of the Internal Revenue Code;

(ii) Investment income upon which no Federal income tax need by paid. An example of such income is the interest on municipal bonds; and

(iii) Other income, such as child support payments and welfare benefits, upon which no Federal income tax is paid, except for—

(A) Veterans benefits paid under chapters 34 and 35 of title 38 of the United States Code;

(B) Social Security educational benefit received by or on account of the student; and

(C) Social Security educational benefits paid to the student's parents for the student's siblings that would not be paid if those siblings were not students.

(2) One-half of any veteran's benefits to be paid to the student for the 1984–85 award year under chapters 34 and 35 of title 38 of the United States Code.

(3) The Social Security educational benefits to be paid to the student or to the students' parents for the student for the 1984–85 award year.

(c) For a Native American student, the annual adjusted family income received by the student's parents under the Distribution of Judgment Funds Act (25 U.S.C. 1401, *et seq.),* the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.),* or the Maine Indians Claims Settlement Act (25 U.S.C. 1721 *et seq*)

(d) For a student whose parents are divorced or separated the following procedures apply for reporting a parent's income to determine the annual adjusted family income—

(1) Include only the income, as described in paragraph (b) of this section, of the parent with whom the student resided for the greater portion of the 12-month period preceding the date of the application.

(2) If the preceding criterion does not apply, include only the income of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

(3) If neither of the preceding criteria apply, include only the income of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

(e) If either of the parents have died, the student shall include only the income of the surviving parent. If both parents have died, the student shall not report any parental income.

(f) The following rule applies if either a parent whose income is taken into account under paragraph (d) of this section, or a parent who is a widow or widower and whose income is taken into account under paragraph (e) of this section, has remarried. The income of that parent's spouse shall be included in determining the student's annual adjusted family income if, in 1983, the student—

(1) Has received financial assistance of more than $1000 from that spouse; or

(2) Has lived for more than six weeks in the home of the parent and that spouse.

(g) The annual adjusted family income does not include any student financial assistance except those veterans and Social Security benefits cited in paragraphs (b) (2) and (3) of this section.

(Pub. L. 98–)

§ 691.34 Computation of the expected family contribution from the effective family income.

The expected family contribution for a dependent student from effective family income is calculated as follows:

(a) Determine the family's discretionary income by deducting a family size offset from the effective family income. (The Secretary will determine the amount of the family size offsets in accordance with section 6(c) of the Student Financial Assistance Technical Amendments Act of 1982. The Secretary will publish a table in the **Federal Register** setting forth the offsets immediately after the Secretary of Labor publishes the Consumer Price Index for September 1983.)

(b) Determine the family-size by applying the following rules—

(1) If the parents are not divorced or separated, family members include the student's parents and the dependents of the student's parents.

(2) If the parents are divorced or separated and not remarried, family members include the parent whose income is included in computing the effective family income and the dependents of that parent. However, if both parents claimed the same person on a joint tax return, that person is dependent on the parent who will provide the greater portion of his or her support between July 1, 1984 and June 30, 1985.

(3) If the parents are divorced and the parent whose income is included in computing the effective family income has remarried, or if the parent was a widow or widower who has remarried, family members include, in addition to those people referenced in paragraph (b)(2) of this section, the new spouse and any dependents of the new spouse, if that spouse's income is included in determining the effective family income. Dependents of the new spouse are determined by the same criteria that apply to dependents of the student's parent in paragraph (b)(2) of this section.

(c) If the discretionary income is a positive amount, determine the expected contribution from the effective family income according to the following chart. If the discretionary income is negative, there is an expected contribution from income.

Discretionary income	Expected contribution
0 to $5,000	18% of discretionary income.
$5,001 to $10,000.	$900 + 20% of amount over $5,000.
$10,001 and above.	$1,900 + 25% of amount over $10,000.

(Pub. L. 98–)

§ 691.35 Computation of the expected contribution from parental liquid assets.

The expected contribution from parental liquid assets is determined in the following manner:

(a) Deduct $10,000 from the net value of the parental liquid assets. If this subtraction produces a negative number, it shall be changed to zero.

(b) Multiply the result obtained in paragraph (a) of this section by ten percent.

(c) If the calculation of discretionary income required by § 691.34(a) produces a negative number, the expected contribution from parental assets, calculated under paragraph (b) of this section, shall be reduced by the amount of that negative discretionary income. If this subtraction produces a negative

number, the expected contribution shall be zero.

(d)(1) if the student's parents are separated or divorced and not remarried, only the liquid assets of the parent whose income is included in computing annual adjusted family income shall be considered.

(2) If that parent has remarried, or if the parent was a widow or widower who has remarried, and the parent's spouse's income is also included under § 691.33, the liquid assets of that parent's spouse shall also be included.

(Pub. L. 98–)

§ 691.36 Computation of the expected contribution from the liquid assets of the dependent student (and spouse).

(a) The expected contribution from the net assets of a single dependent student or a married dependent student (and spouse) with no dependent children equals 33 percent of the amount of those net liquid assets.

(b) The expected contribution from the net liquid assets of the dependent student (and spouse) with dependent children is determined in the following manner.

(1) Dedcuct an asset reserve of $10,000 from the net liquid assets. If the result is negative, the expected contribution shall be zero.

(2) Multiply the remainder obtained in paragraph (b)(1) of this section by ten percent.

(c) If a married dependent student is separated, only his or her net liquid assets shall be considered.

(Pub. L. 98–)

§ 691.37 Computation of the total expected family contribution.

For each grant, the total expected family contribution is the sum of—

(a) The expected contribution from effective family income as determined under § 691.34;

(b) The expected contribution from parental assets as determined under § 691.35; and

(c) The expected contribution from the student's (and spouse's) assets as determined under § 690.36.

(Pub.L. 98–)

§691.38 Extraordinary circumstances affecting the expected family contribution determination.

(a) A student may submit an application to the Secretary for determination of his or her expected family contribution using income data from 1984 (where 1983 income is usually requested), if—

(1) A parent or stepparent whose 1983 income from work must be reported under § 691.33 has lost his or her job for at least ten weeks during 1984. However, the loss of a job, e.g., a work-study job, that did not produce reportable income, would not be included;

(2) A parent or stepparent whose 1983 income from work must be reported under § 691.33 has been unable to pursue normal income-producing activities for at least ten weeks during 1984 because of the occurrence—in 1983 or 1984—of: (i) A disability, or (ii) a natural disaster;

(3) A parent or stepparent whose income must be reported under § 691.33 received unemployment compensation or nontaxable income in 1983 (that would be used in the calculation of the student's expected family contribution) and had a complete loss for at least ten weeks in 1984 of one of those benefits. A non-taxable benefit, for purposes of this paragraph, must be paid by a public or private agency, a company, or a person because of a court order. Types of nontaxable benefits would include Social Security benefits, welfare, and court ordered child support;

(4) The parent(s) of the student have become separated or divorced after the student submitted an application for 1984–85. The student may not use 1984 information based on his or her parents' divorce if the parents were already separated at the time of original filing. If such a separation or divorce is between a parent and a stepparent, the stepparents' income must have been reportable on the previous application under § 691.33 for this condition to apply; or

(5) A parent or stepparent whose 1983 income must be reported under § 691.33 has died after the student submitted an application for 1984–85. However, if the parent referred to in this paragraph is the last surviving parent with whom the student has or will have a dependency relationship according to 34 CFR 668.1a, the student must file an application under § 691.47(a)(7) if he or she wishes to use income data from 1984.

(b) For an application submitted under paragraph (a) of this section, the student's parent and spouse shall include the income specified in § 691.33(b)(1) (i), (ii), and (iii) that has already been received for 1984 and an estimate of that income to be received for the remainder of the year.

(Pub. L. 98–)

Subpart D—Expected Family Contribution for an Independent Student

§ 691.41 Indicators of financial strength.

"Expected family contribution" for an independent student means the amount that the student and his or her spouse may reasonably be expected to contribute toward the cost of his or her education for an award period. Each of the following elements of financial strenght will be considered in determining the expected family contribution for an independent student:

(a) The effective family income of the independent student and spouse;

(b) The number of family members in the household of the student and spouse; and

(c) The liquid assets of the student and spouse.

(Pub. L. 98–)

§ 691.42 Special definitions.

The definitions of "family size offset," "Federal income tax," "legal guardian," "liquid assets," "net assets," and "parent," are set forth in § 691.32.

"Dependent of the student" means the student's spouse, and other persons who have been claimed on the 1983 Federal income tax return as a dependent by the student and student's spouse. If the student has not filed a 1983 Federal tax return at the time of application, "dependent of the student" means the student's spouse and other persons who were eligible to be claimed in 1983 by the student and student's spouse under the Internal Revenue Code of 1954.

"Effective family income" is described in § 691.43.

"Independent student" is a student who meets the definition set forth in 34 CFR 668.1a.

(Pub. L. 98–)

§ 691.43 Effective family income.

(a) Effective family income is the annual adjusted family income minus the Federal income taxes paid or payable on that adjusted family income.

(b) "Annual adjusted family income" means, except as provided in paragraphs (c), (d) and (e) of this section and § 691.47,

(1) The sum received in 1983 by the student and spouse from—

(i) Adjusted gross income, as defined in section 62 of the Internal Revenue Code;

(ii) Investment income upon which no Federal income tax is paid. An example of such income is the interest on municipal bonds; and

(iii) Other income, such as child support payments and welfare benefits, upon which no Federal income tax is paid, except for

(A) Veterans benefits paid under chapters 34 and 35 of title 38 of the United States Code; and

(B) Social Security educational benefits received by the student.

(2) One-half of any veteran's benefits to be paid to the student for the 1984–85 award year under Chapters 34 and 35 of title 38 of the United States Code; and

(3) The Social Security educational benefits to be paid to the student for the 1984–85 award year.

(c) For a Native American student, the annual adjusted family income does not include the income received by the student or spouse under the Distribution of Judgment Funds Act (25 U.S.C. 1401, *et seq.*), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*), or the Maine Indians Claims Settlement Act (25 U.S.C. 1721, *et seq.*)

(d) In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income shall not be considered in determining the annual adjusted family income.

(e) The annual adjusted family income does not include any student financial assistance except those veteran's and Social Security benefits cited in paragraphs (b)(2) and (3) of this section.

(Pub. L. 98–)

§ 691.44 Computation of the expected family contribution from the effective family income.

The expected family contribution for the independent student from effective family income is calculated as follows:

(a) Determine discretionary income by deducting a family-size offset from the effective family income. (The Secretary will determine the amount of the family size offsets in accordance with section 6(c) of the Student Financial Assistance Technical Amendments Act of 1982. The Secretary will publish a table in the **Federal Register** setting forth the offsets immediately after the Secretary of Labor publishes the Consumer Price Index for September 1983.)

(b) determine the family-size by applying the following rules:

(1) Family members include the student, spouse and other persons who have been claimed or could have been claimed in 1983 as a dependent for Federal income tax purposes by the student and spouse.

(2) If the student is divorced or separated, (i) the spouse (ex-spouse) and his or her dependents are not counted in the family size, and

(ii) If both the student and spouse claimed the same person on a joint tax return, that person is dependent on the student rather than the spouse if the student will provide the greater portion of his or her support between July 1, 1984 and June 30, 1985.

(c) If the discretionary income is a positive amount, determine the expected contribution from the effective family income according to the following charts. If the discretionary income is negative, there is no expected contribution from income.

(1) For a single independent student with no dependent children—

Discretionary income	Expected contribution
Any positive amount.	75% of that amount.

(2) For a married independent student with no dependent children—

Discretionary income	Expected contribution
Any positive amount.	50% of that amount.

(3) For an independent student with dependent children—

Discretionary income	Expected contribution
0 to $5,000	18% of discretionary income.
$5,001 to $10,000.	$900 + 20% of amount over $5,000.
$10,001 and above.	$1,900 + 25% of amount over $10,000.

(Pub. L. 98–)

§ 691.45 Computation of the expected contribution from the liquid assets of the independent student (and spouse).

(a)(1) The expected contribution from the net assets of an independent student with no dependent children equals 33 percent of the amount of those net liquid assets.

(2) If the calculation of discretionary income required by § 691.44(a) produces a negative number, the expected contribution from the student's net liquid assets calculated under paragraph (a)(1) of this section shall be reduced by the amount of that negative discretionary income. If this subtraction produces a negative number, the expected contribution shall be zero.

(b) For an independent student with dependent children, the expected contribution from the net liquid assets of the student (and spouse) is determined in the following manner:

(1) Deduct $10,000 from the net value of liquid assets. If this subtraction produces a negative number, the expected contribution shall be zero.

(2) Multiply the results obtained in paragraph (b)(1) of this section by ten percent.

(3) If the calculation of discretionary income required by § 691.44(a) produces a negative number, the expected contribution from the student's (and spouse's) assets calculated under paragraph (b)(2) of this section shall be reduced by the amount of that negative discretionary income. If this subtraction produces a negative number, the expected contribution shall be zero.

(c) If a married independent student with dependents is separated, only his or her liquid assets shall be considered.

(Pub. L. 98–)

§ 691.46 Computation of the total expected family contribution.

For each grant, the total expected family contribution is the sum of—

(a) The expected contribution from effective family income as determined under § 691.44 and

(b) The expected contribution from liquid assets as determined under § 691.45.

(Pub. L. 98–)

§ 691.47 Extraordinary circumstances affecting the expected family contribution determination.

(a) An independent student may submit an application to the Secretary for determination of his or expected family contribution using income data from 1984 (where 1983 income is usually requested) if—

(1) The student was employed full-time in 1983 (at least 35 hours per week for a minimum of 30 weeks during 1983) in a job that produced reportable income and is no longer employed full-time;

(2) A spouse whose 1983 income from work must be reported under § 691.43 has lost his or her job for at least ten weeks during 1984. However, the loss of a job, e.g., a work-study job, that did not produce reportable income, would not be included;

(3) The student or spouse whose 1983 income from work must be reported under § 691.43 has been unable to pursue normal income-producing activities for at least ten weeks during 1984 because of the occurrence—in 1983 or 1984—of (i) a disability or (ii) a natural disaster;

(4) The student or spouse whose income must be reported under § 691.43 received unemployed compensation or nontaxable income in 1983 (that would be used in the calculation of the student's expected family contribution) and had a complete loss for at least ten weeks in 1984 of one of those benefits. A nontaxable benefit, for purposes of this paragraph, must be paid by a public or private agency, a company, or a person because of a court order. Types of nontaxable benefits would include Social Security benefits, welfare, and court ordered child support;

(5) The student has become separated or divorced after he or she submitted an application for 1984–85. A student who divorces cannot apply under this section if he or she was already separated at the time of original filing;

(6) A spouse whose 1983 income must be reported under § 691.43 has died after he or she sumitted an application for 1984–85; or

(7) The student's last surviving parent with whom the student has or will have a dependency relationship according to § 691.42 has died.

(b) For an application submitted under paragraph (a) of this section, the student shall include the income specified in § 691.43(b)(1) (i), (ii), and (iii) that has already been received for 1984 and an estimate of that income to be received for the remainder of the year.

(Pub. L. 98–)

Subparts E-H—[Reserved]

Alternative B

PART 690—PELL GRANT PROGRAM

* * * * *

Subpart C—Expected Family Contribution for a Dependent Student

Sec.
690.31 Indicators of financial strength.
690.32 Special definitions.
690.33 Effective family income.
690.34 Computation of the expected family contribution from the effective family income.
690.35 Computation of the expected contribution from parental assets.
690.36 Computation of the expected contribution from effective family income and parental assets, adjusted for the number of family members enrolled in programs of postsecondary education.
690.37 Computation of the expected contribution from the assets of the dependent student (and spouse).
690.38 Computation of the total expected family contribution.
690.39 Extraordinary circumstances affecting the expected family contribution determination.

Subpart D—Expected Family Contribution for an Independent Student

690.41 Indicators of financial strength.
690.42 Special definitions.
690.43 Effective family income.
690.44 Computation of the expected contribution from the effective family income.
690.45 Computation of the expected contribution from assets of the independent student (and spouse).
690.46 Computation of the total expected contribution from the income and assets of the independent student (and spouse), adjusted for the number of family members enrolled in programs of postsecondary education.
Sec.
690.47 Extraordinary circumstances affecting the expected family contribution determination.

* * * * *

Subpart C—Expected Family Contribution for a Dependent Student

§ 690.31 Indicators of financial strength.

"Expected family contribution" for a dependent student means the amount that the student and his or her family may reasonably be expected to contribute toward the cost of his or her education for an award period. Each of the following elements of financial strength will be considered in determining the family contribution for a dependent student:

(a) The effective incomes of (1) the student and his or her spouse, and (2) the student's parent(s);

(b) The number of family members in the household of the student's parent(s);

(c) The number of family members in the household of the student's parent(s) who are enrolled in, on at least a half-time basis, a program of postsecondary education;

(d) The assets of: (1) The student and his or her spouse, and (2) the student's parent(s);

(e) The unusual medical expenses of the student's parents;

(f) The additional expenses incurred when both parents of the student are employed or when a family is headed by a single parent who is employed; and

(g) The tuition paid by the student's parents for dependent children, other than the student, who are enrolled in an elementary or secondary school.

(20 U.S.C. 1089(b))

§ 690.32 Special definitions.

For purposes of this subpart:

"Assets" means cash on hand, including amount in checking and savings accounts, time deposits, money market funds, trusts, stocks, bonds, other securities, mutual funds, real estate (except the student's or parent's single principal place of residence), income producing property, business equipment, and business inventory. However, for Native American students, the following shall not be considered as an asset of the student or his or her family in determining the expected family contribution:

(a) Any property received under the Distribution of Judgment Funds Act (25 U.S.C. 1401, *et seq.*), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*), or the Maine Indians Claims Settlement Act (25 U.S.C. 1721, *et seq.*),

(b) Any property that may not be sold or encumbered without the consent of the Secretary of Interior, and

(c) Any other property held in trust for the student or his or her family by the United States Government.

"Business assets" means property that is used in the operation of a trade or business, including real estate, inventories, buildings, machinery and other equipment, patents, franchise rights, and copyrights.

"Dependent of the student's parents" means:

(a) The student;

(b) The student's spouse;

(c) Any of the student's dependent children;

(d) Dependent children of the student's parents including those children who are deemed to be dependent students when applying for title IV aid; and

(e) Other persons who live with and receive more than one-half of their support from the parents and will continue to receive more than half of their support from the parents for the 1984–85 award year.

"Dependent student" means any student who does not qualify as an independent student as defined in 34 CFR 668.1a.

"Effective family income" is described in § 690.33.

"Employment expense offset" means an allowance to meet expenses related to employment when both parents are employed or when one parent qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

"Family-size offset" means an allowance to meet the subsistence expenses of a family, including food, shelter, clothing, and other basic needs. This offset is derived from the "Weighted Average Thresholds at the Low Income Level," as developed by the Social Security Administration.

"Farm assets" means any property owned and used in the operation of a farm for profit, including real estate, livestock, livestock products, crops, farm machinery, and other equipment inventories. A farm is not considered to be operated for profit if crops or livestock are raised mainly for the use of the family, even if some income is derived from incidental sales.

"Federal income tax" means: (a) The tax on income paid to the U.S. Government under Subtitle A of the Internal Revenue Code, or (b) the tax on income paid to the Governments of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands under the laws applicable to those jurisdictions, or (c)

the comparable taxes paid to the central government of a foreign country.

"Legal guardian" means an individual who has been appointed by a court to be a legal guardian of a person and who is specifically required by the court to use his or her own financial resources to support that person.

"Local income tax" means the tax on income paid to a town, city, country, or other local municipality.

"Medical expenses" means unreimbursed medical and dental expenses, except premiums for medical insurance, that may be deducted under section 213 of the Internal Revenue Code and that were paid in 1983 unless the student files an application with the Secretary under the provisions of §690.39. In that case the expenses reported are those paid in 1984.

"Net assets" means the current market value at the time of application of the assets included in the definition of "assets" minus the outstanding liabilities (indebtedness) against those assets.

"Parent" means the student's mother, father or legal guardian. An adoptive parent is considered to be the student's mother or father.

"State income tax" means the tax on income paid to one of more of the 50 States of the United States, or to the District of Columbia.

(20 U.S.C. 1089).

§ 690.33 Effective family income.

(a) Effective family income is the annual adjusted family income minus the Federal, State, and local income taxes paid or payable on that adjusted family income.

(b) "Annual adjusted family income" means, except as provided in paragraphs (c), (d), (e), (f), (g), and (h) of this section and § 690.39,

(1) The sum received in 1983 by the student, his or her spouse, and his or her parents from—

(i) Adjusted gross income, as defined in section 62 of the Internal Revenue Code;

(ii) Investment income upon which no Federal income tax need be paid. An example of such income is the interest on municipal bonds; and

(iii) Other income, such as child support payments and welfare benefits, upon which no Federal income tax is paid, except for

(A) Veterans benefits paid under chapters 34 and 35 of Title 38 of the United States Code;

(B) Social Security educational benefits received by or on account of the student; and

(C) Social Security educational benefits paid to the student's parents for the student's siblings that would not be paid if those siblings were not students;

(2) One-half of any veteran's benefits to be paid to the students for the 1984–85 award year under chapters 34 and 35 of Title 38 of the United States Code; and

(3) The Social Security educational benefits to be paid to the student, or to the student's parents for the student for the 1984–85 award year.

(c) For a Native student, the annual adjusted family income does not include the income received by the student, his or her spouse, or his or her parents under the Distribution of Judgment Funds Act (25 U.S.C. 1401, *et seq.*), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*), or the Maine Indians Claims Settlement Act (25 U.S.C. 1721, *et seq.*),

(d) For a student whose parents are divorced or separated the following procedures apply for reporting a parent's income to determine the annual adjusted family income—

(1) Include only the income, as described in paragraph (b) of this section, of the parent with whom the student resided for the greater portion of the 12 month period preceding the date of the application.

(2) If the preceding criterion does not apply, include only the income of the parent who provided the greater portion of the student's support for the 12-month period preceding the date of application.

(3) If neither of the proceding criteria apply, include only the income of the parent who provided the greater support during the most recent calendar year for which parental support was provided.

(e) If either of the parents have died, the student shall include only the income of the surviving parent. If both parents have died, the student shall not report any parental income.

(f) The following rule applies if either a parent whose income is taken into account under paragraph (d) of this section or a parent who is a widow or widower and whose income is taken into account under paragraph (e) of this section, has remarried. The income of that parent's spouse shall be included in determining the student's annual adjusted family income if, in either 1983 or 1984, the student—

(1) Has received or will receive financial assistance of more than $750 in either of those years from that spouse; or

(2) Has lived or will live for more than six weeks in either of those years in the home of the parent and that spouse.

(g) In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income shall not be considered in determining the effective family income.

(h) The annual adjusted family income does not include any student financial assistance except those veterans of Social Security benefits cited in paragraphs (b) (2) and (3) of this section.

(20 U.S.C. 1089)

§ 690.34 Computation of the expected family contribution from the effective family income.

The expected family contribution for a dependent student from effective family income is calculated as follows:

(a) Determine the parent's discretionary income by deducting the following offsets from the effective family income:

(i) A family-size offset. (The Secretary will determine the amount of the family size offsets in accordance with section 6 (c) of the Student Financial Assistance Technical Amendments Act of 1982. The Secretary will publish a table in the **Federal Register** setting forth the offsets immediately after the Secretary of Labor publishes the Consumer Price Index for September 1983.)

(ii) In determining the family-size offset the following rules apply—

(A) If the parents are not divorced or separated, family members include the student's parents and the dependents of the student's parents.

(B) If the parents are divorced or separated and not remarried, family members include the parent whose income is included in computing the effective family income and that parent's dependents.

(C) If the parents are divorced and the parent whose income is included in computing the effective family income has remarried, or if the parent was a widow or widower who has remarried, family members include, in addition to those people referenced in paragraph (a) (1)(ii)(B) of this section, the new spouse and any dependents of the new spouse, if that spouse's income is included in determining the effective family income.

(2) An unusual expense offset equal to the amount by which the sum of unreimbursed medical and dental expenses exceed 20 percent of the effective family income. The expenses that may be reported are those expenses paid by the student, his or her spouse and his or her parents during 1983 unless that student files an application with the Secretary under the provisions of § 690.39. In that case, the expenses reported will be those paid in 1984. The expenses of both parents are included only if the income of both are subject to inclusion in determining the effective family income. Similarly, a stepparent's expenses are included only if his or her income is subject to inclusion.

(3) An employment expense offset calculated as follows—

(i) If both parents were employed in the year for which their income is reported and both have their incomes reported in determining the expected family contribution, use the lesser of $1,500 or 50 percent of the reportable (according to § 690.33) income earned by work of the parent with the lesser earned income.

(ii) If a parent qualifies as a head of household as defined in section 2 of the Internal Revenue Code, use the lesser of $1,500 or 50 percent of his or her reportable earned income.

(iii) The earned income figure to be used in all cases is the figure for 1983 unless the student files an application with the Secretary under the provisions of § 690.39. In that case, the figure to be used is the one for 1984.

(4) An educational expense offset equal to the tuition paid by the student's parents for dependent children, other than the student, enrolled in elementary or secondary school. The tuition which may be reported is the tuition paid in 1983 unless the student files an application with the Secretary under the provisions of § 690.39. In that case, the tuition reported will be that paid in 1984.

(b) If the discretionary income is a positive amount, determine the expected contribution from the effective family income according to the following chart. If the discretionary income is negative, there is no expected contribution from income.

Discretionary income	Expected contribution
$0 to $5,000	18% of discretionary income.
$5,001 to $10,000.	$900 + 20% of amount over $5,000.
$10,001 and above.	$1,900 + 25% of amount over $10,000.

(20 U.S.C. 1089; Pub. L. 97–301, section 6 (c))

690.35 Computation of the expected contribution from parental assets.

The expected contribution from parental assets is determined in the following manner.

(a) If the parental assets do not include farm or business assets, deduct $10,000 from the net value of parental assets.

(b) If the parental assets include farm or business assets, deduct: (1) $50,000 from the net value of the farm and business assets, and (2) $10,000 from the net value of non farm and non business assets.

(c) If the result obtained under paragraphs (a), (b) (1), or (b) (2) of this section is a negative amount, the expected contribution shall be zero.

(d) The expected contribution from parental assets equals ten percent of the total of the results obtained in paragraphs (a) or (b) of this section.

(e) If the calculation of discretionary income required by § 690.34(a) produces a negative number, the expected contribution from parental assets, calculated under paragraph (d) of this section, shall be reduced by the amount of that negative discretionary income. If this subtraction produces a negative number, the expected contribution shall be zero.

(f)(1) If the student's parents are separated or divorced and not remarried, only the assets of the parent whose income is included in computing annual adjusted family income shall be considered.

(2) If that parent has remarried, or if the parent was a widow or widower who has remarried, and the parent's spouse's income is also included under §690.33, the assets of that parent's spouse shall also be included.

(20 U.S.C. 1089)

§ 690.36 Computation of the expected contribution from effective family income and parental assets, adjusted for the number of family members enrolled in programs of postsecondary education.

(a) For each grant, the amount expected from effective family income as determined § 690.34 is added to the amount expected from parental assets as determined in § 690.35.

(b)(1) For each grant, the combined expectation determined under paragraph (a) of this section is adjusted in the following manner for the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award year for which Pell Grant assistance is requested:

Number of family members enrolled in programs of postsecondary education	Expected contribution per student from combined contributions
1	100 percent of the contribution determined in paragraph (a)
2	70 percent of the contribution determined in paragraph (a).
3	50 percent of the contribution determined in paragraph (a).
4 or more	40 percent of the contribution determined in paragraph (a).

Note.—Family members are those persons referenced in § 690.34(a)(1).

(20 U.S.C. 1089)

§ 690.37 Computation of the expected contribution from the assets of the dependent student (and spouse).

(a) The expected contribution from the assets of the dependent student (and spouse) is determined in the following manner:

(1) Determine the student's asset reserve by subtracting the amount of his or her parent's non farm and non business assets from $10,000. If the result is negative, it shall be changed to zero.

(2) Deduct the asset reserve calculated in paragraph (a)(1) of this section from the student's (and spouse's) net assets. If the result is negative, it shall be changed to zero.

(3) The expected contribution from the net assets of the dependent student (and spouse) equals 33 percent of the remainder obtained in paragraph (2) of this section.

(b) If the married dependent student is separated, only his or her assets shall be considered.

(20 U.S.C. 1089)

§ 690.38 Computation of the total expected family contribution.

For each grant, the total expected family contribution is the sum of—

(a) The expected contribution from the effective family income and parental assets as determined under § 690.36, and

(b) The expected contribution from the student's (and spouse's) assets as determined under § 690.37.

(20 U.S.C. 1089)

§ 690.39 Extraordinary circumstances affecting the expected family contribution determination.

(a) A student may submit an application to the Secretary for determination of his or her expected family contribution using income data from 1984 (where 1983 income is usually requested) for effective family income, if—

(1) A parent or stepparent whose 1983 income from work must be reported under § 690.33 has lost his or her job for at least ten weeks during 1984. However, the loss of a job, e.g. a work-study job, that did not produce reportable income, would not be included.

(2) A parent or stepparent whose 1983 income from work must be reported under § 690.33 has been unable to pursue normal income-producing activities for at least ten weeks during 1984 because of the occurrence—in 1983 or 1984—of (i) a disability, or (ii) a natural disaster.

(3) A parent or stepparent whose income must be reported under § 690.33 received unemployment compensation or nontaxable income in 1983 (that would be used in the calculation of the student's expected family contribution) and had a complete loss for at least ten weeks in 1984 of one of those benefits. A nontaxable benefit, for purposes of this

paragraph, must be paid by a public or private agency, a company, or a person because of a court order. Types of nontaxable benefits would include Social Security benefits, welfare, and court ordered child support.

(4) the parent(s) of the student have become separated or divorced after the student submitted an application for 1984–85. The student may not use 1984 information based on his or her parents' divorce if the parents were already separated at the time of original filing. If such a separation or divorce is between a parent and a stepparent, the stepparent's income must have been reportable on the previous application under § 690.33 for this condition to apply, or

(5) A parent or stepparent whose 1983 income must be reported under § 690.33 has died after the student submitted an application for 1984–85. However, if the parent referred to in this paragraph is the last surviving parent with whom the student has or will have a dependency relationship according to 34 CFR 668.1a, the student must file an application under § 690.47(a)(7) if he or she wishes to use income data from 1984.

(b) For an application submitted under paragraph (a) of this section, the student's parent shall include the income specified in § 690.33(b)(1) (i), (ii), and (iii) that has already been received for 1984 and an estimate of that income to be received for the remainder of the year.

(c) A student may submit a revised application to reflect changes in asset amounts reported on a previously submitted application if the student or his or her family has suffered a loss of, or damage to, assets resulting from a natural disaster in an area that has been declared a national disaster area by the President of the United States.

(20 U.S.C. 1089)

Subpart D—Expected Family Contribution for an Independent Student

§ 690.41 Indicators of financial strength.

"Expected family contribution" for an independent student means the amount that the student and his or her spouse may reasonably be expected to contribute toward the cost of his or her education for an award period. Each of the following elements of financial strength will be considered in determining the expected family contribution for an independent student:

(a) The effective family income of the independent student and spouse;

(b) The number of family members in the household of the student and spouse;

(c) The number of family members in the household of the student and spouse who are enrolled in, or at least a half-time basis, a program of postsecondary education;

(d) The assets of the student and spouse;

(e) The unusual medical expenses of the student and spouse;

(f) The additional expenses incurred when both the student and spouse are employed or when the employed student qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code; and

(g) The tuition paid by the student or spouse for dependent children who are enrolled in an elementary or secondary school.

(20 U.S.C. 1089)

§ 690.42 Special definitions.

The definitions of "assets," "business assets," "family size offset," "farm assets," "Federal income tax," "legal guardian," "local income tax," "medical expense," "net assets," "parent," and "State income tax" are set forth in § 690.32.

"Dependent of the student" means:

(a) The student's spouse (unless separated or divorced from the student);

(b) Any of the student's or spouse's children who are deemed to be dependent students (with respect to the student or spouse) when filing for title IV aid;

(c) Other dependent children of the student or spouse; and

(d) Other persons who live with and receive more than one-half of their support from the student or spouse and will continue to receive more than half of their support from the student or spouse for the 1984–85 award year.

"Effective family income" is described in § 690.43.

"Employment expense offset" means an allowance to meet expenses relating to employment when both the independent student and his or her spouse are employed or when the independent student qualifies as a surviving spouse or as head of a household under section 2 of the Internal Revenue Code.

"Independent student" is a student who meets the definition set forth in 34 CFR 668.1a.

(20 U.S.C. 1089)

§ 690.43 Effective family income.

(a) Effective family income is the annual adjusted family income minus the Federal, State and local income taxes paid or payable on that adjusted family income.

(b) "Annual adjusted family income" means, except as provided in paragraphs (c), (d), and (e) of this section and § 690.47,

(1) The sum received in 1983 by the student and spouse from—

(i) Adjusted gross income, as defined in section 62 of the Internal Revenue Code;

(ii) Investment income upon which no Federal income tax is paid. An example of such income is the interest on municipal bonds; and

(iii) Other income, such as child support payments and welfare benefits, upon which no Federal income tax is paid, except for

(A) Veterans benefits paid under chapters 34 and 35 of title 38 of the United States Code; and

(B) Social Security educational benefits received by the student;

(2) One-half of any veterans benefits to be paid to the student for the 1984–85 award year under chapters 34 and 35 of title 38 of the United States Code; and

(3) The Social Security educational benefits to be paid to the student for the 1984–85 award year.

(c) For a Native American student, the annual adjusted family income does not include the income received by the student or spouse under the Distribution of Judgment Funds Act (25 U.S.C. 1401, *et seq.*), the Alaska Native Claims Settlement Act (43 U.S.C. 1601, *et seq.*), or the Maine Indians Claims Settlement Act (25 U.S.C. 1721, *et seq.*).

(d) In the case of a student who is divorced or separated, or whose spouse has died, the spouse's income shall not be considered in determining the annual adjusted family income.

(e) The annual adjusted family income does not include any student financial assistance except those veterans and Social Security benefits cited in paragraphs (b) (2) and (3) of this section.

(20 U.S.C. 1089)

§ 690.44 Computation of the expected family contribution from the effective family income.

The expected family contribution for the independent student from effective family income is calculated as follows:

(a) Determine discretionary income by deducting the following offsets from the effective family income.

(1)(i) A family size offset. (The Secretary will determine the amount of the family size offsets in accordance with section 6(c) of the Student Financial Assistance Technical Amendments Act of 1982. The Secretary will publish a table in the **Federal Register** setting forth the offsets immediately after the Secretary of Labor

publishes the Consumer Price Index for September 1983.)

(ii) In determining the family size, the following rules apply—

(A) Family members normally include the student and spouse and their dependents.

(B) However, if the student is divorced or separated, the spouse (ex-spouse) and his or her dependents are not counted in the family size.

(2) An unusual expense offset equal to the amount by which the sum of unreimbursed medical and dental expenses exceeds 20 percent of effective family income. The expenses that may be reported are those expenses paid by the student and spouse in 1983, unless the student files an application with the Secretary under the provisions of § 690.47. In that case, the expenses reported will be those paid in 1984. The expenses of both the student and spouse are included only if the incomes of both are subject to inclusion in determining the effective family income.

(3) An employment expense offset calculated as follows—

(i) If both the student and spouse were employed in the year for which their income is reported and both have their income reported in determining the expected family contribution, use the lesser of $1,500 or 50 percent of the reportable (according to § 690.43) income earned by work of the person with the lesser earned income.

(ii) If a student qualifies as a head of household as defined in section 2 of the Internal Revenue Code, use the lesser of $1,500 or 50 percent of his or her reportable earned income.

(iii) The earned income figure to be used in all cases is that figure for 1983, unless the student files an application with the Secretary under the provisions of § 690.47. In that case, the figure to be used is the one for 1984.

(4) An educational expense offset equal to the tuition paid by the student and spouse for dependent children enrolled in elementary or secondary school. The tuition that may be reported is the tuition paid in 1983, unless the student files an application with the Secretary under the provisions of § 690.47. In that case the tuition reported will be that paid in 1984.

(b) If the discretionary income is a positive amount, determine the expected contribution from the effective family income according to the following charts. If the discretionary income is negative, there is no expected contribution from income.

(1) For a single independent student with no dependents—

Discretionary income	Expected contribution
Any positive amount.	75% of that amount.

(2) For an independent student with dependents including a spouse—

Discretionary income	Expected contribution
$0 to $5,000	18% of discretionary income.
$5,001 to $10,000.	$900 + 20% of amount over $5,000.
$10,001 and above.	$1,900 + 25% of amount over $10,000.

(20 U.S.C. 1089; Pub. L. 97-301, section 6(c))

§ 690.45 Computation of the expected contribution from the assets of the independent student (and spouse).

(a)(1) The expected contribution from the net assets of the single independent student with no dependents equals 33 percent of the amount of those assets.

(2) If the calculation of discretionary income required by § 690.44(a) produces a negative number, the expected contribution from the student's assets calculated under paragraph (a)(1) of this section shall be reduced by the amount of that negative discretionary income. If this subtraction produces a negative number, the expected contribution shall be zero.

(b) For an independent student with dependents, the expected contribution from the assets of the student (and spouse) is determined in the following manner:

(1) If the assets do not include farm or business assets, deduct $10,000 from the net value of those other assets.

(2) If the assets include farm or busines assets, deduct: (i) $50,000 from the net value of the farm and business assets, and (ii) $10,000 from the net value of non farm and non business assets.

(3) If the result obtained under paragraphs (b)(1), (b)(2)(i), or (b)(2)(ii) of this section is a negative amount, it shall be changed to zero.

(4) The expected contribution from the assets of the independent student with dependents equals ten percent of the total of the results obtained in paragraphs (b)(1) or (b)(2) of this section.

(5) If the calculation of discretionary income required by § 690.44(a) produces a negative number, the expected contribution from the student's (and spouse's) assets calculated under paragraph (b)(4) of this section shall be reduced by the amount of that negative discretionary income, but not to an amount below zero.

(6) If the married independent student with dependents is separated, only his or her assets shall be considered.

(20 U.S.C. 1089)

§ 690.46 Computation of the total expected contribution from the income and assets of the independent student (and spouse), adjusted for the number of family members enrolled in programs of postsecondary education.

(a) For each grant, the amount expected from family income as determined in § 690.44 is added to the amount expected from assets as determined in § 690.45.

(b) For each grant, the combined expectation determined in paragraph (a) of this section is adjusted in the following manner for the number of family members who will be attending, on at least a half-time basis, a program of postsecondary education during the award period for which Pell Grant assistance is requested:

Number of family members enrolled in programs of postsecondary education	Expected contribution per student from combined contributions
1	100 percent of the contribution determined in paragraph (a).
2	70 percent of the contribution determined in paragraph (a).
3	50 percent of the contribution determined in paragraph (a).
4 or more	40 percent of the contribution determined in paragraph (a).

Note.—Family members are those persons referenced in § 690.44(a).

(20 U.S.C. 1089)

§ 690.47 Extraordinary circumstances affecting the expected family contribution determination.

(a) A student may submit an application to the Secretary for determination of his or her expected family contribution using income data from 1984 (where 1983 income is usually requested) if—

(1) The student was employed full-time in 1983 (at least 35 hours per week for a minimum of 30 weeks) in a job that produced reportable income, and is no longer employed full-time.

(2) A spouse whose 1983 income from work must be reported under § 690.43 has lost his or her job for at least ten weeks during 1984. However, the loss of a job, e.g., a work study job, that did not produce reportable income, would not be included.

(3) The student or spouse whose 1983 income from work must be reported under § 690.43 has been unable to pursue normal income-producing activities for at least ten weeks during 1984 because

of the occurrence—in 1983 or 1984—of (i) a disability or (ii) a natural disaster.

(4) The student or spouse whose income must be reported under § 690.43 received unemployment compensation or nontaxable income in 1983 (that would be used in the calculation of the student's expected family contribution) and had a complete loss for at least ten weeks in 1984 of one of those benefits. A nontaxable benefit, for purposes of this paragraph, must be paid by a public or private agency, a company, or a person because of a court order. Types of nontaxable benefits would include Social Security benefits, welfare and court ordered child support.

(5) The student has become separated or divorced after he or she submitted an application for 1984–85. A student who divorces cannot apply under this condition if he or she already was separated at the time the original application was submitted.

(6) A spouse whose 1983 income must be reported under § 690.43 has died after he or she submitted an application for 1984–85, or

(7) The student's last surviving parent with whom the student has or will have a dependency relationship according to 34 CFR 668.1a, has died.

(b) For an application submitted under paragraph (a) of this section, the student shall include the income specified in § 690.43(b)(1) (i), (ii) and (iii) that has already been received for 1984 and an estimate of that income to be received for the remainder of the year.

(c) A student may submit a revised application to reflect changes in asset amounts reported on the previously submitted application if the student or his or her spouse has suffered a loss of, or damage to, assets resulting from a natural disaster in an area that has been declared a national disaster area by the President of the United States.

(20 U.S.C. 1089)

[FR Doc. 83–7357 Filed 3–18–83; 8:45 am]
BILLING CODE 4000–01–M

Reader Aids

Federal Register

Vol. 48, No. 55

Monday, March 21, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419
	523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-5237
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual	523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, MARCH

8425-8802 1
8803-8984 2
8985-9208 3
9209-9502 4
9503-9632 7
9633-9828 8
9829-10034 9
10035-10290 10
10291-10604 11
10605-10800 14
10801-11100 15
11101-11246 16
11247-11398 17
11399-11680 18
11681-11922 21

CFR PARTS AFFECTED DURING MARCH

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:

February 2, 1925 (Revoked by PLO 6356) 9262
5024 9831
5025 9833
5026 9835
5027 9837
5028 9839
5029 10035
5030 10605
5031 11101
5032 11247

Executive Orders:

June 8, 1926 (Revoked in part by PLO 6360) 9010
July 25, 1941 (Revoked in part by PLO 6353) 9007
March 27, 1943 (Revoked in part by PLO 6353) 9007
April 7, 1944 (Revoked in part by PLO 6353) 9007
September 14, 1945 (Revoked in part by PLO 6353) 9007
July 3, 1946 (Revoked in part by PLO 6353) 9007
12409 9829

5 CFR

900 ..... 9209, 10801
1201 ..... 8425, 11399

Proposed Rules:

960 9278

7 CFR

1b 11403
1c 11403
10 11404
29 10291
51 10801
52 8985
58 10607
210 10291
272 9212
273 9212
274 9212
301 11681
424 11408
729 9214
770 9232
905 10804
906 8985
907 ..... 8987, 10037, 10609, 11249
910 ..... 8803, 9235, 10292, 11691
932 9633
967 10805
981 11249
984 10806
1030 9636
1032 11251
1040 11252
1065 10610
1136 8425
1430 11253
1701 ..... 8426, 10807
1809 10293
1944 8987
1945 10293
1951 10293
3100 11403

Proposed Rules:

51 11718
227 10848
319 10286
810 ..... 9280, 9282, 11276
907 11276
908 11276
944 9657
1013 10848
1033 10371
1106 9658
1910 9016
1944 9016

8 CFR

214 10296
235 9503
238 ..... 8988, 10611

Proposed Rules:

103 8820
109 8820

9 CFR

97 ..... 8803, 10808
112 9505
113 9505
201 8804
306 11410
317 11410
381 11410

Proposed Rules:

317 9284
318 ..... 9284, 10065
319 9284
381 8820

10 CFR

430 9202

Proposed Rules:

140 9284
205 11123
625 11125

11 CFR

110 8809

114 ... 9236

12 CFR

1 ... 8427
5 ... 8428
8 ... 9637
29 ... 9506
217 ... 11255
303 ... 9841
308 ... 9514, 11421
509a ... 9842
543 ... 10612
544 ... 8429
552 ... 8431, 10612
561 ... 8431
563 ... 8429, 8431
563b ... 8429
572 ... 11422
615 ... 10037

Proposed Rules:

3 ... 9659
6 ... 9659
7 ... 9659, 10068
32 ... 9659
204 ... 10796
207 ... 8466
221 ... 8470
304 ... 10371
307 ... 10371
308 ... 10371
333 ... 10371
337 ... 10371
339 ... 10371
344 ... 10371
563 ... 8475, 8480, 9870, 10684
563c ... 10684
563g ... 10684
571 ... 8480
700 ... 11130

13 CFR

101 ... 9638, 11691

Proposed Rules:

108 ... 9530
121 ... 9529

14 CFR

21 ... 8988, 11692
23 ... 11692
39 ... 8989, 8990, 9515, 9516, 10623-10626
45 ... 11390
71 ... 8991, 8992, 9517, 10038, 10039, 10627, 11693
75 ... 10040
97 ... 9518, 11693
204 ... 10297
385 ... 10628
389 ... 8434, 10628, 11422
1215 ... 9845

Proposed Rules:

39 ... 10692, 11719
71 ... 9022, 9531, 9532, 10072, 10693, 11285-11288
73 ... 902
75 ... 11288
205 ... 10073
294 ... 10073
298 ... 10073
320 ... 8824

15 CFR

Ch. V ... 9849
325 ... 10596
806 ... 8993

Proposed Rules:

15b ... 11720
920 ... 8484
921 ... 8484
923 ... 8484
928 ... 8484
930 ... 8484
931 ... 8484
932 ... 8484
933 ... 8484
939 ... 9286

16 CFR

13 ... 8995, 8997, 9638, 10809, 10810, 11103
232 ... 11104
436 ... 10040

Proposed Rules:

3 ... 9289
4 ... 9289
13 ... 9023, 11722
429 ... 9032, 9033
1145 ... 9034
1500 ... 11289
1513 ... 11289

17 CFR

1 ... 8434, 8435
145 ... 9849
190 ... 8716
210 ... 9520, 11104
211 ... 10043
230 ... 10297
231 ... 10045, 11104
239 ... 10297
240 ... 10628, 11104
241 ... 11104
274 ... 10297
279 ... 9521

Proposed Rules:

33 ... 10857
229 ... 9536
230 ... 9536
239 ... 9536
240 ... 9536
249 ... 9536
270 ... 8485, 9532

18 CFR

34 ... 9849
154 ... 9242
250 ... 9851
270 ... 9242
271 ... 8437, 8438
273 ... 9242
282 ... 8999
284 ... 9242
340 ... 9242
711 ... 10250
713 ... 10250
714 ... 10250
716 ... 10250
1304 ... 9638

Proposed Rules:

271 ... 9290-9298, 9659-9663, 11299
1311 ... 9496

19 CFR

19 ... 9853
162 ... 11422
201 ... 9242
210 ... 9242
211 ... 9242

Proposed Rules:

4 ... 11032
6 ... 11032
7 ... 11032
10 ... 11032
11 ... 11032
12 ... 11032
18 ... 11032
19 ... 11032
22 ... 11032
24 ... 10077, 11032
54 ... 11032
101 ... 11032
112 ... 11032
113 ... 10077, 11032
114 ... 11032
123 ... 11032
125 ... 11032
127 ... 11032
132 ... 11032
133 ... 11032
134 ... 11032, 11457
141 ... 11032
142 ... 11032
144 ... 11032
145 ... 11032
146 ... 11032
147 ... 11032
148 ... 11032
151 ... 11032
162 ... 11032
172 ... 11032
174 ... 11032

20 CFR

404 ... 11695
626 ... 11076
627 ... 11076
628 ... 11076
629 ... 11076
630 ... 11076
631 ... 11076
632 ... 11076
633 ... 11076
634 ... 11076
635 ... 11076
636 ... 11076
637 ... 11076
638 ... 11076

Proposed Rules:

404 ... 10694
635 ... 9444

21 CFR

5 ... 8439, 8442, 9639, 11424, 11426
74 ... 10811
81 ... 8443, 10811
82 ... 10811
100 ... 10811
101 ... 10811
109 ... 10811
133 ... 9245, 11426
145 ... 10812
155 ... 10812
172 ... 10811, 10814
176 ... 9245
178 ... 8444, 9245
182 ... 10301
184 ... 10301
193 ... 11113
211 ... 11426, 11427
250 ... 11426
314 ... 11427
436 ... 11427
442 ... 11427
450 ... 11427
510 ... 11427, 11428
520 ... 9246, 10301, 11428
522 ... 10302
529 ... 9639
555 ... 10302
558 ... 9640, 10815, 11429, 11430
561 ... 11113
620 ... 11430
700 ... 11427
1003 ... 11430
1240 ... 11431
1250 ... 11431
1308 ... 10642, 10644

Proposed Rules:

133 ... 8492, 9299
170 ... 9299, 11459
172 ... 9299, 10373, 11459
181 ... 9299, 11459
182 ... 10373
184 ... 9300, 10373
348 ... 10373
357 ... 9300
500 ... 10373
573 ... 9299, 11459
1030 ... 10373

22 CFR

41 ... 10055
201 ... 10056

23 CFR

Ch. I ... 10057
140 ... 9000

24 CFR

10 ... 10057
15 ... 10057
50 ... 10058
115 ... 10058
200 ... 10058
201 ... 10058
235 ... 10058
300 ... 10059
570 ... 10059
571 ... 11648
880 ... 10058
881 ... 10058
885 ... 11432
888 ... 10058
890 ... 10058
3280 ... 10058

Proposed Rules:

203 ... 9300
205 ... 10858
207 ... 10858
213 ... 10858
221 ... 10858
232 ... 10858
241 ... 10858
242 ... 10858
244 ... 10858

25 CFR

Proposed Rules:

163 ... 11459

26 CFR

1 ... 10302, 10645, 11256, 11436
15b ... 10816
51 ... 10645
301 ... 10060

Proposed Rules:

1 ... 9871, 9886, 10374, 10376, 10702, 10860-10868, 11465

4a 11465
48 10718
51 10376
301 9306

27 CFR

4 10309
5 10309
7 10309

28 CFR

0 9522-9524
2 9247
60 11450

29 CFR

1601 10645
1910 ..... 9641, 9738
2619 10819
Proposed Rules:
1928 8493

30 CFR

200 8982
211 8982
221 8982
226 8982
231 8982
270 8982
271 8982
290 8982
715 9788
780 9788
785 9478
816 ..... 9486, 9788
817 ..... 9486, 9788
843 9199
850 9486
870 ..... 10820, 11098
914 9248
916 8445
944 9524
948 8447
Proposed Rules:
37 ..... 9475, 11665
48 11669
55 10593
56 10593
57 10593
886 ..... 9307, 11131
906 9541
928 10876
931 9541
933 8954
936 11465
938 9541
944 10719
948 9308
950 9541

31 CFR

240 11261
354 9854

32 CFR

1 9146
2 9146
3 9146
4 9146
5 9146
6 9146
7 9146
8 9146
9 9146
10 9146
11 9146
12 9146
13 9146
14 9146
15 9146
16 9146
17 9146
18 9146
19 9146
20 9146
21 9146
22 9146
23 9146
24 9146
25 9146
26 9146
27 9146
28 9146
29 9146
30 9146
31 9146
32 9146
33 9146
34 9146
35 9146
36 9146
37 9146
38 9146
39 9146
70 9855
199 10309
218 10645
706 ..... 9856, 9857
770 9858
803 10061
2400 10820

33 CFR

64 11266
66 11266
100 ..... 9002, 11268
110 ..... 11268, 11269
117 11269
165 ..... 9003, 11696
207 ..... 10061, 11115
Proposed Rules:
100 ..... 9542, 10080, 11300
110 11301
401 ..... 9037, 11725

34 CFR

Proposed Rules:
263 10280
690 11910
691 11910

35 CFR

103 ..... 9003, 9253
113 9003
119 9003
123 9003

36 CFR

Proposed Rules:
14 9665

38 CFR

Proposed Rules:
21 9309

39 CFR

111 10649
Proposed Rules:
10 9543

40 CFR

2 11270
30 9642
52 ..... 8810, 8811, 9256, 9257, 9642, 9859, 9660, 10062 10650, 10828-10834, 11115, 11116, 11271
62 ..... 10316, 10651, 11116
65 11118
81 ..... 9259, 9526, 10834, 10836
180 ..... 8812, 8813, 9004, 9643, 9862, 9863, 11119, 11120
Proposed Rules:
52 ..... 9665, 10081, 11092, 11093, 11725
65 ..... 11131, 11132
81 8497
85 11870
86 9666
122 8825
123 ..... 8825, 9667, 10721, 11301
158 11302
180 ..... 9886-9888, 11132-11134
261 10877
264 8825
300 9311
414 11828
416 11828
430 11451
431 11451
469 10012
Proposed Rules:
52 11466
123 11468

41 CFR

Ch. 101 ..... 9822, 11451
1-3 9005
1-7 9005
1-15 9005
15-1 8814
18 ..... 11696, 11699
101-41 10316
Proposed Rules:
101-11 8498

42 CFR

32 10317
36 11220
51b 10318
65 10318
124 11121
405 8902
Proposed Rules:
85 10377
85a 10377
431 10378
433 9038
435 10378
440 10378
441 10378
447 10378

43 CFR

24 11642
3800 8814
4700 9260
Public Land Orders:
1967 (Revoked by PLO 6354) 9008
6353 9007
6354 9008
6355 9008
6356 9262
6357 9008
6358 9009
6359 9009
6360 9010
6361 9643
6362 9864
6363 10319
6364 10652
Proposed Rules:
2 10382
2560 9047
3460 8501
3710 8825
3720 8825
3730 8825
3740 8825
3800 8825
3810 8825
3820 8825
3830 8825
3840 8825
3850 8825
3860 8825
3870 8825

44 CFR

2 10836
64 ..... 8451, 9263, 9527, 10842
65 ..... 9264, 10652, 10654
67 ..... 9644, 10655
70 ..... 9265, 10675-10682
360 9646
Proposed Rules:
67 ..... 10877, 11468
205 11136

45 CFR

46 ..... 9266, 9814
84 9630
96 9270
1397 8453
1612 11709
Proposed Rules:
77 9668
1321 8964
1328 8964

46 CFR

536 9646
Proposed Rules:
542 9543
543 9543
544 9543

47 CFR

0 9271
1 ..... 8455, 9271
22 9274
31 10843
43 10843
69 10319
73 ..... 8456, 9010, 9864, 10844, 11452-11456, 11711-11715
74 9010
81 ..... 9275, 10845
83 ..... 8460, 9275, 10845
90 ..... 8455, 9271, 11716
95 8455
Proposed Rules:
2 9890
15 9889

22 9048
25 10024
73 ..... 8503-8513, 9049, 10088, 10887-10895, 11302, 11469-11474, 11725, 11727
76 10082
81 9890
83 9890

49 CFR

Ch. X 9012, 9648, 10846
171 10218
172 10218
173 ..... 10063, 10218
174 10218
175 10218
176 10218
177 10218
178 10218
195 9013
387 9014
670 11272
1033 8816
1039 ..... 9276, 9648
1135 9528
1151 9649
1190 10369
1191 10369
1192 10369
1201 9015
1207 9015
1241 9015
1300 9648
1301 9648
1307 10063
1331 9867

Proposed Rules:

Ch. X 9672
192 ..... 10092, 10721
233 11882
235 11882
236 11882
571 ..... 10096, 10097, 11303
1310 11136

50 CFR

611 ..... 9655, 10846
642 11122
656 9655
663 ..... 8819, 11717
671 ..... 10846, 11274
675 10846

Proposed Rules:

13 9544
17 ..... 8514, 8814, 9544, 9893, 10896
20 10101
21 9544
23 9545
285 9547
611 10383
630 ..... 8826, 11304
658 10104
661 11138

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

List of Public Laws

Last Listing March 16, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

H.R. 1572 / Pub. L. 98-6 To repeal section 311 of the Federal Public Transportation Act of 1982. (Mar. 16, 1983; 97 Stat. 11) Price $1.75

S.J. Res. 21 / Pub. L. 98-7 To designate April 1983 as "National Child Abuse Prevention Month." (Mar. 16, 1983; 97 Stat. 12) Price $1.75