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# federal register

Monday
July 30, 1984

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# federal register

Monday
July 30, 1984

## Selected Subjects

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Environmental Protection Agency

**Antibiotics**
Food and Drug Administration

**Banks, Banking**
Federal Reserve System

**Bridges**
Coast Guard

**Conflict of Interests**
General Services Administration

**Fisheries**
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**Marketing Agreements**
Agricultural Marketing Service

**Milk Marketing Orders**
Agricultural Marketing Service

**National Defense**
International Trade Administration

**Natural Gas**
Federal Energy Regulatory Commission

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Agricultural Stabilization and Conservation Service

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Land Management Bureau

**Organization and Functions (Government Agencies)**
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## DEPARTMENT OF AGRICULTURE

### Agricultural Stabilization and Conservation Service

### 7 CFR Part 701

### Conservation and Environmental Programs

**AGENCY:** Agricultural Stabilization and Conservation Service (ASCS), USDA.

**ACTION:** Interim rule.

**SUMMARY:** The purpose of this interim rule is to delete the regulations found at 7 CFR 701.21 which set forth the procedures which are to be utilized to make conservation material and services available to eligible producers in order to carry out approved conservation work under the Agricultural Conservation Program (ACP). This provision of the regulations has become obsolete since the direct appropriation of ACP funds which are to remain available until expended makes it possible to pay eligible producers as soon as they have completed approved conservation practices.

**DATES:** This interim rule shall be effective July 27, 1984. Comments must be received on or before September 28, 1984 in order to be assured of consideration.

**ADDRESS:** Interested persons are invited to submit written comments to: Director, Conservation and Environmental Protection Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013, telephone 202–447–6221.

**FOR FURTHER INFORMATION CONTACT:** Gordell A. Brown, Director, Conservation and Environmental Protection Division, ASCS, USDA, P.O. Box 2415, Washington, D.C. 20013, telephone 202–447–6221.

**SUPPLEMENTARY INFORMATION:** Information collection requirements contained in this regulation (7 CFR Part 701) have been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Number 0560–0112.

This interim rule has been reviewed for compliance with Executive Order 12291 and Departmental Regulation No. 1521–1 and has been classified as "not major." It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) cause significant adverse effects on competition, petition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal Assistance Program to which this rule applies are: Title—Agricultural Conservation Program; Number—10.063; as found in the Catalog of Federal Domestic Assistance.

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

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

The ACP is authorized generally by Sections 7–17 of the Soil Conservation and Domestic Allotment Act of 1936, as amended (16 U.S.C. 590g *et seq.*) The program provides financial incentives and technical assistance to encourage agricultural producers to voluntarily perform enduring soil and water conservation and pollution abatement measures, including practices or programs which are deemed essential to maintain soil productivity, present soil depletion, or prevent increased cost of production. The purpose of the program is to assure a continuous supply of food and fiber necessary for the maintenance of strong and healthy people.

From a period beginning in the 1940's through 1979, each fiscal year's appropriation act of the Department of Agriculture provided for annual obligational authority for ASCS to enter into contracts with agricultural producers to carry out conservation practices under the ACP. Each subsequent fiscal year's appropriation then made the funds available to liquidate the prior year's obligations under the program. However, section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) authorizes the Secretary to make payments, in advance of a determination of performance by producers, to vendors who provide conservation materials and service to the producers under the ACP. In addition, section 391 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 391) authorizes the Secretary to borrow from the Commodity Credit Corporation (CCC) for each year an amount, not to exceed $50,000,000, which the Secretary estimates will be required during each such fiscal year to make advance payments for conservation materials and services under the ACP. While the producers could not receive ACP cost-share payments directly in the year in which the conservation practices were performed, they were indirectly compensated when funds were borrowed from CCC to make payments to vendors for the conservation materials and services used by producers to carry out conservation practices.

Since 1979, however, funds have been appropriated for each fiscal year to carry out the ACP with the funds remaining available until expended. As a result, funds are available to make cost-share payments to producers upon a determination by ASCS that the ACP practices have been completed. Accordingly, the regulations set forth in § 701.21 relating to making conservation materials and services available to producers have become obsolete. Since the only purpose of this rule is to delete those regulations, it has been determined that this rule shall become effective upon date of publication in the **Federal Register**. However, comments are requested for a period of 60 days from the date of publication and a final rule together with any changes which

may be required as a result of those comments, will be published as practicable.

**List of Subjects in 7 CFR Part 701**

Disaster assistance, Forests and forest products, Grant programs—natural resources, Rural areas, Soil conservation, Water resources, Wildlife.

**Interim rule**

## PART 701—CONSERVATION AND ENVIRONMENTAL PROGRAMS

**§ 701.21 [Removed]**

Accordingly, 7 CFR 701.21 is removed.

Signed at Washington, D.C., on July 18, 1984.

**Everett Rank,**

*Administrator, Agricultural Stabilization and Conservation Service.*

[FR Doc. 84-19851 Filed 7-27-84; 8:45 am]

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**Agricultural Marketing Service**

**7 CFR Part 989**

## Raisins Produced From Grapes Grown in California; Conforming Changes; Suspension of Operation of Certain Provisions

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule suspends the operation of § 989.167(b) to conform with the suspension of a sentence in § 989.67(j) of the Federal marketing order for California raisins. The suspended sentence of the marketing order pertains to the pricing of reserve raisins offered to handlers for free use. Section 989.167(b) also deals with reserve for free use pricing and is established pursuant to that sentence. The suspension action was taken to permit the value of handlers' excessive 1983 crop free tonnage inventory to be adjusted downward closer to current world market price levels. The objectives of that adjustment are to permit more aggressive marketing and increased product movement and help the industry become more price competitive with foreign-produced raisins.

**EFFECTIVE DATE:** July 30, 1984.

**FOR FURTHER INFORMATION CONTACT:** Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447-5053.

**SUPPLEMENTARY INFORMATION:** The final rule has been reviewed under the USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified a "non-major" rule under criteria contained therein.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact on a substantial number of small entities.

It is found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public rulemaking and that good cause exists for not postponing the effective time of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because: (1) This action brings the administrative rules and regulations into conformity with the temporary suspension of the penultimate sentence in § 989.67(j), which was published June 29, 1984 (49 FR 26708); (2) notice of that suspension action was published June 5, 1984 (49 FR 23193), and comments were solicited and received, and no useful purpose would be served by giving notice of this conforming change; and (3) the temporary suspension of the sentence in 989.67(j) becomes effective July 30, 1984, and, for uniformity, the suspension of the operation of § 989.167(b) should also become effective on that date.

This action suspends the operation of § 989.167(b) of Subpart—Administrative Rules and Regulations (7 CFR 989.102-989.176; 49 FR 18727). This subpart is operative pursuant to the marketing agreement and Order No. 989 (7 CFR Part 989), both as amended, regulating the handling of raisins produced from grapes grown in California. The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

On June 29, 1984, a final action was published in the **Federal Register** (49 FR 26708) suspending the penultimate sentence of § 989.67(j). That sentence pertains to the pricing of reserve raisins offered to handlers for free use. That suspension action was taken to permit a downward adjustment in the value of packers' free tonnage raisin inventory. Section 989.167(b) contains a pricing formula based on authority of the suspended sentence in § 989.67(j), and it is therefore desirable to suspend the operation of paragraph (b) of § 989.167 as a conforming change. The suspension of the sentence in § 989.67(j) will terminate automatically on July 31, 1986, and will become operative on August 1, 1986. The suspension of the operation of paragraph (b) of § 989.167 also will terminate on July 31, 1986, and it, too, will become operative on August 1, 1986.

**List of Subjects in 7 CFR Part 989**

Marketing agreements and orders, Grapes, Raisins, California.

**§ 989.167 [Amended]**

Paragraph (b) of § 989.167 is amended by adding the following sentence at the end thereof: "This paragraph (b) shall not be in effect from July 30, 1984, through July 31, 1986."

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

Dated: July 25, 1984.

**Thomas R. Clark,**

*Deputy Director, Fruit and Vegetable Division.*

[FR Doc. 84-20045 Filed 7-27-84; 8:45 am]

BILLING CODE 3410-02-M

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**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 71**

**[Airspace Docket No. 84-AWP-9]**

## Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Revocation and Establishment of Compulsory Reporting Points; Hawaii

*Correction*

In FR Doc. 84-17876 beginning on page 27741 in the issue of Friday, July 6, 1984, make the following corrections:

1. On page 27741, third column, the fourteenth line of the paragraph headed "The Rule", "80-AWP-2" should read "84-AWP-2."

2. On page 27742, second column, in § 71.215, first line of the entry for "Nonni: [New]", "145°" should read "245°".

3. On the same page, same column, the first line of the entry for "Shark [Amended]", "345°" should read "354°".

BILLING CODE 1505-01-M

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**DEPARTMENT OF ENERGY**

**Federal Energy Regulatory Commission**

**18 CFR Part 271**

**[Docket No. RM80-53]**

## Natural Gas Policy Act; Maximum Lawful Prices; August through October 1984

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Order of the Director, OPPR.

**SUMMARY:** Pursuant to the authority delegated by 18 CFR 357.307(1), the Director of the Office of Pipeline and Producer Regulation revises and publishes the maximum lawful prices prescribed under Title I of the Natural Gas Policy Act (NGPA) for the months of August, September and October 1984. Section 101(b)(6) of the NGPA requires that the Commission compute and publish the maximum lawful prices before the beginning of each month for which the figures apply.

**EFFECTIVE DATE:** August 1, 1984.

**FOR FURTHER INFORMATION CONTACT:** Kenneth A. Williams, Director, OPPR, (202) 357–8500.

**SUPPLEMENTARY INFORMATION:**

**Order of the Director, OPPR**

Issued: July 24, 1984.

Publication of Prescribed Maximum Lawful Prices Under the Natural Gas Policy Act of 1978; Docket No. RM80–53.

Section 101(b)(6) of the Natural Gas Policy Act of 1978 (NGPA) requires that the Commission compute and make available maximum lawful prices and inflation adjustments prescribed in Title I of the NGPA before the beginning of any month for which such figures apply.

Pursuant to this requirement and § 375.307(1) of the Commission's regulations, which delegates the publication of such prices and inflation adjustments to the Director of the Office of Pipeline and Producer Regulation, the maximum lawful prices for the months of August, September and October 1984, are issued by the publication of the price tables for the applicable quarter. Pricing tables are found in § 271.101(a) of the Commission's regulations. Table I of § 271.101(a) specifies the maximum lawful prices for gas subject to NGPA sections 102, 103, 106(b)(1)(B), 107(c)(5), 108 and 109. Table II of § 271.101(a) specifies the maximum lawful prices for sections 104 and 106(a) of the NGPA. Table III of § 271.102(c) contains the inflation adjustment factors. The maximum lawful prices and the inflation adjustment factors for the periods prior to August 1984 are found in the tables in §§ 271.101 and 271.102.

**List of Subjects in 18 CFR Part 271**

Natural Gas.

**Kenneth A. Williams,**

*Director, Office of Pipeline and Producer Regulation.*

**§ 271.101 [Amended]**

1. Section 271.101(a) is amended by inserting the maximum lawful prices for August, September and October 1984 in Tables I and II.

TABLE I.—NATURAL GAS CEILING PRICES

[Other than NGPA sections 104 and 106(a)]

| Subpart of part 271 | NGPA section | Category of gas | Aug. 1984 | Sept. 1984 | Oct. 1984 |
|---|---|---|---|---|---|
| | | | Maximum lawful price per MMBtu for deliveries in— | | |
| B | 102 | New natural gas, certain OCS gas. | $3.752 | $3.774 | $3.797 |
| C | 103 | New, onshore production wells. | 2.917 | 2.925 | 2.933 |
| F | 106(b)(1)(B) | Alternative maximum lawful price for certain intrastate rollover gas. | 1.668 | 1.671 | 1.676 |
| G | 107(c)(5) | Gas produced from tight formations. | 5.834 | 5.859 | 5.866 |
| H | 108 | Stripper gas | 4.018 | 4.042 | 4.066 |
| I | 109 | Not otherwise covered. | 2.414 | 2.421 | 2.428 |

TABLE II.—NATURAL GAS CEILING PRICES: NGPA SECTIONS 104 AND 106(A) (SUBPART D, PART 271)

| Category of natural gas and type of sale or contract | Maximum lawful price per MMBtu for deliveries made in— | | |
|---|---|---|---|
| | Aug. 1984 | Sept. 1984 | Oct. 1984 |
| Post-1974 gas: All producers | $2.414 | $2.421 | $2.428 |
| 1973–74 biennium gas: | | | |
| Small producer | 2.045 | 2.051 | 2.057 |
| Large producer | 1.559 | 1.563 | 1.567 |
| Interstate rollover gas: All producers | .896 | .898 | .901 |
| Replacement contract gas or re completion gas: | | | |
| Small producer | 1.147 | 1.150 | 1.153 |
| Large producer | .878 | .880 | .882 |
| Flowing gas: | | | |
| Small producer | .580 | .582 | .584 |
| Large producer | .491 | .492 | .493 |
| Certain Permian Basin gas: | | | |
| Small producer | .684 | .686 | .688 |
| Large producer | .603 | .605 | .607 |
| Certain Rocky Mountain gas: | | | |
| Small producer | .684 | .686 | .688 |
| Large producer | .580 | .582 | .584 |
| Certain Appalachian Basin gas: | | | |
| North subarea contracts dated after 10–7–69 | .549 | .551 | .553 |
| Other contracts | .509 | .510 | .511 |
| Minimum rate gas: [1] All producers | .299 | .300 | .301 |

[1] Prices for minimum rate gas are expressed in terms of dollars per Mcf, rather than MMBtu.

**§ 271.102 [Amended]**

2. Section 271.102(c) is amended by inserting the inflation adjustment for the months of August, September, and October 1984 in Table III.

TABLE III.—INFLATION ADJUSTMENT

| Month of delivery | Factor [1] |
|---|---|
| 1984: | |
| August | 1.00279 |
| September | 1.00279 |
| October | 1.00279 |

[1] By which price in preceding month is multiplied.

[FR Doc. 84–19950 Filed 7–27–84; 8:45 am]

BILLING CODE 6717–01–M

**18 CFR Part 282**

**[Docket No. RM79–14]**

## Conservation of Power and Water Resources; Regulations Implementing the Incremental Pricing Provision of the Natural Gas Policy Act of 1978; Order of the Director, OPPR of Publication of Incremental Pricing Acquisition Cost Thresholds Under Title II of the NGPA

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Order prescribing incremental pricing thresholds.

**SUMMARY:** The Director of the Office of Pipleline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

**EFFECTIVE DATE:** August 1, 1984.

**FOR FURTHER INFORMATION CONTACT:** Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, (202) 357–8500.

**SUPPLEMENTARY INFORMATION:**

**Order of the Director, OPPR**

(Issued: July 24, 1984.)

Publication of Prescribed Incremental Pricing Acquisition Cost Threshold of the NGPA of 1978; Docket No. RM79–14.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer

Regulation, the incremental pricing acquisition cost threshold prices for the month of August 1984 is issued by the publication of a price table for the applicable month. The incremental pricing acquisition cost threshold prices for months prior to January 1984 are found in the tables in § 282.304.

**List of Subjects in 18 CFR Part 282**

Natural Gas.

**Kenneth A. Williams,**

*Director, Office of Pipeline and Producer Regulation.*

TABLE I.—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

[Calendar year 1984]

| | January | February | March | April | May | June | July | August |
|---|---|---|---|---|---|---|---|---|
| Incremental Pricing Threshold | $2.283 | $2.291 | $2.299 | $2.307 | $2.315 | $2.323 | $2.331 | $2.339 |
| NGPA Section 102 Threshold | 3.586 | 3.609 | 3.632 | 3.656 | 3.680 | 3.705 | 3.730 | 3.752 |
| NGPA Section 109 Threshold | 2.359 | 2.367 | 2.375 | 2.383 | 2.391 | 2.399 | 2.407 | 2.414 |
| 130% of No. 2 Fuel Oil in New York City Threshold | 7.730 | 7.570 | 7.570 | 8.550 | 8.590 | 7.670 | 7.930 | 7.740 |

[FR Doc. 84-19965 Filed 7-27-84; 8:45 am]

BILLING CODE 6717-01-M

## DEPARTMENT OF JUSTICE

### Office of the Attorney General

### 28 CFR Part 0

[Order No. 1062-84]

### Designation of Official to Implement Office of Management and Budget (OMB) Circular No. A-76

**AGENCY:** Department of Justice.

**ACTION:** Final rule.

**SUMMARY:** This order amends § 0.76 of Title 28 of the Code of Federal Regulations to designate the Assistant Attorney General for Administration as the Department of Justice official responsible for implementing Office of Management and Budget Circular No. A-76, "Performance of Commercial Activities".

**EFFECTIVE DATE:** July 18, 1984.

**FOR FURTHER INFORMATION CONTACT:** William J. Snider, Administrative Counsel, Justice Management Division, Department of Justice, Room 6239, 10th and Constitution Avenue, NW., Washington, D.C. 20530 (202-633-3452).

**SUPPLEMENTARY INFORMATION:** OMB Circular No. A-76 established Federal policy regarding the performance of commercial activities. Each agency is required to evaluate whether commercial activities should be performed using in-house Government resources or outside commercial sources. Each agency must also designate an official at the assistant secretary or equivalent level to be responsible for implementing the Circular.

This regulation is exempt from the requirements of Executive Order No. 12291 as a regulation related to agency organization and management. Furthermore, this regulation will not have a significant economic impact on a substantial number of small entities because its effect is internal to the Department of Justice.

**List of Subjects in 28 CFR Part 0**

Government employees, Organization and functions (Government agencies), Authority delegations (Government agencies), and Intergovernmental relations.

**PART 0—[AMENDED]**

By virtue of the authority vested in me, as Attorney General, by 28 U.S.C. 509, 510 and 5 U.S.C. 301, § 0.76 of Title 28, Code of Federal Regulations is hereby amended by adding a new § 0.76(v) to read as follows:

**§ 0.76 Specific functions.**

* * * * *

(v) Implementing Office of Management and Budget Circular No. A-76, "Performance of Commercial Activities".

Dated: July 18, 1984.

**William French Smith,**

*Attorney General.*

[FR Doc. 84-20035 Filed 7-27-84; 8:45 am]

BILLING CODE 4410-01-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

### 33 CFR Part 100

[CGD 09-84-09]

### Special Local Regulations; 1984 Cleveland National Air Show

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** Special local regulations are being adopted for the Cleveland National Air Show which is to be conducted over the eastern portion of Cleveland Harbor on the 1st, 2nd, and 3rd of September, 1984. The regulations are needed to provide for the safety of life on navigable waters during the event.

**EFFECTIVE DATES:** These regulations become effective on 1 September and terminate on 3 September, 1984.

**FOR FURTHER INFORMATION CONTACT:** MSTC Cary H. Lindsay, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522-4420.

**SUPPLEMENTARY INFORMATION:** A notice of proposed rule making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. Following normal rule making procedures is unnecessary as per 5 U.S.C. 553(b)(3)(B), since this is a temporary regatta regulation. This has been an annual event for many years and no negative comments have been received concerning the holding of the event in the past.

**Drafting Information**

The drafters of this regulation are MSTC Cary H. Lindsay, project officer, Office of Search and Rescue and Lcdr A.R. Butler, project attorney, Ninth Coast Guard District Legal Office.

**Discussion of Regulations**

The 1984 Cleveland National Air Show will be conducted over the eastern portion of Cleveland Harbor on September 1, 2, and 3, 1984. This event will have low flying aircraft demonstrations, high performance aircraft aerobatics, parachutists, and other events which could pose hazards to navigation in the area. Vessels desiring to transit the area may do so only with prior approval of the Patrol Commander (Officer-in-Charge, U.S. Coast Guard Station, Cleveland, Ohio).

**List of Subjects in 33 CFR Part 100**

Marine safety, Navigation (water).

**Regulations**

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary section 100.35–0916 to read as follows:

**§ 100.35–0916 Lake Erie/Cleveland Harbor.**

The following area will be closed to vessel navigation or anchorage from 8:00 a.m. (local time) until 6:00 p.m. (local time) on September 1, 2, and 3, 1984.

(a) *Restricted Area.* That portion of Lake Erie and Cleveland Harbor enclosed by a line running from the northwest corner of Dock No. 34 northwest to 41 degrees 31 minutes North 81 degrees 42 minutes 16 seconds West, then east to a point on the breakwall at 41 degrees 32 minutes 02 seconds North 81 degrees 40 minutes 03 seconds West, then southeast to a point on shore at 41 degrees 31 minutes 54 seconds North 81 degrees 39 minutes 54 seconds West.

(b) *Special Local Regulations.* (1) Vessels desiring to transit the restricted area may do so only with the prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants, or vessels of the patrol in the performance of their assigned duties.

(2) No vessel shall anchor or drift in the area restricted to navigation.

(3) A succession of sharp, short, signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signalled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(4) All persons in charge of, or operating vessels in the area covered by the above Special Local Regulations are required to promptly obey the directions of the Patrol Commander and the men acting under his instructions in connection with the enforcement of these Special Local Regulations.

(5) This section is effective from 8:00 A.M. (local time) until 6:00 P.M. (local time), September 1, 2, and 3, 1984.

(46 U.S.C. 454; 49 U.S.C. 1655(b); 49 CFR 1.46(b); and 33 CFR 100.35)

Dated: July 25, 1984.

J. R. Kirkland,

*Captain, USCG, Acting Commander, Ninth Coast Guard District.*

[FR Doc. 84-20009 Filed 7-27-84; 8:45 am]

BILLING CODE 4910-14-M

## 33 CFR Part 117

**[CGD3 82-032]**

## Drawbridge Operation Regulations; Schuylkill River, Pennsylvania

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** At the request of the City of Philadelphia, the Coast Guard is changing the regulations governing the Passyunk Avenue Bridge at Philadelphia by requiring that advance notice of opening be given at all times. This final rule will require 4 hours notice instead of the 12 stated in the proposed rule so as to be more responsive to the needs of marine navigation without causing a burden on the bridge owner. This change in regulations is being made because a new bridge with a greater vertical clearance has replaced the former bridge, thereby drastically reducing openings of the draw. This action will relieve the bridge owner of the burden of having a person constantly available to open the draw and will still provide for the reasonable needs of navigation.

**EFFECTIVE DATE:** These regulations become effective on August 29, 1984.

**FOR FURTHER INFORMATION CONTACT:** William C. Heming, Bridge Administrator, Third Coast Guard District (212) 668–7994.

**SUPPLEMENTARY INFORMATION:** On March 31, 1983, the Coast Guard published proposed rules (48 FR 13444) concerning this amendment. The Commander, Third Coast Guard District also published the proposal as a Public Notice dated April 5, 1983. In each notice interested persons were given until May 16, 1983 to submit comments.

On April 24, 1984, the Coast Guard published a final rule (49 FR 17450) that reorganized regulations for drawbridges (Part 117 of Title 33, Code of Federal Regulations) to consolidate common requirements and to organize bridge regulations into a more usable format. This final rule follows the revised numbering and format.

**Drafting Information**

The drafters of these regulations are Ernest J. Feemster, project manager, and Mary Ann Arisman, project attorney.

**Discussion of Comments**

Five responses were received on the proposed rule for this action. One respondent opposed taking personnal off the bridge based on a concern for vehicular and pedestrian safety. Since this is not within the scope of the Coast Guard's regulatory authority, the respondent was referred to the proper authority. The other four respondents objected to 12 hours notice as excessive with two of them suggesting two hours notice instead. The issues of vessel safety and dependability of openings were also expressed.

Communications with one respondent extended past the comment period because the person owned several vessels reportedly unable to pass under the closed Passyunk Avenue Bridge. The Coast Guard requested additional information pertinent to this rulemaking to assist in evaluating this action. The bridge owner also requested and was granted additional time (past the comment period) to meet with marine interests objecting to 12 hours notice. After considerable time elapsed without any compromise or resolution being reached between the bridge owner and marine interests, the Coast Guard decided to require four hours notice at all times at the bridge.

The Coast Guard feels that there is validity to the contention that 12 hours notice is excessive. However the suggested two hours notice at all times is considered too restrictive since the bridge has a minimum 50 foot clearance in the closed position. Large tugs and ships are the only vessels that ordinarily require the bridge to open and such vessels do not frequently transit the waterway. Also, such vessels can normally provide four hours notice with no problem. Two hours notice at all times would require the bridge owner to dispatch personnel on such short notice that weekend and nighttime openings would present an unreasonable and needless burden on the owner. Four hours notice responds to mariner concerns while not placing an unnecessary burden on the bridge owner.

**Economic Assessment and Certification**

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. The

regulations will adequately respond to needs of commercial vessel operators and facilities. Commercial vessels, consisting mainly of towed petroleum barges, normally are scheduled more than four hours in advance, and instances of unscheduled transits requiring opening will be minimal. No facilities on the waterway will be unduly impacted by these regulations. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

**List of Subjects in 33 CFR Part 117**

Bridges.

## PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations is amended by redesignating § 117.905 (b) and (c) as § 117.905 (c) and (d), respectively and adding a new § 117.905(b) to read as follows:

**§ 117.905 Schuylkill River.**

* * * * *

(b) The City of Philadelphia, Passyunk Avenue Bridge, mile 3.5, shall open on signal for a vessel if at least four hours notice is given. The draw shall open as soon as possible at all times for passage of a public vessel of the United States.

* * * * *

(33 U.S.C. 499; 49 CFR 1.46(c)(2); 33 CFR 1.05-1(g)(3))

Dated: July 13, 1984.

**P.A. Yost,**

*Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.*

[FR Doc. 84-20007 Filed 7-27-84; 8:45 am]

BILLING CODE 4910-14-M

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**33 CFR Part 165**

**[COTP Honolulu Regulation 84-02]**

## Safety Zone Regulations; Hilo Harbor, Hawaii

**AGENCY:** Coast Guard, DOT.

**ACTION:** Amendment of emergency rule.

**SUMMARY:** On July 17, 1984 (49 FR 28830) the Coast Guard published an emergency safety zone for the U.S.S. *Ouellet*. This amendment is necessary to correct that rule because of a last-minute change in the pier to which the U.S.S. *Ouellet* will be moored.

**EFFECTIVE DATES:** This amendment becomes effective on 18 July 1984 when the U.S.S. *Ouellett* (FF 1077) reaches a point five nautical miles distant from the Hilo Harbor Breakwater Light (LLNR 3673.25; 19°44.8'N latitude, 155°04.7'W longitude). It terminates upon completion of mooring by the U.S.S. *Ouellet* (FF 1077), unless sooner terminated by the Captain of the Port.

**FOR FURTHER INFORMATION CONTACT:** Commander J. M. MacDoanld, (808) 546-7146.

**SUPPLEMENTARY INFORMATION:** A notice of proposed rulemaking was not published for this amendment and it is being made effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest and immediate action is needed to respond to potential hazards associated with activities planned to protest the entry of the U.S.S. *Ouellet* into the port of Hilo.

**Drafting Information**

The drafters of this regulation are LT C. A. Crampton, project officer for the Captain of the Port, and CDR R. B. Cole, Project Attorney, Fourteenth Coast Guard District Legal Office.

**Discussion of Regulation**

This amendment to a safety zone established by the Captain of the Port, Honolulu on 12 July 1984 is needed because of a change in the pier to which the U.S.S. *Ouellet* (FF 1077) will be moored. The boundaries of the fixed safety zone are changed to include the waters surrounding Pier No. 3 in Hilo Harbor, Hawaii. Additionally, the published description of the fixed zone mistakenly referred in one place to a "security" zone rather than a "safety" zone.

**List of Subjects in 33 CFR Part 165**

Harbors, Marine safety, Navigation (water), Security measures, vessels, waterways.

**Regulation**

## PART 165—[AMENDED]

In consideration of the foregoing, § 165.T1402 of Title 33, Code of Federal Regulations, is amended as follows:

**§ 165.T1404 [Amended]**

a. In the first line of paragraph (a)(2), remove the word "security" and insert the word "safety".

b. In the description of the Fixed Safety Zone in paragraph (a)(2), remove the words "then due east to latitude 19°44'.0"N, longitude 155°03'25.2"W (where the line intersects face of Pier No. 1)" and insert the words "then due east to latitude 19°44'00.0"N, longitude 155°03'40.0"W, then in a direction of 135.5° true to latitude 19°43'54.0"N, longitude 155°03'34.0"W (where the line intersects the shoreline)".

(33 U.S.C. 1225 and 1231, 49 CFR 146; 33 CFR 160.5)

Dated: July 17, 1984.

**J. M. McDonald,**

*Commander, U.S.C.G., Captain of the Port, Acting, Honolulu, HI.*

[FR Doc. 84-19737 Filed 7-27-84; 8:45 am]

BILLING CODE 4910-14-M

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 52**

**[OAR-FRL-2641-8]**

## Approval and Promulgation of Implementation Plans; California 1982 Ozone and CO Plan Revisions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of final rulemaking.

**SUMMARY:** Today's notice takes final action to approve portions of the State Implementation Plan (SIP) revisions which are consistent with the requirements embodied in the Act and EPA policy for the following areas: the South Coast Air Basin ($O_3$ and CO), the Ventura County nonattainment area portion of the South Central Coast Air Basin ($O_3$), the Fresno County portion of the San Joaquin Valley Air Basin ($O_3$ and CO), and the Sacramento Metropolitan Area portion of the Sacramento Valley Air Basin ($O_3$). This action incorporates those revisions which are approvable into the SIP, thereby revising the control strategy for attaining the $O_3$ and CO standards in these areas. EPA, however, is taking no action on the attainment/Reasonable Further Progress (RFP) demonstrations for these areas. EPA is also taking no action on a measure in the South Coast Air Basin plan pending development of an approvable New Source Review (NSR) program accounting system for claiming emission reductions associated with the measure. Additionally, EPA is taking no action on the regulations for an I/M program.

This notice also takes final action removing conditions of approval for: (1) The 1979 $O_3$ and CO SIP revisions for the Fresno County nonattainment area and the $O_3$ SIP revision for the Sacramento Metropolitan Area which required the submittal of resource commitments for Transportation Control Measures (TCMs); and (2) the $O_3$ SIP revision for the Ventura County nonattainment area which required the submittal of a revised film coatings rule.

**EFFECTIVE DATE:** August 29, 1984.

**ADDRESSES:** A copy of today's revision to the California SIP is located at: The Office of the Federal Register, 1100

"L" Street, NW., Room 8401, Washington, D.C. 20408
Public Information Reference Unit, EPA Library, 401 M Street, SW., Washington, D.C. 20460

**FOR FURTHER INFORMATION CONTACT:** David P. Howekamp, Director, Air Management Division, Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105, Attn: Wallace Woo, (415) 974–7634.

**SUPPLEMENTARY INFORMATION:** This portion of the notice is divided into five sections. The **"Background"** section briefly summarizes the proposed actions on these plan revisions and discusses EPA's parallel processing rulemaking procedure. The **"Supplementary Revisions"** section discusses EPA's evaluation of any pertinent SIP revisions submitted to EPA after the proposed rulemaking notice. The **"Public Comments"** section describes public comment on the proposed rulemaking notice and contains EPA's response on substantive issues. The section on **"EPA Actions"** details EPA's final actions on the plans. The **"Regulatory Process"** section contains procedures for judicial review of this action.

## Background

On February 3, 1983 [48 FR 5074] EPA proposed to approve in part and disapprove overall the 1982 $O_3$ and CO SIP revisions for the areas addressed in this notice. The proposal notice identified eleven areas of the State for which draft SIP revisions had been received by EPA. This notice addresses four of those eleven areas; the South Coast Air Basin ($O_3$, CO), Ventura County ($O_3$), Fresno County ($O_3$, CO), and the Sacramento Metropolitan Area ($O_3$). Final actions on the other seven areas have been addressed in separate **Federal Register** actions (48 FR 56215, 48 FR 57130, 49 FR 6897, and 49 FR 15550).

For the four areas addressed in this notice, EPA proposed to find that: (1) The plans fail to demonstrate attainment of the standards by December 31, 1987; (2) the plans do not provide for reasonable further progress, as attainment by the statutory date is not demonstrated; and (3) the plans do not contain adequate justification for the rejection of certain TCMs listed under Section 108(f) of the Act. Consequently, EPA proposed to disapprove these portions of the plans.

For other portions of the SIP, EPA proposed to approve provided that specific deficiencies were corrected prior to final rulemaking; namely, that the ten elements for an approvable I/M program were provided prior to final action on the 1982 SIP revisions, and that the following deficiencies were corrected prior to final rulemaking:

*South Coast Air Basin*

Control measures contained in the plan were not accompanied by (1) certification of legal authority to implement measures, (2) commitments to implement the measures, and (3) evidence that adequate funding would be available to implement the measures.

*Ventura County*

Intermittent control measures which were identified in the plan for emission reduction credits were found to be inconsistent with Sections 110 and 123 of the Act.

These deficiencies along with other minor deficiencies in the four plans were discussed in detail in Chapters IV, VI, X and XII of the Technical Support Document (TSD) for the 1982 California $O_3$ and CO SIP revisions.

The proposed rulemaking also noted that conditions remained outstanding to correct deficiencies in the 1979 $O_3$ and CO SIP revisions for these four areas. Revised New Source Review (NSR) regulations were required for the South Coast, Ventura, Fresno, and Sacramento nonattainment areas in order to satisfy the requirements of Section 172(b)(6) of the Clean Air Act (CAA). The South Coast, Ventura County and the Sacramento Metropolitan Area plans did not adequately address required stationary source control regulations for Volatile Organic Compound (VOC) source categories addressed by Control Techniques Guideline documents. The South Coast and Ventura County plans contained deficient rules for refinery fugitive emissions. The Yolo and Solano Counties portion of the Sacramento nonattainment area contained a deficient rule for degreasing operations and required adoption of a rule for graphic arts operations.

The February 3, 1983 notice also proposed to find that the State had fulfilled several outstanding conditions on the 1979 SIP revisions including conditions requiring resource commitments for the Transportation Control Measures (TCMs) in the Fresno County and Sacramento Metropolitan Area plans. The notice also proposed to remove a condition regarding a rule for film coatings which had been submitted by Ventura County in fulfillment of a 1979 plan condition. EPA did not receive any adverse comments regarding these proposed actions.

EPA's February 3, 1983 proposed rulemaking for California's 1982 $O_3$ and CO plan revisions was based on the review of plans which had not been formally submitted as SIP revisions and which are termed here as "draft" plans. By processing the draft 1982 SIP revisions concurrently with State and local level action to adopt and submit the "final" plans, EPA intended to expedite the rulemaking process. EPA's proposed actions were contingent upon the "final" plans being substantively the same as the "draft" plans, except where remedies to deficiencies noted in the proposal notice were included in the final plan.

The February 3, 1983 notice also proposed to retain the disapproval of the I/M portion of the 1979 $O_3$ and CO nonattainment area plans for six urban areas in California (including the four areas contained in this notice). EPA proposed to retain disapproval of the I/M portion because the implementation schedule was inconsistent with EPA policy to begin no later than December 31, 1982. On July 26, 1983 the ARB submitted a revised implementation schedule, and commitments by the South Coast and San Francisco Bay Area Air Quality Management Districts and the Ventura, San Diego and Sacramento Air Pollution Control Districts to have the I/M program implemented according to the schedule. On October 3, 1983, the ARB submitted draft versions of the ten I/M program elements required by EPA policy for approval of the I/M program. The ten draft elements included: (1) Emission standards; (2) inspection station licensing requirements; (3) emission analyzer specifications and maintenance/calibration requirements; (4) procedures to assure that non-complying vehicles are not operated on the public roads; (5) a public awareness plan; (6) a mechanics training plan; (7) inspection test procedures; (8) record keeping and record submittal requirements; (9) quality control, audit and surveillance procedures; and (10) other official program rules, regulations and procedures which include geographic area designations, and a request for proposal for contract operated referee stations. EPA will take final action on the I/M program in the near future.

On November 25, 1983, EPA published a final rulemaking conditionally approving the 1979 I/M program SIP requirements for all areas except Fresno County (see 48 FR 53114). EPA determined that the March 1984 startup date was as expeditious as practicable given the progress made by the State since adoption of I/M legal authority. EPA excluded Fresno County from that notice because the County Board of Supervisors had not yet requested the State to implement the I/M program. The November 25, 1983 notice also removed the moratorium on construction

of major or modified stationary sources of $O_3$ and CO in these five areas. Public comments received on the February 3, 1983 notice which addressed this issue were responded to in that notice.

The February 3, 1983 notice of proposed rulemaking provided for a 45 day comment period ending on March 21, 1983. On March 21, 1983 EPA extended the public comment period an additional 45 days to May 5, 1983 for plans proposed to be disapproved (see 48 FR 11725). On April 8, 1983 (48 FR 15273) EPA also extended the comment period to May 5, 1983 for the 1982 California SIP revisions proposed for approval.

On November 2, 1983, EPA published a final action on rulemaking proposals and announcement of policy (48 FR 50686). In part, this notice set out general policy for correcting problems identified in the February 3, 1983 proposed rulemaking and summarized and responded to the voluminous comments EPA received in response to the proposal which were of national significance.

**Supplementary Revisions**

The final 1982 $O_3$ and CO plans for the four nonattainment areas contained in this notice were submitted to EPA by the California Air Resources Board (ARB) on December 1 and 31, 1982 and January 10, February 9 and 15, and June 28, 1984. The final plans were substantively identical to the draft plans which were reviewed for the February 3, 1983 proposal notice, except for certain changes to correct deficiencies noted in EPA's proposal notice and TSD. The TSD noted both major and minor deficiencies in the 1982 SIP revisions, and the major deficiencies were noted in the proposal notice. As part of this final rulemaking action, EPA has prepared an addendum to the TSD for these four areas which notes changes between the draft and final plans as well as additional submittals which serve to remedy noted deficiencies and evaluates these changes relative to the requirements for 1982 $O_3$ and CO SIP revisions. A copy of the TSD addendum is available at the location noted in the "ADDRESSES" portion of this notice and at the EPA Region 9 office (Docket File NAP-CA 82).

*South Coast Air Basin*

The final plan for $O_3$ and CO was substantively the same as the draft plan, except for additions to address the deficiencies cited by EPA in the proposal notice and TSD, including major deficiencies relating to control measures accompanied by certification of implementation authority or implementation commitments and an acceptable demonstration that the area adequately justified the rejection of certain TCMs listed in Section 108 of the Act.

The February 3, 1983 proposed rulemaking indicated that a major deficiency existed in the plan with regard to claimed emission reductions for measures which were not accompanied by commitments to implement or enabling authority. In response, the South Coast Air Quality Management District (SCAQMD) clarified that enabling authority did exist for some measures which EPA had questioned. The Southern California Association of Governments (SCAG) indicated that for TCMs requiring State or federal enabling legislation no emission reduction credit would be taken until such legal authority was obtained. The Plan was subsequently revised to indicate this clarification. On June 28, 1984, the ARB submitted local government commitments to implement the TCMs contained in the 1982 plan. The clarification on enabling authority which was provided to EPA, in addition to the plan revisions and the TCM implementation commitments which were submitted, serve to satisfy the noted deficiencies.

As part of the South Coast 1982 plan control strategy, 13 tons per day of emissions reductions by 1987 were attributed to implementation of the New Source Review (NSR) program. In order to determine with certainty that these reductions could be achieved over and beyond what was assumed to occur in the emissions baseline and from the other control measures in the plan, the SCAQMD was to have developed a NSR program emissions tracking system. Whereas the emissions reductions claimed for the NSR program may be achievable, EPA has no way of assuring that these reductions will indeed occur. Therefore, EPA expects a NSR program accounting system to be established and applied by the SCAQMD and approved by EPA as part of the RFP monitoring effort prior to EPA's acceptance of emissions reductions associated with the measure.

With respect to EPA's concerns regarding the extent of TCMs proposed for adoption, SCAG submitted additional justification for rejecting three control measures. In addition, SCAG clarified that certain control measures related to the design of the regional transportation system and scheduled for implementation after 1987 were awaiting adoption of the revised Regional Transportation Plan (RTP) and would be submitted as a SIP revision upon adoption of the RTP. SCAG indicated a willingness to work with EPA to determine whether there are any other TCMs which could be implemented in the region to achieve additional emission reductions. In addition, SCAG intends to continue to review additional TCMs for future applicability in the air basin. This clarification serves to satisfy the noted deficiency.

*Ventura County*

The final plan for $O_3$ was substantively the same as the draft plan. The February 3, 1983 proposed rulemaking indicated that a major deficiency existed in the plan with regard to the limited coverage and voluntary nature of several TCMs contained in the plan. In partial response to the noted deficiency, the Ventura County Board of Supervisors approved the formation of a technical task force composed of local, state and federal government agencies and members of the private sector to evaluate the emission reduction potential from source-specific and regional TCMs. The County Board also directed the task force to evaluate the potential of integrating land use, air quality and transportation planning. The task force is to report back to the Board in July 1984 with its recommendations for appropriate action. In addition, on March 20, 1984 the Ventura County Air Pollution Control District (APCD) notified EPA that it committed to transmit by December 31, 1984 local government commitments to TCMs which were found to be reasonably available. As an active participant on the technical task force, and in fulfillment of its responsibilities under the Clean Air Act, EPA intends to closely follow the actions taken by the Board following submittal of the task force's recommendations in July to ensure that all reasonably available control measures are pursued and commitments obtained towards the achievement of the ozone standard. Failure to do so would lead EPA to reevaluate the approvability of the control strategy.

An additional major deficiency which EPA had identified in its February 3, 1983 proposal related to emissions reductions which were claimed in the Ventura 1982 plan resulting from application of four intermittent or episodic control measures for stationary and transportation sources. In its review of these measures EPA found that, while the measures went beyond SIP requirements and helped to support a demonstration that all reasonable efforts are being made, the Clean Air

Act does not allow EPA to approve emission reduction credits for any dispersion technique that affects the degree of emission limitation required in any SIP. In addition, the plan did not identify adequate predictive capabilities which could be used to forecast with any degree of accuracy the days in which the controls would be employed. Finally, as the initial implementation phase would be conducted on a largely voluntary basis, there was an issue of whether these measures would produce the emissions reductions claimed. EPA is disapproving the emission reductions claimed for these four strategies. Approval of these credits would affect emission limitations in the Ventura $O_3$ nonattainment area by reducing the amount of emission reduction the area would need to obtain from other stationary and transportation sources. However, as part of the final action being taken today, EPA will approve the intermittent control measures submitted by Ventura County because they strengthen the Emergency Episode Plan. A more detailed response in support of EPA's findings may be found in the TSD addendum.

*Fresno County*

The final plan for $O_3$ and CO was substantively the same as the draft plan, except for changes which satisfy one minor deficiency cited by EPA in the TSD. The deficiency related to the absence in the draft plan of a CO design value and background concentration used in the modeling analysis. The addition of a revised modeling analysis includes identification of the design value and background concentration. The analysis, using a background concentration of 1 ppm, now correctly shows the needed percent reduction in emissions as 47%. A more detailed evaluation of this change is included in the TSD addendum.

*Sacramento*

The final plan for $O_3$ was substantively the same as the draft plan, except for additions to address certain deficiencies cited by EPA in the TSD, including a major deficiency which related to justification for the rejection of certain TCMs listed under section 108(f) of the Clean Air Act. The State and local lead planning agencies have provided supplemental information to satisfy this deficiency. In addition, since the proposed rulemaking, the State and local lead planning agencies have also provided supplemental information to remove the following minor deficiencies: (1) Ozone modeling; (2) documentation for transportation control measure reductions; and (3) certain requirements for public and governmental involvement.

A detailed evaluation of the above cited changes is included in the TSD addendum.

*NSR*

As noted above, a revised NSR rule was required to satisfy an outstanding condition of approval for the four nonattainment area plans contained in this notice. Revised NSR rules for the South Coast Air Basin were submitted to the EPA on November 8, 1982 and February 3, 1983. EPA has proposed action on these rules in a separate rulemaking (see 48 FR 49522). Revised NSR rules for Ventura County were adopted by the Ventura County APCD on January 10, 1984. Fresno County adopted revised NSR rules on December 6, 1983. Upon their submittal by the State as SIP revisions, EPA will take action on these rules in separate **Federal Register** actions. Sacramento County adopted a revised NSR Rule on August 17, 1982. The Rule was submitted to EPA on February 17, 1983. EPA has proposed action on this rule in a separate rulemaking on June 21, 1983 (see 48 FR 28288). The NSR condition of approval for the Sacramento Metropolitan Area involves two air pollution control districts (APCDs) in addition to the Sacramento County APCD. Separate **Federal Register** actions will deal with these areas.

Depending on the adequacy of the NSR rules submitted for approval, EPA will either (1) remove or revise the outstanding condition of approval, or (2) disapprove the SIP for failure to satisfy the requirement of Section 172(b)(6) of the CAA.

*VOC*

On December 2, 1983, the ARB submitted a revision to Rule 466, "Pumps and Compressors" for the South Coast Air Basin. The ARB submitted a revision to Rule 2.24, "Solvent Cleaning Operations" on February 2, 1983 and submitted a rule for graphic arts operations (as a revision to Rule 2.13, "Organic Solvents") on August 30, 1983 for the Yolo-Solano Counties portion of the Sacramento nonattainment area. On January 20, 1984, Ventura County APCD submitted a schedule for revision to Rule 74.7, "Fugitive Emissions From Components at Refineries and Chemical Plants."

EPA will address the adequacy of Ventura's schedule and failure to meet the condition for approval in a separate **Federal Register** action. The other deficiencies noted above will also be addressed in separate **Federal Register** actions.

These rule revisions are required to satisfy the stationary source RACT requirements of Part D of the Clean Air Act. EPA will take action on these outstanding conditions in accordance with the policy for outstanding conditions of approval published on November 2, 1983 (48 FR 50686).

**Public Comments**

EPA received 110 comments which address one or all of these 1982 SIP revisions. The November 2, 1983 policy statement addressed several issues raised in these comments which had national relevance and are therefore not addressed in today's notice. However, in addition to the nationally relevant issues, EPA also received comments which addressed issues specific to the individual plans which are being acted upon in this notice.

EPA has prepared detailed responses to these comments as part of the support document for this rulemaking.

The following is a summary of the comments which were common to EPA's proposed rulemaking for all four nonattainment plans contained in this notice and EPA's response.

Comments which disagreed with EPA's proposal to impose sanctions for failure to attain the ozone and/or CO NAAQS by the statutory deadline were received from industry, several individuals, and local jurisdictions in the South Coast, Ventura, Sacramento and Fresno nonattainment areas as well as from the lead planning agencies for these areas and the State transportation and air quality agencies. In addition, several of these commenters questioned EPA's proposed imposition of sanctions where the post-1987 attainment areas had demonstrated substantial compliance with Part D requirements by making best efforts to submit an approvable SIP. Some of the commenters referred EPA to its January 21, 1981 policy for 1982 SIP development where they claimed EPA indicated a willingness to accept post-1987 attainment of the ozone and CO standard if a plan made a convincing demonstration that it would implement all reasonably available control measures (RACMs).

Some commenters suggested that a construction moratorium should only be imposed when growth is inconsistent with the SIP "growth and control" line for projected baseline emissions. Other commenters suggested that EPA adopt a test of reasonableness in determining if sanctions must be imposed. Some of these comments indicated that nonattainment areas in California are proceeding as expeditiously as

practicable to attain the NAAQS and implementing in good faith all reasonably available control measures and some that go beyond reasonably available control technology (RACT) as well as complying with continuing planning requirements contained in Part D of the Clean Air Act. For these reasons, the commenters argued that the 1982 plans in California are in substantial compliance with the requirements of Part D. Therefore, there are no grounds for imposing funding restrictions for failure to demonstrate NAAQS attainment.

*EPA Response*

In today's action (except where noted otherwise), EPA intends to approve the control strategies for the four 1982 plans described in this notice as they strengthen the SIP and demonstrate progress toward achieving the NAAQS. EPA is holding open the question of whether to approve or disapprove the attainment/RFP demonstrations for these areas and is not taking final actions on those demonstrations at this time. EPA is examining whether additional measures exist which are reasonably available for implementation by 1987.

EPA did not propose imposition of funding restrictions under section 176(a) of the Clean Air Act in its February 3 notice of proposed rulemaking. If determined to be appropriate, EPA would propose to invoke funding restrictions followed by a final action later in the year. According to section 176(a) of the Clean Air Act, funding restrictions must be imposed when all of the following three conditions are met: (1) NAAQS are not attained; (2) TCMs are necessary for NAAQS attainment; and (3) a State fails to submit or make reasonable efforts to submit a plan which meets all requirements under the nonattainment plan provisions of the Clean Air Act. EPA is not proposing any restrictions under section 176(a) today, and will not propose such restrictions so long as an area continues to make reasonable efforts to submit an approvable plan. On January 27, 1984, EPA published a guidance document which serves as a supplement to the November 2, 1983 Policy Statement. The intent of the document is to assist state and local agencies in taking necessary actions to remedy deficiencies identified by EPA in its proposed and final rulemaking actions on the 1982 SIP revisions. The portion of the guidance document which deals with determination of reasonable efforts under section 176(a) will be used by EPA to continue to evaluate all plans potentially subject to funding restrictions to determine whether all reasonable efforts continue to be made to submit an approvable SIP. EPA intends to make an objective finding of section 176(a) applicability on a case-by-case basis, subject to peer review by EPA's regional offices. EPA does not consider the determination of section 176(a) applicability to be limited to a one-time finding of reasonable efforts. Instead, EPA intends to review SIP implementation on a periodic basis, through the RFP reporting process, to determine whether continuing efforts are being made by the State, over time, to meet Clean Air Act requirements.

The following is a summary of the comments and EPA's response to substantive issues which relate to EPA's proposed actions on specific plans contained in this notice. Detailed responses to the comments may be found in the Response to comments portion of the TSD addendum.

*South Coast Air Basin*

Some commenters from the South Coast Air Basin suggested that EPA should assist in the local and State air quality efforts to determine what additional actions are needed to produce attainment as expeditiously as practical. In this case, sanctions should be imposed only if the region fails to carry out those additional actions. The SCAQMD additionally commented that EPA has the option of promulgating more stringent measures if a plan cannot demonstrate attainment by the statutory date. EPA agrees that positive steps should be taken to assist in the air quality efforts of all nonattainment areas and fully intends to work with these areas to help them reduce ozone and CO levels. The South Coast 1982 Plan calls for the implementation of various ozone and CO control measures which go beyond EPA's requirements for Reasonably Available Control Technology (RACT). EPA intends to work with the State and local lead agencies in evaluating additional measures which are determined to be reasonably available and effective toward meeting the $O_3$ and CO NAAQS. The Act, however, would automatically impose a construction ban if EPA disapproved the plan for any of these areas for failing to provide for attainment by the end of 1987. Furthermore, the Act would require EPA to restrict federal funding if it found that an area was not making reasonable efforts to submit an approvable plan. If EPA imposed any construction or funding restrictions, it would give the State a reasonable opportunity to cure the deficiency by submitting an approvable plan before it promulgated any federal measures. However, EPA emphasizes again that it is not taking final action today to disapprove these plans and is not proposing any funding limitations.

Also during the public comment period, the State and local lead planning agencies for the South Coast Air Basin provided clarification sufficient to remove noted minor deficiencies. These deficiencies related to (1) the VOC/NOx emission inventory, (2) the ozone design value, (3) growth allowances and population forecasts, (4) the contingency provision, (5) Basic Transportation Needs Plan and (6) certain requirements for public and governmental involvement.

*Ventura County*

In its February 3, 1983 proposal, EPA had indicated that, without a technical basis for rejection, the limited coverage and voluntary nature of several TCMs included in the Plan do not represent an acceptable demonstration of implementing all reasonable and available measures. The Ventura County APCD reiterated that it had looked at and incorporated all applicable § 108(f) measures into its plan and had even gone beyond measures suggested by EPA or the Department of Transportation. The District also commented that it has revised its "Guidelines for Preparation of Air Quality Impact Analyses." Once implemented, the Guidelines would serve to mitigate adverse air quality impacts on a project-by-project basis.

EPA agrees that Ventura has incorporated into the plan most of the measures identified under § 108(f) of the Clean Air Act. However, EPA continues to be unconvinced that the degree or extent of implementation is comparable to other severe nonattainment areas with a like air pollution problem and transportation system. The South Coast plan has gone beyond a nominal adherence to section 108(f) by identifying an ambitious but realistic transportation control strategy which includes both a short-term and long-term (post-1987) strategy. Although no emissions reductions are claimed for the long-term strategy, funding has been committed and studies and pilot projects are being conducted toward examining the feasibility and effectiveness of these measures. In addition, the South Coast plan contains a commitment to continue to review any TCM for its applicability in the South Coast Air Basin and for possible inclusion in the SIP at some future date. Despite EPA's concerns that the Ventura plan has not demonstrated a comparably ambitious TCM program

as the South Coast Air Basin, EPA is supportive of Ventura's recent efforts to undertake a more rigorous examination of available TCMs for more extensive and effective implementation. EPA will actively assist the County in this effort.

Some comments from Ventura questioned whether EPA would impose construction and funding restrictions on nonattainment areas affected by transport rather than on the source area of the transport. In its review of the 1982 plan, EPA found that Ventura County had not demonstrated that transported pollutants caused exceedances of the ozone standard. If Ventura County submits such a demonstration, EPA will review it and take appropriate action. Until such an analysis is submitted, however, EPA must base its findings and actions on the 1982 plan as adopted.

In its comments, the Ventura County Air Pollution Control Dsitrict (APCD) provided EPA with clarification to 1982 Plan elements which EPA had noted as deficient. This clarification served to resolve some of the noted minor deficiencies which related to (1) the VOC emission inventory, (2) conformity provisions, and (3) contingency procedures.

*Fresno County*

Comments were received from the Council of Fresno County Governments, Fresno County Air Pollution Control District, ARB, the Western Oil and Gas Association and Mr. Michael Horen. Some of the comments made reference to the revision contained in the final plan which addressed the minor deficiency related to the CO design value and background concentration used in the modeling. As stated in the **Supplementary Revisions** portion of this notice, EPA agrees that the revision in the final plan satisfies this deficiency noted in the TSD. The comments also addressed one of the major deficiencies related to an inadequate justification for not selecting TCMs under section 108(f) of the Clean Air Act. The comments received adequately address this major deficiency since additional justification was presented and the meaning of one critical sentence was clarified. In addition, the comments addressed the remaining five minor deficiencies identified in the TSD. These deficiencies related to: (1) Emission growth projections for resource recovery facilities, (2) contingency provisions, (3) conformity procedures, (4) commitment to basic transportation needs, and (5) annual emission reduction estimates for TCMs. The comments adequately address these deficiencies since (1) the growth projection for resource recovery projects was included in the cogeneration category, (2) potential additional control measures and criteria were identified for contingency purposes, (3) conformity procedures were included in the Regional Transportation Improvement Plan, (4) basic transportation needs are served by the use of local transportation funds exclusively for improving transit, and (5) yearly incremental reductions for TCMs were identified. Another comment expressed concern over the nonattainment area boundaries; this concern will be addressed in a separate rulemaking action. Some comments urged EPA to impose Federal funding limitations; these limitations have been proposed in a separate rulemaking action.

*I/M*

EPA received comments from the ARB on its February 3, 1983 proposal to require submittal of the ten elements for implementation of an I/M program prior to approval of the 1982 plans. The comments suggested that the I/M program be approved with subsequent submittal of the ten elements according to the I/M implementation schedule. As discussed in the BACKGROUND portion of this notice, EPA is not taking final action on the I/M portion of the 1982 SIP revision. EPA will respond to these comments when it does take final action.

**EPA Actions**

*Introduction*

This notice contains a series of actions for selected portions of the 1982 SIP revisions rather than a single action. The following actions are taken for the identified portions of the plans indicated below:

1. Approval where the portion of the plan under consideration meets all requirements;

2. As noted in the **"Background"**, **"Supplementary Revisions"**, and **"Public Comments"** sections of this notice, EPA is not acting on several portions of the 1982 SIP revisions. EPA intends to take action on these portions in separate **Federal Register** notices.

Based on EPA's review of the draft and final 1982 $O_3$ and CO SIP revisions and consideration of public comments, EPA takes final action on the South Coast Air Basin, Ventura County, Fresno County and Sacramento Metropolitan Area nonattainment plans to approve or conditionally approve all portions of the plans (except those portions indicated below) under Part D of the CAA and incorporate them into the California SIP under Section 110 of the CAA since they update the SIP data base, provide new control measures which are needed to attain the NAAQS, and meet other specific requirements of Part D of the Act:

*Approved Portions* (Except for those portions for which EPA is not acting as noted below.)

*South Coast Air Basin* ($O_3$, CO).

*Ventura County* ($O_3$)—Except for the following control strategy measures: R–38/N–16, "No Use Day"; R–39/N–17, "No Drive Day"; R–40, "No Spray Day"; R–41/N–18, "Stationary Source Curtailment".

The measures cited above are being approved as part of the Emergency Episode Plan for Ventura County.

*Fresno County* ($O_3$, CO).

*Sacramento Metropolitan Area* ($O_3$).

*40 CFR Part 52 Rescissions*

EPA takes final action in this notice to rescind from 40 CFR 52.232 the condition of approval for the Fresno County 1979 $O_3$ and CO plan and the Sacramento Metropolitan Area 1979 $O_3$ plan which required TCM resource commitments. EPA also takes final action to rescind the condition of approval for the Ventura County 1979 $O_3$ plan which required the submittal of a revised film coatings rule.

*No Action*

EPA is not acting at this time on the attainment/RFP demonstration portions of the plans contained in this notice because it is holding open the question of the adequacy of these demonstrations. EPA is performing an in-depth evaluation of what control measures would be required to demonstrate attainment of the ozone and/or CO NAAQS.

EPA is deferring action to approve emissions reductions claimed for control measure P6(a), "New Source Review Program", contained in the South Coast Air Basin plan. Action is withheld pending EPA approval of an accounting procedure which can identify with a high degree of reliability the actual change in emissions associated with the measure.

EPA is also not acting on the I/M portion of the plans contained in this notice. Full plan approval will be addressed when EPA takes final action on I/M. EPA is also not acting on the I/M portion of the 1979 SIP for Fresno County. Until final action is published to remove the existing disapproval of the 1979 plan regarding submittal of an acceptable schedule for I/M, the prohibition on the construction of major new or modified stationary sources of $O_3$ and CO remains in effect in Fresno County.

EPA will address these portions of the plans in separate Federal Register actions.

**Regulatory Process**

This action is effective August 29, 1984. Under the CAA, any petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 28, 1984. This action may not be challenged later in procedures to enforce its requirements.

The Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (see 46 FR 8709). The disapproval of emission reduction credits for certain measures in the Ventura County plan also has no substantial impact because it does not impose any construction for funding restrictions. For the same reasons, this action is not major under Executive Order 12291. The action has been submitted to the OMB for review. Any comments from OMB to EPA and any response are available for public inspection in the docket.

**Authority:** Secs. 110, 129, 171–178 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410, 7501 to 7508 and 7601(a)).

**List of Subjects in 40 CFR Part 52**

Intergovernmental relations, Air pollution control, Particulate matter, Ozone, Sulfur oxide, Nitrogen oxides, Hydrocarbons, Carbon monoxide.

Dated: July 25, 1984.

**William D. Ruckelshaus,**

*Administrator.*

**PART 52—[AMENDED]**

Subpart F of Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

**Subpart F—California**

1. Section 52.220 paragraph (c) is amended by revising paragraphs (142) and (143) and adding paragraphs (144), (145), (146) and (147) to read as follows:

**§ 52.220 Identification of plan.**

* * * * *

(c) * * *

(142) The 1982 ozone and CO Air Quality Plan for the Sacramento nonattainment area submitted on January 10, 1984 by the Governor's designee, except for the attainment and RFP demonstration portions of the ozone plan.

(143) Revisions to the 1982 ozone and CO Air Quality Plan for the Sacramento nonattainment area submitted on February 10, 1984.

(144) The 1982 Ozone and CO Air Quality Management Plan for the South Coast Air Basin submitted on December 31, 1982 and subsequently amended on February 15, and June 28, 1984 by the Governor's designee, except for:

(i) The attainment and RFP demonstration portions of the plan.

(ii) The emission reduction credit for the New Source Review control measure.

(145) The 1982 Ozone Air Quality Management Plan for Ventura County submitted on December 31, 1982 by the Governor's designee except for the attainment and RFP demonstration portions of the plan.

(146) The 1982 Ozone and CO Clean Air Plan for the Fresno nonattainment area submitted on December 1, 1982 by the Governor's designee, except for the attainment and RFP demonstration portions of the plans.

* * * * *

2. Section 52.232 paragraph (a) is amended by revising paragraph (11)(ii) and revoking paragraph (11)(iii) to read as follows:

**§ 52.232 Part D conditional approvals.**

(a) * * *

(11) * * *

(ii) For ozone: By (120 days after publication of this notice), the State must provide either (A) an adequate demonstration that the following regulations represent RACT, (B) amend the regulations so that they are consistent with the CTG, or (C) demonstrate that the regulations will result in VOC emission reductions which are within five percent of the reductions which would be achieved through the implementation of the CTG recommendations:

**Yolo-Solano County APCD**

Rule 2.24 "Solvent Cleaning Operations (Degreasing)".

**Ventura County APCD**

Rule 74.7 Valves and Flanges at Petroleum Refineries and Chemical Plants.

(iii) [Reserved]

* * * * *

3. Section 52.269 is amended by adding paragraph (e) as follows:

**§ 52.269 Control strategy and regulations: Photochemical oxidants (hydrocarbons) and carbon monoxide.**

* * * * *

(e) The emission reduction credits for the following control measures contained in Ventura County's 1982 Ozone nonattainment area plan, submitted by the Governor's designee on December 31, 1982, are disapproved since the control measures are of an intermittent and voluntary nature and are therefore not approvable under Sections 110(a)(2)(F)(v) and 123 of the Clean Air Act: R–38/N–16, "No Use Day"; R–39/N–17, "No Drive Day"; R–40, "No Spray Day"; R–41/N–18 "Stationary Source Curtailments."

* * * * *

[FR Doc. 84–19973 Filed 7–27–84; 8:45 am]

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**40 CFR Part 52**

**[OAR–FRL–2641–7]**

## Approval and Promulgation of Implementation Plans; Massachusetts; Permanent Sulfur-in-Fuel Revision for ATF Davidson Company in Northbridge

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is today approving a revision to the Massachusetts State Implementation Plan (SIP) which will allow ATF Davidson Company in Northbridge, Massachusetts to permanently burn 2.2% sulfur fuel oil. To qualify for this sulfur relaxation, the source has already implemented energy conservation measures which have resulted in a 65% reduction in fuel-oil consumption. The burning of less expensive, higher sulfur content fuel oil will provide this source with some of the capital needed to implement additional permanent energy conservation measures. This revision will have a net air quality benefit.

**EFFECTIVE DATE:** July 30, 1984.

**ADDRESSES:** Copies of the Massachusetts submittal, which is incorporated by reference, are available for public inspection during regular business hours at the Environmental Protection Agency, Region I, Room 2313, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20460; and the Department of Environmental Quality Engineering, 8th Floor, One Winter Street, Boston, Massachusetts 02108.

**SUPPLEMENTARY INFORMATION:** On April 14, 1982 (47 FR 15790) EPA approved a temporary sulfur-in-fuel relaxation for ATF Davidson Company in Northbridge, Massachusetts to burn 2.2% sulfur-in-fuel oil until December 1, 1983. During

this temporary relaxation, ATF Davidson Company achieved a 65% reduction in fuel oil consumption through the installation of energy conservation measures. A reduction of 56% or greater in fuel oil consumption qualifies the source to apply for a permanent sulfur-in-fuel relaxation. Therefore, on November 16, 1983, Massachusetts submitted a SIP revision to allow ATF Davidson Company to permanently burn 2.2% sulfur fuel oil in their boilers. ATF Davidson Company will use the financial benefit accrued from the continued burning of 2.2% sulfur fuel oil to complete permanent energy conservation measures, further reducing annual emissions of sulfur dioxide ($SO_2$).

On December 16, 1980 (45 FR 82675) EPA proposed approval of all temporary and permanent sulfur-in-fuel oil relaxations and specified the criteria which each source must submit. ATF Davidson Company's revision meets those criteria. Therefore, EPA is today taking final action on ATF Davidson Company's permanent relaxation.

**Background**

This permanent sulfur-in-fuel revision is being approved pursuant to the provisions of Regulation 310 CMR 7.19, "Interim Sulfur-in-Fuel Limitation for Fossil Fuel Utilization Facilities Pending Energy Conservation Measures", approved by EPA on March 19, 1981 (46 FR 17551).

The regulation specifies the requirements and conditions which sources must meet in order to qualify for a permanent sulfur-in-fuel relaxation after a temporary sulfur-in-fuel relaxation, and the procedures which the Massachusetts Department of Environmental Quality Engineering (DEQE) must use to determine that the emissions will not violate any National Ambient Air Quality Standards (NAAQS). Only sources rated at less than 250 million Btu per hour heat input, which are currently burning residual fuel oil, and have reduced their consumption of fuel oil by 56% during the temporary sulfur-in-fuel relaxation are eligible for a permanent sulfur-in-fuel relaxation. Further details on the requirements of Regulation 310 CMR 7.19 and EPA's reasons for approving it are discussed in the December 16, 1980 (45 FR 82675) Notice of Proposed Rulemaking (NPR).

**EPA Evaluation**

EPA has determined that the DEQE has approved ATF Davidson Company's request to permanently burn higher sulfur fuel oil in accordance with the provisions of Regulation 310 CMR 7.19, and agrees that no air quality standards will be violated. A screening analysis conducted by the State indicated a $SO_2$ emissions impact at the Rhode Island border. Rhode Island has confirmed that this impact will not violate Rhode Island's PSD increment for $SO_2$.

By instituting permanent energy conservation measures, this source has reduced their fuel oil consumption by 65%, and their $SO_2$ emissions by 23% on an annual basis, which resulted in a benefit to air quality.

EPA received no comments on its December 16, 1980 (45 FR 82675) proposal to approve individual source sulfur-in-fuel relaxations, and DEQE received no comments on its proposed approval of the permanent sulfur-in-fuel relaxation at the ATF Davidson Company's facility in Northbridge. Since the public has had these other opportunities to comment, and since EPA published a generic NPR for all such sulfur relaxations, EPA is taking final action today to approve this SIP revision. EPA believes that publishing a new NPR is unnecessary. Since this source has acted in good faith and has implemented measures which have resulted in positive air quality benefits, EPA finds good cause for making this action effective immediately.

**Final Action**

EPA is approving the permanent sulfur-in-fuel relaxation revision for ATF Davidson Company, in Northbridge, Massachusetts.

Under 5 U.S.C. 605(b), the Administrator has certified that this action will not have significant economic impact on a substantial number of small entities (see 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

**List of Subjects in 40 CFR Part 52**

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide Hydrocarbons, and Intergovernmental Relations.

**Authority:** Secs. 110(a) and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7410(a) and 7601(a)).

**Note.—Incorporation by Reference for the State Implementation Plan for the State of Massachusetts was approved by the Director of the Federal Register on July 1, 1982.**

Dated: July 25, 1984.

**William D. Ruckelshaus,**

*Administrator.*

**PART 52—[AMENDED]**

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

**Subpart W—Massachusetts**

Section 52.1120, paragraph (c) is amended by adding paragraph (62) as follows:

**§ 52.1120 Identification of plan.**

* * * * *

(c) * * *

(62) A revision submitted on November 16, 1983 allowing the burning of 2.2% sulfur content fuel oil at the ATF Davidson Company in Northbridge, Massachusetts.

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**40 CFR Part 81**

**[SC-009; OAR-FRL-2640-7]**

## Designation of Areas for Air Quality Planning Purposes; South Carolina; Redesignation of Particulate Nonattainment Area

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** EPA today announces approval of a request by the South Carolina Department of Health and Environmental Control (SCDHEC) that the Charleston area in the vicinity of Pittsburg Avenue and Meeting Street be redesignated as attainment of the primary particulate standard.

**DATES:** This action will be effective on September 28, 1984 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

**ADDRESSES:** Copies of the material submitted by South Carolina may be examined during normal business hours at the following locations:

Air Management Branch, Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365.

Bureau of Air Quality Control, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201.

In addition, a Technical Support Document providing further discussion on the issues presented in this notice may be examined at the above locations.

**FOR FURTHER INFORMATION CONTACT:** Janet E. Hayward, EPA Region IV, Air Management Branch, at the above address or phone 404/881-3286 (FTS 257-3286).

**SUPPLEMENTARY INFORMATION:** On January 12, 1983, the South Carolina Department of Health and Environmental Control (SCDHEC) formally requested that the area of Charleston in the vicinity of Pittsburg Avenue and Meeting Street, designated as nonattainment of the primary total suspended particulate (TSP) standard, be redesignated as attainment. The request was supported by eight consecutive quarters of air quality data (January 1982 through December 1983) from the Pittsburg Avenue (Pitt 2) particulate monitor. The data showed no violations of the primary national ambient air quality standards for particulate matter. The annual geometric mean concentrations for 1982 and 1983 were 51.0 and 51.5 micrograms per cubic meter, respectively. These values were well below the primary standard of 75 micrograms per cubic meter (annual geometric mean). The data indicated no exceedances of the maximum 24-hour concentration of 260 micrograms per cubic meter.

The SCDHEC also submitted verification that the State Implementation Plan (SIP) for the Charleston particulate nonattainment area had been implemented. The plan specified a control strategy which ensured the attainment of the primary particulate standards. The control strategy included a special operating permit for Macalloy Corporation, the major facility in the area, which was issued on April 23, 1981. The EPA had fully approved that portion of South Carolina's SIP pertaining to the Pittsburg—Meeting Street particulate nonattainment area on December 16, 1981 (46 FR 61268).

### Action

EPA today announces the redesignation of the Charleston area in the vicinity of Pittsburg Avenue and Meeting Street as attainment of the primary standard for particulate matter. This action is being taken without prior proposal because this redesignation is noncontroversial and EPA anticipates no comments on it. The public should be advised that this action will be effective 60 days from the date of this Federal Register notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 28, 1984. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

Under 5 U.S.C. Section 605(b), the Administrator has certified that area redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

### List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107 of the Clean Air Act (42 U.S.C. 7407))

Dated: July 23, 1984.

**William D. Ruckelshaus,**

*Administrator.*

## PART 81—[AMENDED]

Part 81 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

### Subpart C—Section 107 Attainment Status Designation

In § 81.341, the attainment status designation table for total suspended particulates (TSP) is amended by revising the first entry for Charleston County to read as follows:

**§ 81.341 South Carolina.**

SOUTH CAROLINA—TSP

| Designated area | Does not meet primary standard | Does not meet secondary standard | Cannot be classified | Better than national standards |
|---|---|---|---|---|
| • • • • | • | • | | • |
| That portion of Charleston County within the section of Charleston just west of south end of US Naval Station | ..... | X | ..... | ..... |
| • • • • | • | • | | • |

[FR Doc. 84-19695 Filed 7-27-84; 8:45 am]

BILLING CODE 6560-50-M

## 40 CFR Part 271

**[OSWER-FRL-2641-6]**

### Alabama: Hazardous Waste Management Program; Reversion of Interim Authorization

**AGENCY:** U.S. Environmental Protection Agency.

**ACTION:** Notice of reversion of interim authorization to operate a hazardous waste management in lieu of the Federal program.

**SUMMARY:** This notice announces that Phase I of Interim Authorization under section 3006 of RCRA for the State of Alabama will revert to EPA on August 1, 1984. The State of Alabama had requested a further extension beyond the July 31, 1984, deadline previously granted for submission of the State's complete application for Final Authorization of the hazardous waste management program (48 FR 44537, September 29, 1983). The Alabama Department of Environmental Management (ADEM) is not able to amend its hazardous waste management regulations to make them consistent and equivalent to the Federal regulations by July 31, 1984. In order for an application for Final Authorization to be considered complete, all laws and regulations in that application must be lawfully adopted.

EPA and ADEM plan to enter into a Cooperative Arrangement in order to avoid duplicative regulatory requirements. This arrangement will also maximize the efficient use of State and EPA resources, minimize the disruption of the ADEM program, and reduce confusion in the regulated community.

This Cooperative Arrangement will identify the respective responsibilities of both EPA and ADEM in implementing the federal hazardous waste program. EPA will retain regulatory responsibility for the federal program, while ADEM will be responsible for assisting EPA in administering the federal program and for the administration of the State program. A copy of the Cooperative

Arrangement may be obtained from the contact person listed below as soon as it becomes available.

**EFFECTIVE DATE:** August 1, 1984.

**FOR FURTHER INFORMATION CONTACT:** James H. Scarbrough, Chief, Residuals Management Branch, Air and Waste Management Division, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365, (404) 881-3016.

**SUPPLEMENTARY INFORMATION:**

**Background**

According to the provisions of 40 CFR 271.137, interim authorization in a state without all components of Phase II, will terminate on the last day of the sixth month after the effective date of the last component of Phase II (July 31, 1983). This regulation allows a regional administrator to extend this deadline for good cause. Two extensions have been previously granted to Alabama. For the reasons stated in the Summary section above, Region IV has determined that a further extension is not warranted.

Alabama previously committed to the following schedule for applying for Final Authorization:

April 1, 1984—Submit draft application for Final Authorization.

July 31, 1984—Submit complete application.

**Financial Responsibility**

The Regional Administrator has determined that the state financial responsibility mechanisms are at least equivalent to the financial responsibility mechanisms specified in 40 CFR Parts 264 and 265 Subpart H. All state financial responsibility mechanisms established in compliance with Sections 4-256.15 and 4-255.15 of the Alabama Hazardous Waste Management Regulations will be accepted in lieu of federal financial mechanisms pursuant to 40 CFR 264.149 and 265.149.

**Decision**

Alabama submitted a draft application for Final Authorization on March 23, 1983. The application was found to be of good quality in general, but the State's regulations contain many minor deficiencies and some major inconsistencies when compared to those of the federal program. Procedural constraints, such as public notice requirements and comment periods, prevent the State from amending Alabama's regulations prior to the July 31, 1984, deadline for submission of a complete application for Final Authorization. Therefore, Interim Authorization under Section 3006 of RCRA must revert to EPA on August 1, 1984.

**Regulatory Flexibiltiy Analysis**

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this notice will not have a significant economic impact on a substantial number of small entities. This notice merely alerts the public's attention to the reversion of Alabama's hazardous waste program. It does not impose any new burdens on small entities. This notice, therefore does not require a regulatory flexibility analysis.

**Executive Order 12291**

The Office of Management and Budget has exempted this notice from the requirements of Section 3 of Executive Order 12291.

**List of Subjects in 40 CFR Part 271**

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

**Authority**

This notice is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b), and EPA delegation 8-7.

Dated: July 23, 1984.

**John A. Little,**

*Deputy Regional Administrator.*

[FR Doc. 84-19976 Filed 7-27-84; 8:45 am]

BILLING CODE 6560-50-M

## GENERAL SERVICES ADMINISTRATION

### 41 CFR Part 105-735

**[ADM 7900.9 CHGE 4]**

### Changes to Provisions of the GSA Standards of Conduct

**AGENCY:** Office of Ethics, GSA.

**ACTION:** Final rule.

**SUMMARY:** This regulation makes minor revisions to certain provisions of the GSA Standards of Conduct order to clarify further the directive.

**EFFECTIVE DATE:** July 30, 1984.

**FOR FURTHER INFORMATION CONTACT:** Saul Katz, Director, Office of Ethics (AK), The General Services Administration, 18th and F Streets NW., Washington, DC 20405 (202-566-1212).

**List of Subjects in 41 CFR Part 105-735**

Administrative practice and procedure, Conflict of interest, Reporting and recordkeeping requirements.

Accordingly, GSA amends Part 105-735 as follows:

## PART 105-735—STANDARDS OF CONDUCT

### Subpart 105-735.1—General

1. Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. (c); E.O. 11222, 3 CFR 1965 Supp.; 5 CFR 735.104.

2. Section 105-735.105 is revised to read as follows:

**§ 105-735.105 Equal Opportunity.**

GSA personnel shall scrupulously adhere to the GSA program of equal opportunity regardless of race, color, religion, sex, age, handicap, national origin, political affiliation, or marital status.

### Subpart 105-735.2—Standards of Conduct for GSA Personnel

3. Section 105-735.201 is revised to read as follows:

**§ 105-735.201 Proper conduct of official activities.**

(a) GSA personnel shall observe the requirements of courtesy, consideration and promptness in dealing with the public.

(b) GSA personnel shall avoid any action that might result in or create the appearance of:

(1) Using public office for private gain;

(2) Giving preferential treatment to any person;

(3) Impeding Government efficiency or economy;

(4) Losing complete independence or impartiality;

(5) Making a Government decision outside official channels;

(6) Affecting adversely the confidence of the public in the integrity of the Government.

4. Section 105-735.204 is amended by revising paragraph (a) as follows:

**§ 105-735.204 Outside employment.**

(a) GSA personnel who propose to engage in outside employment shall report that fact in writing to their supervisor prior to accepting such employment, and shall supply such additional details concerning the nature of that employment as may be required by the supervisor (or a Deputy Standards of Conduct Counsellor) to assist in determining whether the employment is compatible with the full

and proper discharge of the employee's official duties. If the supervisor determines that the outside employment is prohibited by this section, the supervisor shall so advise the employee and inform the employee of the consequences of such employment in writing. If the supervisor determines that the outside employment is not prohibited by this section the supervisor shall so advise the employee by noting his or her concurrence on the employee's written proposal and returning it to the employee. Deputy Standards of Conduct Counsellors are available to assist supervisors in making such determinations. Activities listed in paragraph (d) of this section are exceptions to this rule and require no notification.

* * * * *

5. Section 105–735.206 is revised to read as follows:

**§ 105–735.206 Use of Government facilities, property, and staff.**

GSA personnel shall not directly or indirectly through an agent or intermediary, take or dispose of, or allow the use, taking, or disposing, of Government property, facilities, or services, of any kind, including property leased to the Government, for other than officially approved activities. Government facilities, property, and staff (such as stationery, stenographic and typing assistance, or duplication and chauffeur services) shall be used only for officially approved activities. GSA personnel have a positive duty to protect and conserve Government property.

6. Section 105–735.217 is revised to read as follows:

**§105–735.217 Purchase of Government property.**

GSA personnel shall not purchase for themselves or for any other person, either directly or indirectly through an agent or intermediary, Government property, personal or real, being sold by GSA. This prohibition also applies to any member of their immediate household, and may be waived in writing by the Administrator in appropriate cases. This prohibition does not apply to the purchase of items sold by GSA-operated stores of a retail nature and offered to the general public at predetermined fixed prices.

7. Section 105–735.218 is revised to read as follows:

**§105–735.218 Purchase of real estate.**

GSA personnel, whose official duties are in any way related to the acquisition or disposal of real estate or interests therein or to the maintenance or improvement of real estate, shall not, directly or indirectly through an agent or intermediary, purchase any real estate or interest therein except for occupancy as their personal residence unless a full disclosure of the proposed transaction is made in writing to the appropriate supervisor who shall consult with the Special Counsel to the Administrator for Ethics (regional counsel in a region), and the prior written approval of the appropriate supervisor is obtained. A copy of the approval shall be promptly furnished by the supervisor to the Special Counsel to the Administrator for Ethics.

8. Section 105–735.221 is revised to read as follows:

**§105–735.221 Use of official telephones.**

GSA personnel shall not use Federal Telecommunications System or commercial telephone facilities for long-distance calls unless such calls are for officially approved purposes.

Dated: July 19, 1984.

**Ray Kline,**

*Acting Administrator of General Services.*

[FR Doc. 84–19951 Filed 7–27–84; 8:45 am]

BILLING CODE 6820–BR–M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Parts 1 and 97

**[PR Docket No. 83–27; RM–4229; FCC 84–324]**

### Use of Volunteers To Prepare and Administer Operator Examinations in the Amateur Radio Service

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document amends the FCC rules regarding the preparation and administration of amateur radio operator examinations above the Novice Class to permit Volunteer-Examiner Coordinators (VEC's) and volunteer examiners to design the examinations instead of the FCC. This amendment will relieve the FCC of the administrative burden of designing the examinations and permit VEC's and examiners more latitude in preparing and administering examinations. This document also amends certain other FCC rules regarding the Amateur Radio Service volunteer examiner program to clarify them.

**EFFECTIVE DATE:** August 31, 1984.

**FOR FURTHER INFORMATION CONTACT:** John J. Borkowski, Private Radio Bureau, Washington, D.C. 20554, (202) 632–4964.

**SUPPLEMENTARY INFORMATION:**

**List of Subjects**

*47 CFR Part 1*

Radio, Telecommunications.

*47 CFR Part 97*

Radio.

**Memorandum Opinion and Order**

In the Matter of Amendment of parts 1 and 97 of the Commission's Rules to allow the use of volunteers to prepare and administer operator examinations in the Amateur Radio Service (PR Docket No. 83–27, RM–4229).

Adopted: July 12, 1984.
Released: July 20, 1984.

By the Commission: Commissioner Rivera absent.

1. *Background.* On September 22, 1983, the Commission adopted a *Report and Order* in this proceeding, 48 FR 45652 (October 6, 1983) implementing legislation (47 U.S.C. 154(f)(4)) passed by Congress on September 13, 1982 (Public Law 97–259) authorizing the Commission to accept the services of volunteers to prepare and administer radio operator examinations in the Amateur Radio Service (ARS).[1] The *Report and Order* established a program effective December 1, 1983 to accept the services of volunteers to prepare and administer amateur operator examinations above the Novice Class.

2. Two Petitions for Reconsideration have been filed. One, by the Capitol Hill Amateur Radio Society (CHARS), sought reconsideration of the requirement that the FCC design the examinations, as well as certain rule modifications of an editorial nature.[2] The other, by David B. Popkin (Popkin), sought clarification of the rules regarding examination identifier codes and reconsideration of the identifier code rules to assign each Volunteer-Examiner Coordinator (VEC) a single nationally unique identifier for all testing sessions each quarter year. Popkin also filed a later Petition which sought reconsideration of Commission action in an *Errata* in this proceeding deleting a "one continuous minute" requirement for telegraphy examinations.[3]

[1] The *Report and Order* was modified by two subsequent *Errata* at 48 FR 49244 (October 25, 1983) and 49 FR 1375 (January 11, 1984).

[2] CHARS also sought an editorial change in 47 CFR 97.33. This request is resolved in the *Report and Order* in PR Docket No. 84–365, FCC 84–322, adopted July 12, 1984.

[3] *Errata*, PR Docket No. 83–27, 49 FR 1375 (January 11, 1984). Popkin's second Petition will be treated as

Continued

3. *Examination design.* In the *Report and Order* in this proceeding we stated that the FCC would design each written examination element by choosing questions from the question pool. (See *Report and Order, supra,* at para. 54.) Accordingly, we adopted rules mandating that written examinations would be designed by the FCC (§§ 97.27(d) and 97.517). CHARS recommended in its Petition for Reconsideration that we instead permit examiners themselves to design written examinations from PR Bulletin 1035 B, C or D.

4. In its original comments, the American Radio Relay League, Inc. (the ARRL) proposed that VEC's choose the particular questions for a given written examination based upon an FCC-specified sampling algorithm. The ARRL maintained that VEC question choice would allow a multiplicity of examinations that would maximize examination integrity.

5. We retained the examination design function in the *Report and Order* out of an abundance of caution to provide an additional method of minimizing any potential VEC conflict of interest. We believe that examination design is a sensitive matter, requiring constraints to assure that those with potential conflicts of interest, particularly amateur publishers and manufacturers, do not abuse the system to compromise examination integrity. However, upon reconsideration, we are persuaded that the primary mechanisms we established which we discussed at paragraphs 34–37 of the *Report and Order* (including § 97.509 of the Rules) are sufficient to prevent VEC conflict of interest situations and our retention of the examination design function is unnecessary. Similarly, the rules we adopted regarding examiner conflicts of interest should be equally sufficent. *See* 47 CFR § 97.31(b).

6. Therefore, we will grant CHARS' petition by eliminating the requirement that the FCC design written examination Elements 3, 4(A) and 4(B). However, rather than immediately permitting volunteer examiners to design amateur operator written examinations above the Novice Class, we believe that a two-year transition period during which only VEC's would design these examinations would best facilitate delegation of this examination design function. VEC's already have certain other parallel obligations including printing, assembling and distributing written examinations. Moreover, VEC's have a responsibility to exercise quality control in the choice of examination questions (and, for that matter, in the choice of answers and multiple-choices) pursuant to § 97.521 of the Commission's rules. Consequently, after this initial two-year period we will allow volunteer examiners and VEC's to design written examinations above the Novice Class.[4]

7. The "Algorithm" guiding question choice by VEC's and volunteer examiners will be the categories for each written examination element in the syllabus (PR Bulletin 1035) taken together with the number of questions specified for each category in the PR Bulletin for the appropriate examination element (PR Bulletin 1035 B, C or D). The questions should be chosen logically and to avoid concentration on one topic at the expense of another. Questions chosen for applicants who are handicapped should take the particular disability into account (for example, a blind person should not be given a test that includes a question involving a diagram). In order to preserve examination integrity VEC's and volunteer examiners should maximize the number of available examinations, frequently change the questions, and assure that the same set of examination questions is not used in successive examination sessions.

8. *Examination identifier codes.* Popkin sought clarification as to the method of choosing examination identifier codes by VEC's pursuant to § 97.523, raising the prospect that it would not be possible for VEC's to choose an identifier not in use elsewhere in the United States, or even after a limited period, to choose one which had not been chosen before. Popkin petitioned that each VEC be assigned one identifier code every quarter year as a sufficient method of confirming temporary use.

9. It is true that the limited number of identifier codes would not permit unique identification of each examination session. The primary purpose of these identifying suffixes are to assure that an amateur operator is not inadvertently the object of FCC enforcement action when legitimately operating under temporary authority pending receipt of an upgraded license. Upon reconsideration, we believe we can achieve this objective more simply by designating four discrete temporary identifiers to be appended as a suffix to a licensee's old call sign for each class of operator license to which an amateur licensee may be upgraded: KT for Technician Class, AG for General Class, AA for Advanced Class and AE for Amateur Extra Class. Thus, we grant Popkin's petition in part. Section 97.523 is deleted, and the rules are amended to include this simpler system of temporary identification.

10. *Telegraphy examinations.* Popkin also petitioned that we add a requirement that applicants must demonstrate an ability to send or receive one continuous minute of telegraphy at the prescribed speed to pass a telegraphy examination. Such a requirement was erroneously included in the rules in the *Report and Order,* contradicting the text, and was later removed by an *Errata,* 49 FR 1375 (January 11, 1984). Popkin subsequently contended that removal of this requirement could lead to telegraphy examinations that were too easy or too difficult, and that lack of telegraphy examination uniformity would create unwarranted anxiety for applicants.

11. As we stated in the *Report and Order,* we wish to give examiners sufficient latitude to formulate telegraphy examinations within the framework of the rule requirements as they stood prior to implementation of the volunteer examiner program. We had deleted the "one continuous minute" requirement from the ARS rules (former § 97.29(c)) by *Order* released March 16, 1976 (FCC 76–214), on the basis that there are several alternative methods of proving competency in sending and receiving Morse Code, including message content examinations, and that it is in the public interest to have the option of utilizing one or more of these alternate methods. This rationale applies equally to the preparation and administration of telegraphy examinations by volunteers. Therefore, we will deny that part of Popkin's petition which sought reinstatement of a requirement to demonstrate an ability to send or receive telegraphy for one continuous minute at the prescribed speed in order to pass a telegraphy examination.

12. *Miscellaneous.* We have, *sua sponte,* revised certain rules in this document in order to: (1) Clarify that General Class licensees may only administer examinations for Novice Class operator licenses; (2) comport the telegraphy examination requirements in § 97.27(b) with those in § 97.29(c), and to more closely track amateur international telegraphy requirements in both sections; (3) correct typographical errors

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a supplement to his original Petition for Reconsideration pursuant to § 1.429(d) of the Commission's rules.

[4] To the extent that an applicant pays for any written examination designed by a VEC or by volunteer examiners, this payment will be considered part of the total allowable reimbursement (currently $4) permitted by 47 U.S.C. 154(f)(4)(J). *See also Notice of Proposed Rule Making,* PR Docket No. 84–285, 49 FR 10316 (March 20, 1984).

in § 97.27(a); (4) clarify that questions chosen for written examinations must be taken verbatim from FCC approved lists; (5) extend the period of authorized temporary operation after having passed an amateur operator examination;[5] (6) clarify that the operative section authorizing temporary operation is § 97.35 of the Commission's rules; and (7) comport §§ 97.503, 505, 509 and 511 with the rules regarding VEC qualifications in § 97.507.

13. Accordingly, it is ordered effective August 31, 1984, that Parts 1 and 97 of the Commission's Rules (47 CFR Parts 1 and 97) are amended as shown in the Appendix attached hereto. The authority for this action is found in sections 4(i) and 303 of the Communications Act of 1934, as amended (47 U.S.C. 154(i) and 303), and in § 1.429 of the Commission's Rules (47 CFR 1.429).

14. It is further ordered that the Petition for Reconsideration of the Capitol Hill Amateur Radio Society is granted in part consistent with this *Memorandum Opinion and Order.*

15. It is further ordered that the Petition for Reconsideration of David B. Popkin and its supplement is granted in part and denied in part consistent with this *Memorandum Opinion and Order.*

16. It is further ordered that this proceeding is terminated.

17. For further information about this document, contact John J. Borkowski (202) 632-4964.

Federal Communications Commission.

**William J. Tricarico,**

*Secretary.*

**Appendix**

Parts 1 and 97 of the Commission's Rules (47 CFR Parts 1 and 97) are amended as follows:

**PART 1—[AMENDED]**

1. Paragraph (e) of § 1.925 is revised to read:

**§ 1.925 Application for special temporary authorization, temporary permit or temporary operating authority.**

* * * * *

(e) Unless the FCC otherwise prescribes, an applicant already licensed in the Amateur Radio Service, upon successfully completing the amateur radio operator examination(s) required for a higher class, may operate his/her amateur radio station consistent with the rights and privileges of that higher class for a period of one year from the date of the most recently completed examination(s) for that operator class in accord with the provisions of § 97.35.

**PART 97—[AMENDED]**

2. The Table of Contents for Part 97 is amended as follows:

a. The heading of § 97.517 is revised to read "Examinations."

b. The heading of § 97.523 is removed.

3. Paragraphs (a), (b), and (d) of § 97.27 are revised to read:

**§ 97.27 Examination preparation.**

(a) Element 1(A) shall be prepared by the examiner. The preparer must hold an Amateur Extra, Advanced or General Class operator license. The test shall be such as to prove the applicant's ability to transmit correctly by hand (key, straight key, or, if supplied by the applicant, any other type of hand operated key such as a semi-automatic or electronic key, but not a keyboard keyer) and to receive correctly by ear texts in the international Morse code at a rate of not less than five (5) words per minute during a five-minute test period. Special procedures may be employed in cases of physical disability. (See § 97.26(g).) The applicant is responsible for knowing and may be tested upon the twenty-six letters of the alphabet, the numerals 0–9, the period, the comma, the question mark, AR, SK, BT, and DN. (See § 97.29(c).)

(b) Elements 1(B) and 1(c) shall be prepared by the examiners or be obtained by the examiners from the VEC. The preparer must hold an Amateur Extra Class license. The test shall be such as to prove the applicant's ability to transmit correctly by hand (key, straight key, or, if supplied by the applicant, any other type of hand operated key such as a semi-automatic or electronic key, but not a keyboard keyer) and to receive correctly by ear texts in the international Morse code at not less than the prescribed speed during a five-minute test period. Special procedures may be employed in cases of physical disability. (See § 97.26(g).) The applicant is responsible for knowing and may be tested upon the twenty-six letters of the alphabet, the numerals 0–9, the period, the comma, the question mark, AR, SK, BT and DN. (See § 97.29(c).)

* * * * *

(d) Elements 3, 4(A) and 4(B) will be designed by the VEC. The VEC will select questions for each test from the appropriate list of questions approved by the Commission (either PR Bulletin 1035 B, C or D, latest date of issue). The VEC must select the appropriate number of questions from each category of the syllabus (PR Bulletin 1035) as specified in PR Bulletin 1035 B, C or D. These questions must be taken verbatim from the appropriate PR Bulletin in the form in which they have been approved by the Commission. Beginning January 1, 1987, volunteer examiners may also design Elements 3, 4(A) and 4(B) in accord with the provisions of this paragraph. Each VEC and each volunteer examiner is required to hold current examination designs in confidence.

* * * * *

4. Paragraphs (a) and (e) of § 97.28 are revised to read:

**§ 97.28 Examination administration.**

(a) Unless otherwise prescribed by the Commission, each examination for an amateur radio operator license (except the Novice Class operator license) shall be administered by three accredited (see § 97.515) volunteer examiners. An examiner administering telegraphy examination element 1(A) or written examination element 2 (in conjunction with an examination other than a Novice Class examination) or written examination element 3 must hold an Amateur Extra Class or Advanced Class radio operator license. An examiner administering telegraphy examination element 1(B) or 1(C) or written examination element 4(A) or 4(B) must hold an Amateur Extra Class radio operator license.

* * * * *

(e) When the candidate scores a passing grade on an examination element, the examiners (except for examinations for the Novice Class operator license) must issue a certificate of successful completion of the examination. This certificate may be used for a period of one year for examination credit for telegraphy elements 1(A), 1(B) or 1(C). (See § 97.25(b).)

* * * * *

5. Paragraph (b) of § 97.31 is revised to read:

**§ 97.31 Volunteer examiner requirements.**

* * * * *

(b) Any person who owns a significant interest in, or is an employee of, any company or other entity which is engaged in the manufacture or distribution of equipment used in connection with amateur radio transmissions, or in the preparation or distribution of any publication used in preparation for obtaining amateur

[5] We are doing this in order to account for the uncertainty about the amount of time it will take applications and associated paperwork to move from examiners to VEC's to the FCC.

station operator licenses, is ineligible to be a volunteer examiner for purposes of administering an amateur radio operator examination. However, a person who does not normally communicate with that part of an entity engaged in the manufacture or distribution of such equipment, or in the preparation or distribution of any publication used in preparation for obtaining amateur operator licenses, is eligible to be a volunteer examiner.

* * * * *

6. Section 97.35 is revised to read:

**§ 97.35 Temporary operating authority.**

Unless the FCC otherwise prescribes, an applicant already licensed in the Amateur Radio Service, upon successfully completing the amateur radio examination(s) required for a higher class, may operate an amateur radio station consistent with the rights and provileges of that higher class for a period of one year from the date of the most recently completed examination for that operator class provided that the applicant retains the certificate(s) for successful completion of the examination(s) (see § 97.28(e)) at the station location, provided that the applicant uses the identifier code of the new class of license for which the applicant has qualified (KT for Technician Class, AG for General Class, AA for Advanced Class and AE for Amateur Extra Class) as a suffix to the present call sign (see § 97.84), and provided that the FCC has not yet acted upon the application for a higher class of license.

7. Paragraph (f) of § 97.84 is revised to read:

**§ 97.84 Station identification.**

* * * * *

(f) When operating under the temporary operating authority permitted by § 97.35 with privileges which exceed the privileges for the class of operator license currently held by the licensee, a licensee must identify in the following manner:

(1) On radiotelephony, by the transmission of the station call sign, followed by the word "temporary", followed by the identifier code for the new class of license for which the licensee has qualified (see § 97.35).

(2) On radiotelegraphy, by the transmission of the station call sign, followed by the fraction bar DN, followed by the identifier code for the new class of license for which the licensee has qualified (see § 97.35).

* * * * *

8. Paragraph (a) of § 97.503 is revised to read:

**§ 97.503 Definitions.**

* * * * *

(a) *Volunteer-examiner coordinator* (VEC). An organization which has entered into an agreement with the Federal Communications Commission to coordinate the efforts of volunteer examiners in preparing and administering examinations for amateur radio operator license.

* * * * *

9. Section 97.505 is revised to read:

**§ 97.505 Applicability of rules.**

These rules apply to each organization that serves as a volunteer-examiner coordinator.

10. Section 97.509 is revised to read:

**§ 97.509 Conflicts of interest.**

An organization engaged in the manufacture or distribution of equipment used in connection with amateur radio transmissions, or in the preparation or distribution of any publication used in preparation for obtaining amateur radio station operator licenses may be a VEC only upon a persuasive showing to the Commission that preventative measures have been taken to preclude any possible conflict of interest.

11. Section 97.511 is revised to read:

**§ 97.511 Agreement required.**

No organization may serve as a VEC until that organization has entered into a written agreement with the Federal Communications Commission to do so. The VEC must abide by the terms of the agreement.

12. Section 97.517 is revised to read:

**§ 97.517 Examinations.**

A VEC will design (see § 97.27(d)), assemble, print and distribute written examination Elements 3, 4(A) and 4(B). A VEC may design, assemble, print and distribute examination Elements 1(B) and 1(C). A VEC is required to hold examination designs in confidence.

**§ 97.523 [Removed]**

13. Section 97.523 is removed and reserved.

[FR Doc. 84-20013 Filed 7-27-84; 8:45 am]
BILLING CODE 6712-09-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Parts 611, 672, and 675

[Docket No. 31230-251]

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

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Notice of inseason adjustments.

**SUMMARY:** NOAA announces the apportionment of amounts of Alaska groundfish to the domestic annual harvest (DAH) and total allowable level of foreign fishing (TALFF) under provisions of the fishery management plans (FMPs) for Groundfish of the Gulf of Alaska and for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area. Groundfish are apportioned according to the regulations implementing those FMPs. The intent of this action is to assure optimum use of these groundfish by allowing the domestic and foreign fisheries to proceed without interruption.

**EFFECTIVE DATE:** July 25, 1984.

**FOR FURTHER INFORMATION CONTACT:** Janet Smoker (Resource Management Specialist, Alaska Region, NMFS), 907-586-7229.

**SUPPLEMENTARY INFORMATION:**

**Background**

The total allowable catches (TACs) for various groundfish species are established by the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area; optimum yields (OYs) for Gulf of Alaska groundfish are established by the FMP for the Gulf of Alaska Groundfish Fishery. These FMPs were developed by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act and are implemented by rules appearing at 50 CFR 611.92 and 611.93, and at 50 CFR Parts 672 and 675. The TACs and OYs are apportioned initially among DAH, reserve, and TALFF. Each reserve amount, in turn, is to be apportioned to DAH and/or TALFF during the fishing year, under 50 CFR 611.92(c), 611.93(b), 672.20(c), and 675.20(b). In addition, surplus amounts of both components of DAH [DAP (domestic processed fish) and JVP (joint venture processed fish)] may be apportioned to TALFF during the fishing year under those same regulations.

The initial DAPs and JVPs for 1984 were based on the projected needs of the U.S. industry, as assessed by a mail survey sent by the Director, Alaska Region, NMFS (Regional Director) to fishermen and processors in September 1983. To consider changes in the extent to which U.S. industry will harvest and process groundfish, the Regional Director resurveyed the industry (including new participants) in March 1984. The results of that survey allowed estimation of amounts of DAH of groundfish to be harvested and/or processed during each half of 1984.

Anticipated shortfalls in DAH amounts were earlier alleviated by the release of reserves to DAP and JVP (49 FR 23355, June 6, 1984 and corrected 49 FR 27322, July 3, 1984). That action also reapportioned to TALFF 75 percent of the reserves in the Bering Sea and Aleutian Islands area, and up to 80 percent of the reserves for certain species-areas in the Gulf of Alaska.

This action announces apportionments of reserve and DAH amounts of groundfish from the Bering Sea and the Aleutian Islands areas and Gulf of Alaska that become available for DAH and TALFF in June 1984.

*1. Bering Sea and Aleutian Islands (BSA)*

Apportionments to DAH

The total catch of Atka mackerel by joint ventures is approaching the JVP of 19,430 mt. Several joint ventures have the operational ability and markets to continue targeting an Atka mackerel. In order to allow such targeting to continue, 14,340 mt of reserves are apportioned to the Atka mackerel JVP (see changes to Table 2). This effectively raises the TAC to 35,000 mt, which is 2,700 mt less than the equilibrium yield (EY) indicated by the latest resource assessment document for Bering Sea and Aleutian Islands groundfish.

Similarly, the total catch of pollock by joint ventures in the Aleutians area is approaching the JVP of 3,000 mt. To allow these joint ventures to continue, 3,750 mt of reserves is apportioned to the pollock JVP for the Aleutians area (see changes to Table 2).

Reserves and DAH retained

For all other species, reserves and DAH are retained until it can be determind what amounts, if any, are excess to the needs of U.S. fishermen.

TABLE 2.—1984 BERING SEA AND ALEUTIAN ISLANDS REAPPORTIONMENTS OF TAC

| | | Current [1] | Changes June | Revised |
|---|---|---|---|---|
| Pollock (Aleutians Area only: TAC=100,000; EY=100,000) | DAP | 500 | | 500 |
| | JVP | 3,000 | +3,750 | 6,750 |
| | RES | 3,750 | −3,750 | 0 |
| | TALFF | 92,750 | | 92,750 |
| Atka Mackerel (TAC=23,130; EY=25,500) | DAP | 230 | | 230 |
| | JVP | 19,430 | +14,340 | 33,770 |
| | RES | 2,470 | −14,340 | −11,870 |
| | TALFF | 1,000 | | 1,000 |
| Total (TAC=2,000,000) | DAP | 132,880 | | 132,880 |
| | JVP | 392,415 | +18,090 | 410,505 |
| | RES | 68,735 | −18,090 | 50,645 |
| | TALFF | 1,405,970 | | 1,405,970 |

[1] Table 2 was published at 49 FR 23357, June 6, 1984, and corrected at 49 FR 27322, July 3, 1984.
Note: Species amounts indicated as "RES" are for accounting purposes and equal TAC—[DAP—JVP—TALFF].

*2. Gulf of Alaska*

Reserves apportioned to TALFF

Deliveries of Pacific cod to domestic processors in the Central Regulatory Area have not approached the amount anticipated for the first six months of 1984. The entire remaining reserve of 742 mt and 3,000 mt of the DAP of Pacific cod in the Central Regulatory Area is not expected to be harvested by U.S. fishermen during the remainder of 1984. These amounts, therefore, are apportioned to TALFF (see changes to Table 3).

Reserves and DAH retained

For all other species and areas, reserves and DAH are retained until it can be determined what amounts, if any, are excess to the needs of U.S. fishermen.

TABLE 3.—1984 GULF OF ALASKA REAPPORTIONMENTS OF OY

| | | Current [1] | Changes June | Revised |
|---|---|---|---|---|
| Pacific Cod (Central Area: OY=33,540) | DAP | 11,700 | −3,000 | 8,700 |
| | JVP | 14,600 | | 14,600 |
| | RES | 742 | −742 | 0 |
| | TALFF | 6,498 | +3,742 | 10,240 |
| Total (OY=591,753) | DAP | 31,509 | −3,000 | 28,509 |
| | JVP | 248,041 | | 248,041 |
| | RES | 25,187 | −742 | 24,445 |
| | TALFF | 287,016 | +3,742 | 290,758 |

[1] Table 3 was published at 49 FR 23358, June 6, 1984.

**Comments and Responses**

In accordance with 50 CFR 611.92(c), 611.93(b), 672.20(c), and 675.20(b), aggregated reports on U.S. catches of Alaska groundfish and the processing of those groundfish were available for public inspection to facilitate informed public comment. In addition, those provisions afforded the public an opportunity to submit timely comments on the extent to which U.S. fishermen will harvest and the extent to which U.S. processors will process Alaska groundfish. One comment was received during the comment period.

*Comment*

Available reserve amounts of Pacific cod in the Bering Sea and in the Central Regulatory Area of the Gulf of Alaska

and all reserve and certain DAH amounts of sablefish in the Bering Sea exceed the needs of U.S. fishermen and should be apportioned to TALFF.

*Response*

In the Central Regulatory area of the Gulf of Alaska, 3,742 mt of Pacific cod is apportioned to TALFF. Because it is not yet clear what amounts will prove excess to the needs of U.S. fishermen, reapportionment of reserve and DAH amounts of Bering Sea Pacific cod and sablefish will be considered at a later date.

**Classification**

This action is taken under 50 CFR 611.92(c), 611.93(b), 672.20(c), and 675.20(b), and complies with Executive Order 12291.

In view of the prior notice provided in the authorizing regulation regarding the dates after which apportionment of reserves and reassessment of DAH are to occur, together with the need to avoid disruption of U.S. and foreign fisheries and to afford a reasonable opportunity to achieve OY, the Agency has determined that delaying the effective date of this notice would be impracticable, unnecessary, and contrary to the public interest.

**List of Subjects in 50 CFR Parts 671, 672, and 675**

Fisheries.

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

Dated: July 23, 1984.

**Joseph W. Angelovic,**

*Deputy Assistant Administrator for Science and Technology, National Marine Fisheries Service.*

[FR Doc. 84-19980 Filed 7-25-84; 11:36 am]

BILLING CODE 3510-22-M

# Proposed Rules

Federal Register
Vol. 49, No. 147
Monday, July 30, 1984

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 1094

[Docket No. AO-103-A44]

### Milk in the New Orleans-Mississippi Marketing Area; Notice of Hearing on Proposed Amendments to Tentative Marketing Agreement and Order

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Notice of public hearing on proposed rulemaking.

**SUMMARY:** This hearing is being held to consider proposals by several cooperative associations to amend the New Orleans-Mississippi milk order. The proposals would add 12 counties to the marketing area, and change some of the location adjustment provisions of the order to accommodate the marketing area expansion. Another proposal would reduce the proportion of milk that a cooperative must ship to pool distributing plants to pool its own plant. Proponents said that the requested order changes are needed to insure orderly marketing in the area.

**DATE:** The hearing will convene on Tuesday, August 28, 1984.

**ADDRESS:** The hearing will be held at the Ramada Inn, 854 Gloster, Tupelo, Mississippi 38802.

**FOR FURTHER INFORMATION CONTACT:** Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-7311.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given of a public hearing to be held at the Ramada Inn, 854 Gloster, Tupelo, Mississippi 38802, beginning at 9:30 a.m., local time, on Tuesday, August 28, 1984, with respect to the proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the New Orleans-Mississippi marketing area.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96-354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

**List of Subjects in 7 CFR Part 1094**

Milk marketing orders, Milk, Dairy products.

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

**Proposed by Dairymen, Inc.**

*Proposal No. 1*

Amend § 1094.2 *New Orleans-Mississippi marketing area* by:

A. Adding the Mississippi counties of Chickasaw, Clay and Monroe to the current definition of Zone 5; and

B. Add a new Zone 6 to include the Mississippi counties of Alcorn, Benton, Itawamba, Lee, Prentiss, Pontotoc, Tippah, Tishomingo, and Union.

*Proposal No. 2*

Amend § 1094.52 *Plant location adjustments for handlers* by:

A. Adding within the table contained in subparagraph (a)(1) a minus 75 cents for zone 6; and

B. In paragraph (a)(3) changing the numeral "65" to the numeral "75".

**Proposed by Associated Milk Producers, Inc.**

*Proposal No. 3*

Amend § 1094.2 as follows:

**§ 1094.2 New Orleans-Mississippi marketing area.**

* * * * *

**Zone 5**

*Mississippi Counties*

Calhoun, Coahoma, Chickasaw, Clay, Grenada, Monroe, Quitman, Tallahatchie, Yalobusha.

**Zone 6**

*Mississippi Counties*

Alcorn, Benton, Itawamba, Lee, Pontotoc, Prentiss, Tippah, Tishomingo, Union.

*Proposal No. 4*

Amend § 1094.52(a)(1) by adding thereto a new zone and location adjustments applicable thereto as follows:

| | Adjustment per hundredweight |
|---|---|
| Zone 6..... | Minus 75 cents. |

**Proposed by Gulf Dairy Assn.**

*Proposal No. 5*

Amend § 1094.7, *Pool plant* by changing the words "50 percent" in paragraph (c) to "45 percent".

**Proposed by the Dairy Division, Agricultural Marketing Service**

*Proposal No. 6*

Make such changes as may be necessary to make the entire marketing agreement and the order conform any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, Frank Sheckarski, P.O. Box 99, Mandeville, Louisiana, 70448, or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be inspected there.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding, the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agriculture Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington Office only)
Office of the Market Administrator, New Orleans-Mississippi Marketing area

Procedural matters are not subject to the above prohibition and may be discussed at any time.

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

Signed at Washington, D.C., on: July 24, 1984.

**William T. Manley,**

*Deputy Administrator, Marketing Program Operations.*

[FR Doc. 84–19979 Filed 7–27–84; 8:45 am]
BILLING CODE 3410–02–M

## FEDERAL RESERVE SYSTEM

## 12 CFR Parts 208, 225, and 263

**[Docket No. R–0526]**

## Capital Maintenance

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Proposed rulemaking.

**SUMMARY:** Capital adequacy is one of the critical factors the Board of Governors of the Federal Reserve System is required to analyze in taking action on various types of applications, such as mergers and acquisitions by bank holding companies, and in the conduct of the Board's various supervisory activities related to the safety and soundness of individual banks and bank holding companies and the banking system. This proposal establishes Guidelines for required and appropriate levels of capital for bank holding companies and state chartered banks that are members of the Federal Reserve System. The Board proposes to amend its Capital Adequacy Guidelines in a manner consistent with the provisions of capital adequacy under consideration by the Federal Deposit Insurance Corporation ("FDIC") and the Comptroller of the Currency ("Comptroller") in order to establish uniform minimum capital requirements for federally supervised banks. The Board also proposes revised Capital Adequacy Guidelines for bank holding companies. Finally, the Board proposes to issue a regulation setting forth procedures under which the Board may require compliance with the minimum capital requirements contained in the Guidelines.

**DATE:** Comments must be received by September 24, 1984.

**ADDRESS:** All comments, which should refer to Docket No. R–0526, should be mailed to William W. Wiles, Secretary of the Board of Governors of the Federal Reserve System, 20th and Constitution Avenue, NW., Washington, D.C. 20551, or deliver comments to the Office of the Secretary, Room 2200, Eccles Building, 20th and Constitution Avenue, NW., between the hours of 8:45 a.m. and 5:15 p.m. weekdays. Comments may be inspected in Room 1122, Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays.

**FOR FURTHER INFORMATION CONTACT:** James E. Scott, Senior Attorney, Legal Division (202/452–3513), or Richard Spillenkothen, Manager, Projects and Planning Section, Division of Banking Supervision and Regulation (202/452–2594), or Anthony G. Cornyn, Section Chief, Financial Analysis and Special Studies Section, Division of Banking Supervision and Regulation (202/452–3450).

**SUPPLEMENTARY INFORMATION:**

### Need for Capital Adequacy Standards

The Board, as a part of its responsibilities as a banking regulator, has acted to promote the maintenance of adequate capital in individual banks, in bank holding companies and in the banking system in general. In the Board's view, adequate capital performs several important functions in banking institutions, including providing additional protection against unforeseen losses, helping to maintain public confidence in particular institutions and in the banking system, partially protecting depositors from a threat of insolvency, and supporting reasonable growth of such institutions. As a result, the Board considers a determination of capital adequacy to be one of the major objectives of a bank examination or bank holding company inspection. Capital is one of the components that form the basis of the Uniform Financial Institution Rating System used by each of the federal bank supervisory agencies. In short, maintenance of adequate capital levels plays a key role in the programs and policies of the Board and other banking agencies in protecting depositors and ensuring the stability of the banking system.

This recognition of the importance of capital and a concern about the gradual decline in the ratio of capital to bank assets prior to 1981, particularly in the nation's largest banking organizations, prompted the Board and the Comptroller in December 1981, to adopt Capital Adequacy Guidelines for national and state member banks and bank holding companies. These Guidelines were designed to set a range of substantive capital levels for use by the Board and Comptroller in defining institutions that are adequately capitalized, those that are capitalized in a minimally acceptable fashion and those that are presumed to be undercapitalized, absent clear extenuating circumstances. The Guidelines provide national and state member banks and bank holding companies with targets or objectives to be reached over time. The Board has noted that many banks and bank holding companies, including the nation's largest banking organizations, have improved their capital position in order to comply with these Guidelines. The Board revised the Guidelines in June 1983 to provide specific ratio guidelines for multinational organizations. In December 1983, the Board reaffirmed the Guidelines (49 FR 794, incorporating the Guidelines as Appendix A of Regulation Y, 12 CFR Part 225).

### Purpose of the Proposed Rulemaking

In November 1983, Congress enacted the International Lending Supervision Act of 1983 (12 U.S.C. 3901 *et seq.*) ("ILSA"), which directed that the federal banking agencies ". . . shall cause banking institutions to achieve and maintain adequate capital by establishing minimum levels of capital for such banking institutions and by such other methods as the appropriate Federal banking agency deems appropriate." (Section 908, 12 U.S.C. 3907). Pursuant to this authority and that contained in the Bank Holding Company Act, the Federal Reserve Act and the Financial Institutions Supervisory Act of 1966, the Board is proposing to amend its Capital Adequacy Guidelines to conform with changes in capital adequacy provisions currently under consideration by the Comptroller and the FDIC. Thus, uniform minimum capital levels will be established for all

bank holding companies and all federally regulated banks, regardless of size or primary federal supervisory agency.

The Board proposes to revise its Guidelines with respect to state member banks for two additional reasons: (1) To increase the required minimum primary and total capital levels for regional and multinational banks and (2) to establish uniform capital requirements for all state member banks regardless of size. The Board is also proposing procedural regulations which provide a mechanism to enforce the substantive requirements of the Guidelines.

The Board will also continue to require bank holding companies to meet minimum capital ratios. The Board has made a finding pursuant to section 910(a)(2) of ILSA (12 U.S.C. 3090(a)(2)) that uniform application of the capital requirements to bank holding companies is necessary to prevent evasions of the purposes of ILSA. The Board believes that it serves no purpose to increase bank capital at the expense of its parent holding company. The financial condition of a bank holding company continues to be a primary factor influencing the financial condition of its subsidiary bank or banks. The Board has repeatedly stated that a holding company must be a source of strength to its subsidiary banks, and has so required in its Regulation Y. The Board's proposed revisions of the Capital Adequacy Guidelines for bank holding companies are designed to increase the required minimum primary and total capital levels for the larger regional and multinational bank holding companies, and to establish uniform capital requirements for all bank holding companies regardless of size.

### Amended Capital Adequacy Guidelines

The Board proposes to embody the substantive capital requirements and definitions in amended Capital Adequacy Guidelines that parallel the regulations being considered by the FDIC and Comptroller insofar as they require a minimum ratio of primary capital to adjusted total assets of 5.5 percent and a minimum ratio of total capital to total assets of 6 percent. The Board will continue to view total capital to asset ratios in terms of three "zones." Those institutions with total capital to total assets of less than 6.0 may be considered to be undercapitalized, absent clear extenuating circumstances. Those institutions with a total capital to total assets ratio of 6.0 to 7.0 percent are considered to be capitalized in a minimally acceptable fashion, subject to evaluation of other financial factors. Finally, those institutions with a total capital to total assets ratio of above 7.0 are presumed adequately capitalized. In all cases, the ratio of *primary* capital to adjusted total assets must be at least 5.5 percent.

### Changes From Existing Guidelines for State Member Banks

The principal differences between the Board's current guidelines and the proposed guidelines for state member banks are found in the definitions of capital, as well as in the guideline ratios. The changes in the proposed definitions are: (1) The proposed definition of primary capital does not include equity commitment notes; (2) intangible assets are excluded from the sum of total primary capital components in deriving the numerator of the primary capital ratio; (3) the denominator of the *primary* capital ratio (total assets) includes the allowance for possible loan and lease losses but excludes intangible assets; and (4) the denominator of the *total* capital ratio (total assets) includes the allowance for possible loan and lease losses.

The changes proposed in the definitions of primary and total capital are to conform the Board's definitions with those under consideration by the Comptroller and the FDIC. The Board questions whether these changes are improvements in the definitions, especially the exclusion of equity commitment notes and all intangible assets, regardless of character, from the definition of primary capital. The Board's current guidelines provide flexibility in determining both the level and the type of intangible assets that may be included in calculating primary capital ratios. However, the Board believes that uniformity of definitions may be desirable in this area and it is, therefore, proposing capital definitions for state member banks that are the same as those being considered by the Comptroller and FDIC.

The changes in the substantive guidelines are: (1) The minimum adequate primary capital ratio for regional and multinational banks is increased from 5.0 to 5.5 percent; (2) the minimum adequate primary capital ratio for community banks is decreased from 6.0 to 5.5 percent; and (3) the minimum total capital ratio for regional and multinational banks (Zone 3) is increased from 5.5 to 6.0 percent, and (4) the Zone 1 and Zone 2 guidelines for total capital ratios for multinational and regional banks are each increased by one-half a percentage point.

The Board believes that the increase in the minimum required primary capital ratio for regional and multinational banks is appropriate given the Board's concern with fostering improvements in the capital ratios of large banking organizations and the Congressional concern embodied in ILSA for improving capital ratios. Consistent with this view, the Board has also increased each zone measuring the adequacy of total capital of multinational and regional banks by one-half a percentage point.

The minimum primary capital ratio of 5.5 percent represents a decrease in the minimum capital requirement for smaller community state member banks (assets under $1.0 billion). The Board is proposing this decrease in the interest of establishing a single uniform primary capital requirement for large and small banking institutions as well as an overriding interest in establishing a uniform minimum capital ratio with the FDIC and Comptroller of the Currency for all federally regulated banks. The Board notes, however, that the new Guidelines emphasize that banking organizations are expected to operate *above* the minimum primary capital level. Finally, the minimum *total* capital to total asset level that define Zones 1, 2 and 3 remain unchanged for small banking organizations.

### Proposed Change From Existing Guidelines for Bank Holding Companies

Currently, the Board's Capital Adequacy Guidelines for both state member banks and bank holding companies are contained in one document. While the Board believes that conformity of the defintions and ratios used for all federally regulated banks serves an important policy purpose, the Board also believes that is it is desirable to retain certain features of the current guidelines for bank holding companies. Accordingly, the Board is proposing, in addition to the guidelines for state member banks, separate guidelines for bank holding companies.

The only change from existing Guidelines in the calculation of the capital ratios in the Guidelines for bank holding companies is that the asset base for calculating the primary and total capital ratios includes the allowance for possible loan and lease losses. As noted above, this is a conforming change being made for the calculation of these ratios for state member banks, and the Board believes that, for purposes of consistency, these reserves should also be included for these calculations in the asset base of bank holding companies.

The differences in the guideline ratios parallel those made for state member banks; i.e., (1) The minimum adequate primary capital ratio for multinational and regional bank holding companies is increased from 5.0 to 5.5 percent; (2) the

minimum adequate primary capital ratio for community bank holding companies is decreased from 6.0 to 5.5 percent; and (3) the minimum total capital ratios for mulitnational and regional bank holding companies is increased from 5.5 to 6.0 percent, and (4) the Zone 1, Zone 2, and Zone 3, guidelines for total capital for these bank holding companies are each increased by one-half a percentage point. The reasons for the changes in these rations parallel those discussed above for state member banks.

**Differences in Treatment of State Members Banks and Bank Holding Companies**

There are two significant differences in the proposed Guidelines regarding the treatment afforded banks and bank holding companies. These differences relate to the treatment of intangible assets and mandatory convertible securities. In computing the primary capital ratios of state member banks, adjustments would be made to reflect the existence of any intangible assets. Specifically, intangible assets would be deducted from the sum of the components of primary capital to derive the numerator of the primary capital ratio and would be deducted from the sum of total assets and the allowance for possible loan and lease losses to derive the denominator of the ratio. The Board believes that the specific deduction of intangibles from primary capital and total assets for the purpose of deriving primary capital ratios of both banks and bank holding companies may be undesirable because it reduces the flexibility of these institutions in structuring acquisitions. The Board currently takes the level and specific character of intangible assets into consideration in assessing the capital of individual banks and bank holding companies. However, the Board proposes to exclude intangibles when calculating the primary capital ratios of state member banks. The proposed capital guidelines for bank holding companies do not require intangibles to be deducted from either the sum of the total components of primary capital or from total assets to derive the primary capital ratio. The Board proposes not to exclude intangibles in computing primary capital ratios of bank holding companies in order to provide bank holding companies with additional flexibility. The Board does, however, intend to continue to take the level and specific character of intangible assets into consideration in evaluating the overall financial condition and capital adequacy of a bank holding company.

With respect to the treatment of equity commitment notes (a type of mandatory convertible security), the Board proposes to allow such instruments to continue to be counted as a form of primary capital for bank holding companies but to disallow these instruments as a form of primary capital in state member banks. The proposed exclusion of these instruments as a form of primary capital for banks is designed to achieve interagency uniformity in the definition of primary capital for banks. In deciding to continue to treat equity commitment notes as primary capital for bank holding companies, the Board notes that such instruments encourage the issuance of common and perpetual preferred stock over time and represent an attractive vehicle for raising long-term capital. The Board has limited the use of such instruments, however, to 10 percent of the bank holding company's primary capital exclusive of mandatory convertible securities.

**The Proposed Procedural Regulation**

The proposed regulation requires that any state member bank or bank holding company that does not meet the minimum capital standards (set forth in the Capital Adequacy Guidelines) when the regulation becomes effective, must submit to the appropriate Reserve Bank within 90 days a plan for increasing its capital to the minimum required level. Certain administrative and judicial enforcement procedures are outlined in the regulation in the event of the failure to submit a capital plan.

The Board may also require particular banks or bank holding companies to maintain more than the minimum level of capital if the financial condition, management, or future prospects of the institution make a higher capital level necessary and appropriate. Moreover, the Board will pay particular attention to liquidity and will discourage the practice of meeting capital guidelines by reducing the level of liquid assets relative to total assets of the institution. The process of determining the adequacy of an institution's capital will begin with a qualitative evaluation of the critical variables that directly bear on its overall financial condition. These variables include the quality, type and diversification of assets; current and historical earnings; liquidity; appropriate policies for loan charge-offs; risks arising from interest rate mismatches; the quality of management; and the existence of other activities that may expose the bank to risks, including off balance sheet risks. Institutions with significant weaknesses in one or more of these areas will be expected to maintain higher capital levels than the minimum set forth in the regulation. Institutions that are currently or prospectively under any formal administrative action, final order, or condition or agreement that sets forth a more stringent capital requirement shall continue to meet the requirement contained therein.

In addition to the traditional procedures used by the Board to set a higher capital level (e.g. written agreements or memoranda between the Board and the financial institution, cease and desist orders, and conditions attached to orders issued on applications or notices), the proposed regulation provides for a specific notice and comment procedure. The Board also reserves the right to consider failure to meet the minimum capital requirement established by the Guidelines, or such higher capital requirement set by the Board, as bearing adversely upon applications or notices that a bank or bank holding company may file.

**Directives**

Section 908 of ILSA (12 U.S.C. 3907) authorizes the appropriate banking agency to issue a directive to a banking institution that fails to maintain the minimum capital requirement. A directive may require a bank to submit and adhere to a plan for achieving such requirement. A directive, including a capital adequacy plan submitted thereunder, is a final order enforceable in the appropriate United States district court in the same manner and to the same extent as a final cease and desist order issued under 12 U.S.C. 1818(b). The issuance of a directive is discretionary, and a directive may be issued in lieu of, in conjunction with, or in addition to existing enforcement tools available to the agencies. The Board has proposed procedures leading to the issuance of a directive including notice and opportunity to comment.

**Differences Among Proposed Agency Regulations**

The major difference between the Board's proposal and those being considered by the FDIC and the Comptroller is the decision of the Board to embody the substantive capital requirements in a set of guidelines rather than in a regulation. The Board's experience with its Capital Adequacy Guidelines during the past 2½ years has demonstrated the need for flexibility in applying minimum capital ratios and even in defining "capital." The Board believes that rigidly defining failure to meet certain capital levels in all cases as a *per se* violation of law could hamper the Board's efforts in working with banks and bank holding companies to strengthen their capital positions and in evaluating capital adequacy in the

context of a broader range of factors it must consider in acting upon applications. In addition, the Board recognizes the difficulty of imposing a static definition on the components of capital. The use of flexible guidelines will permit the Board to adjust capital requirements and definitions more rapidly to changes in the economy, in financial markets and in banking practices. The FDIC has chosen to issue a regulation containing its substantive capital requirements. The Board, however, specifically requests comment on whether the capital requirements proposed in the Guidelines should be incorporated in a regulation.

The concern for flexibility has also led the Board's proposal to differ from those being considered by the other agencies in eschewing any general time deadlines in the enforcement process. The Board has reserved the right to decide how quickly a particular bank or bank holding company must respond to the notice of a directive and how quickly the Board must take action. The Board proposes to set time limits in each case based upon the unique circumstances of that case.

A third difference between the proposals of the Board and the FDIC is the Board's recognition of the need to treat total capital requirements for the spectrum of banks and bank holding companies in terms of broader zones rather than solely by means of a single minimum capital level. The zone concept provides banks with a general target range that defines more strongly capitalized institutions as well as those that are capitalized in a marginally adequate fashion and those that may be undercapitalized.

The Board's regulation provides an administrative procedure to establish higher than minimal capital for individual banks and bank holding companies. The FDIC would use the traditional cease and desist procedures to establish higher capital levels rather than the notice and directive procedure of the Board's regulation.

The Board also believes that banks and bank holding companies should be given 90 days from the effective date of this regulation to prepare a plan to increase capital. The FDIC has proposed 60 days.

Finally, the Board has decided to issue guidelines for bank holding companies that differ slightly from the bank guidelines of the Board and regulations of the FDIC. These differences, notably in the treatment of intangible assets and bank equity commitment notes, are described above in more detail.

The adoption of these proposed regulations is not expected to impose an additional capital requirement on a large number of institutions. Based on the December 31, 1983 Call Reports (which do not necessarily reflect adjustments for assets classified loss), more than 96 percent of all state member banks had primary capital ratios in excess of 5.5 percent, the primary capital requirement established by the Board's guidelines. In addition, most of the larger multinational and regional banks and bank holding companies (which were previously permitted lower capital ratios than smaller institutions) had primary capital ratios and total capital ratios that would exceed the proposed minimum capital ratio guidelines. It is recognized that there are a few large banks and bank holding companies that will be faced with a relatively large dollar shortfall in their capital accounts. While the Board will expect all institutions to make every effort to achieve compliance as rapidly as possible, in analyzing plans submitted to achieve compliance the Board will consider the individual circumstances and the reasonable capacity of these institutions to achieve compliance. Finally, the Board will continue to exempt from the Guidelines bank holding companies with under $150 million in consolidated assets, unless (1) the holding company or any nonbank subsidiary is engaged directly or indirectly in any nonbank activity involving significant leverage, or (2) the holding company or any nonbank subsidiary has outstanding debt held by the general public.

The Board stresses that capital requirements set forth in this proposed regulation are minimums and that all state member banks and bank holding companies are encouraged to maintain higher levels of capital. This will provide protection against unforeseen adversities as well as provide a greater measure of flexibility in terms of being able to take advantage of opportunities for sound growth as they arise.

**Issues for Specific Comment**

The Board requests that commenters specifically focus on the differences between these proposed Guidelines and those being considered by the FDIC and the Comptroller. These issues, as discussed above, include:

1. Issuing the substantive capital requirements within a regulation or in the form of Guidelines;

2. Relying upon the concept of capital zones as embodied in the Board's Guidelines or only upon a requirement of a "minimum capital" level;

3. Deducting intangible assets in deriving primary capital ratios; and

4. Including equity commitment notes as a component of primary capital.

**Regulatory Flexibility Analysis Act**

The Board certifies that the adoption of these proposals is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). In carrying out its responsibilities for supervising member banks and bank holding companies the Board has always considered the capital adequacy of banks and bank holding companies. In December 1981, the Board promulgated a written policy, its Capital Adequacy Guidelines, to inform banks, bank holding companies, and the public of its beliefs concerning capital and capital adequacy. The Board now proposes to amend its Guidelines to establish more uniform standards for large and small banking institutions and to attempt to establish uniformity among the federal banking agencies in the imposition of capital adequacy requirements.

Historically, the Board has required higher capital ratios in smaller banks and bank holding companies. To the extent that this regulation equalizes those requirements it will lessen the burden on small banks and bank holding companies.

This proposal does not duplicate, overlap or conflict with any existing federal laws and regulations governing state member banks and bank holding companies.

**List of Subjects in 12 CFR Parts 208, 225 and 263**

Banks, banking; Federal Reserve System; Holding companies; Capital adequacy; State member banks.

Pursuant to the Board's Authority Under the International Lending Supervision Act of 1983 (ILSA), 12 U.S.C. 3907, 3909; section 5(b) of the Bank Holding Company Act (BHC Act), 12 U.S.C. 1844(b); the Financial Institutions Supervisory Act of 1966 (FIS Act), 12 U.S.C. 1818; and sections 9 and 11(a) of the Federal Reserve Act (12 U.S.C. 248, 324, 329), the Board hereby proposes to adopt Capital Adequacy Guidelines for state member banks, to be reprinted in a new Appendix A to the Board's Regulation H, Membership of State Banking Institutions in the Federal Reserve System, 12 CFR Part 208; to adopt Capital Adequacy Guidelines for bank holding companies to be substituted for Appendix A of the Board's Regulation Y, 12 CFR Part 225; and to adopt a new Subpart D to its

Rules of Practice for Hearings, 12 CFR Part 263, as follows:

## PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

1. Authority for 12 CFR Part 208 is proposed to be revised as follows:

**Authority:** 12 U.S.C. 248, 321–338, 486, 1814, 3907, 3909, unless otherwise noted.

2. 12 CFR Part 208 is proposed to be amended by adding an Appendix A to read as follows:

## Appendix A—Capital Adequacy Guidelines

### Definition of Capital to be used in Determining Capital Adequacy of State Member Banks

*Primary Capital Components*

The components of primary capital are:

—Common stock
—Perpetual preferred stock
—Surplus
—Undivided profits
—Contingency and other capital reserves
—Mandatory convertible instruments (capital instruments with covenants mandating conversion into common or perpetual preferred stock)
—Allowance for possible loan and lease losses
—Minority interest in equity accounts of consolidated subsidiaries

For the purpose of calculating a bank's primary capital, intangible assets (as defined in the instructions to the bank Call Report) are deducted from the sum of the components of primary capital set forth above.

*Secondary Capital Components*

It is recognized that other financial instruments can, with certain restrictions, be considered part of capital because they possess some, though not all, of the features of capital. These instruments are:

—Limited-life preferred stock
—Qualifying subordinated notes and debentures

For the purpose of determining aggregate secondary and total capital, the amount of intangible assets deducted from primary capital is added back to the components of secondary capital set forth above.

*Restrictions Relating to Secondary Components*

The secondary components will be considered as capital under the conditions listed below:

—The security issue must have an original weighted average maturity of at least seven years.
—The aggregate amount of secondary capital may not exceed 50 percent of the amount of the bank's primary capital.
—As subordinated debt or limited-life preferred stock approaches maturity, redemption or repayment, the outstanding balance of all such instruments—including those with serial note payments, sinking fund provisions, or an amortization schedule—will be amortized in accordance with the following schedule:

| Years to maturity | Percent of issue considered capital |
|---|---|
| Greater than or equal to 5 | 100 |
| Less than 5 but greater than or equal to 4. | 80 |
| Less than 4 but greater than or equal to 3. | 60 |
| Less than 3 but greater than or equal to 2. | 40 |
| Less than 2 but greater than or equal to 1. | 20 |
| Less than 1 | 0 |

(No adjustments in the book amount of the issue is required or expected by this schedule. Adjustment will be made by a memorandum account.)

### Minimum Capital Guidelines for State Member Banks

The Board of Governors of the Federal Reserve System has adopted minimum capital ratios and guidelines to provide a framework for assessing the capital of well-managed state member banks with no significant financial weaknesses.[1] The guidelines apply to all state member banks regardless of size and are to be used in the examination and supervisory process as well as in the analysis of applications acted upon by the Board. The Board will review the guidelines from time to time for possible upward adjustments commensurate with changes in the economy, financial markets and banking practices.

Objectives of the minimum capital guidelines are to:

—Introduce uniformity, objectivity and consistency into the supervisory approach for assessing capital adequacy;
—Provide direction for capital and strategic planning and for the appraisal of this planning by the Board; and
—Permit the elimination of disparities in capital ratios between banking organizations of different sizes.

Two principal ratio measurements of capital are used: (1) Primary capital to adjusted total assets (i.e., total assets plus the allowance for possible loan and lease losses less intangible assets), and (2) total capital to total assets plus the allowance for possible loan and lease losses. For the purpose of calculating these ratios, primary capital is defined as the sum of common stock, perpetual preferred stock, capital surplus, undivided profits, reserves for contingencies and other capital reserves, mandatory convertible instruments (excluding equity commitment notes), the allowance for possible loan and lease losses, and any minority interest in the equity accounts of consolidated subsidiaries, minus intangible assets. Total capital is calculated by adding to primary capital (as defined above) limited-life preferred stock, qualifying subordinated notes and debentures and the amount of intangible assets deducted from primary capital for the purpose of determining the primary capital ratio.

A minimum level of primary capital to adjusted total assets is established at 5.5 percent of all state member banks. Generally, these banks are expected to operate above the minimum primary capital ratio. Also, those state member banks that have a higher than average or excessive amount of their assets exposed to risk or a higher than average or excessive amount of off-balance sheet risk, will be expected to hold additional primary capital to compensate for this risk. Moreover, the Board will pay particular attention to liquidity and would discourage the practice of meeting the guidelines by decreasing the level of liquid assets relative to total assets. Banks with primary capital ratios below the 5.5 percent minimum will generally be considered to be undercapitalized unless they can demonstrate clear extenuating circumstances. Such banks, as described in greater detail below, will be required to submit an acceptable capital plan and will be subject to appropriate supervisory enforcement action.

The Board has also established a minimum total capital ratio of 6.0 percent for all state member banks and has raised the Zone 1 total capital ratio guideline for regional and multinational banks to 7.0 percent. These ratios establish three broad zones for total capital that apply to state member banks of all sizes:

Zone 1—Above 7.0%
Zone 2—6.0% to 7.0%
Zone 3 (Minimum Total Capital Ratio)—Below 6.0%

Generally, the nature and intensity of supervisory action will be determined by a bank's compliance with the required minimum primary capital ratio as well as by the zone in which a bank's total capital ratio falls. While an institution's position in the quantitative capital zones will normally trigger the below specified supervisory responses, qualitative analysis will continue to be used in determing minimum levels of capital for state member banks.

For banks operating in Zone 1, the Board will:

—Presume that capital is adequate if the primary capital ratio is acceptable to the Board and is above the 5.5 percent minimum

For banks operating in Zone 2, the Board will:

—Pay particular attention to other financial factors such as asset quality, liquidity, and interest rate risk as they relate to the adequacy of capital and, if they are not safisfactory and the Board concludes capital is not adequate, intensify its analysis and action.

Banks operating in Zone 3:

—May be considered undercapitalized, absent clear extenuating circumstances
—Would be required to submit a comprehensive capital plan that is acceptable to the Board and that includes a program for achieving compliance with the required minimum ratios within a reasonable time period

[1] Banks with significant weaknesses or those under special supervision may be subject to higher capital requirements than the guideline minimums.

—Would be subject to appropriate supervisory and/or administrative enforcement action, or the issuance of a capital directive, by the Board
—Would generally be subject to denial of applications by the Board unless a reasonable capital plan that is acceptable to the Board has been adopted.

In addition to compliance with the minimum primary and minimum total capital ratios, the assessment of capital adequacy will continue to be made on a case-by-case basis considering various qualitative factors that affect an institution's overall financial condition. Thus, the Board retains the flexibility to make appropriate adjustments in the application of the guidelines to individual institutions.

The Board will issue regulations for enforcing the minimum capital requirements set forth above and for implementing the authority to issue capital directives as provided in the International Lending Supervision Act of 1983.

## PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

3. Authority for 12 CFR Part 225 is proposed to be revised as follows:

**Authority:** 12 U.S.C. 1844(b), 3106, 3108, 1817(j)(13), 1818(b), 3907, 3909; and Pub. L. 98–181, Title IX.

4. 12 CFR Part 225 is proposed to be amended by revising Appendix A to read as follows:

### Appendix A—Capital Adequacy Guidelines for Bank Holding Companies

#### Introduction

In adopting the capital adequacy guidelines program in December of 1981, the Board expressed concern about the secular decline in the capital ratios of the nation's largest banking organizations and stated that its supervisory policies would be modified to achieve a strengthening over time of the capital positions of the multinational group. Since the implementation of the capital guidelines program and the establishment of the 5.0 percent primary capital ratio guideline for the multinational banking organizations, considerable progress has been made in improving the capital ratios of the nation's largest bank holding companies. In particular, as of March 31, 1984, all of the multinational holding companies had primary capital ratios that exceeded 5.0 percent, and most of these organizations have achieved primary capital ratios that are significantly above this level.

The Board has stated on a number of occasions that capital adequacy is an extremely important financial factor and it believes that, as part of its ongoing effort to improve the capital positions of banking organizations, additional steps are appropriate at this time to encourage further strengthening of capital ratios. Moreover, Congress addressed the issue of capital adequacy in enacting the International Lending Supervision Act of 1983 ("ILSA"). This legislation requires the Federal banking agencies to establish appropriate minimum levels of capital for banking organizations, to cause banking organizations to achieve and maintain the minimum capital requirements and grants the agencies the authority to issue capital directives to assist in enforcing the minimums. In addition, ILSA provides that "The Chairman of the Board of Governors and the Secretary of the Treasury shall encourage governments, central banks, and regulatory authorities of other major banking countries to work toward maintaining and, where appropriate, strengthening the capital bases of banking institutions involved in international lending."

#### Capital Guidelines Program

In light of these developments and within the context of its continuing efforts to foster improvement in the capital ratios of large bank holding companies, the Board has made the following changes to the minimum capital ratios and guidelines that apply to multinational and regional bank holding companies:

—The minimum ratio of primary capital to total assets has been increased from 5.0 to 5.5 percent.[1]
—The minimum ratio of total capital to total assets (i.e., the Zone 3 minimum total capital ratio) has been increased from 5.5 to 6.0 percent.
—The Zone 1 total capital ratio guideline for multinational and regional bank holding companies is being raised from 6.5 to 7.0 percent, and the Zone 2 total capital guideline range will now be between 6.0 and 7.0 percent.

With respect to community bank holding companies, the Board has established a new minimum ratio of primary capital to total assets of 5.5 percent. This minimum is identical to the new primary capital requirement that has been established for multinational and regional bank holding companies. The minimum total capital ratio and guidelines that apply to community bank holding companies have not been changed.

In taking these steps, the Board has encouraged the strengthening of the capital ratios of large bank holding companies and has eliminated the existing disparities in the supervisory requirements for holding companies of different sizes.[2]

In light of the progress that has been made in improving capital ratios since the adoption of the guidelines program, most of the largest bank holding companies have primary capital ratios that exceed the new 5.5. percent minimum guideline. Those holding companies below the minimum guideline will be given a reasonable amount of time to implement plans for achieving compliance.

The capital guidelines program establishes minimum levels of primary capital and, generally, banking organizations are expected to operate above the minimums. The guidelines program assumes moderate amounts of on- and off-balance sheet risk and intangible assets. Banking organizations that have a higher than normal or excessive percentage of their assets exposed to risk, a higher than normal or excessive amount of off-balance sheet risk, or a higher than normal or excessive amount of intangible assets, will be expected to hold additional primary capital to compensate for these characteristics. In addition to the quality of loans, investments and other assets, the nature and amount of off-balance sheet risk and intangible assets will be taken into consideration in determining a holding company's compliance with the capital guidelines program. Moreover, the Board will pay particular attention to liquidity and would discourage the practice of meeting the guidelines by decreasing the relative level of liquid assets to total assets.

The increase in the capital guidelines for multinational and regional bank holding companies should be viewed in the context of the Board's continuing efforts to strengthen capital ratios, the ongoing discussions with foreign supervisory officials as required by ILSA and the on- and off-balance sheet risk factors discussed above. In light of these ongoing efforts and considerations, the Board will continue to review the capital positions and risk characteristics of the large bank holding companies and may consider additional steps, including further increases in the capital guidelines, to sustain the progress that has been made in strengthening the capital ratios of these institutions. As part of this process, the Board will continue to review the need for increases in capital guideline ratios to compensate for excessive amounts of off-balance sheet risk or intangible assets.

The capital guidelines generally apply to bank holding companies on a consolidated basis. The guidelines will not apply to holding companies under $150 million in consolidated assets unless (1) the holding company or any nonbank subsidiary is engaged directly or indirectly in any nonbank activity involving significant leverage or (2) the holding company or any nonbank subsidiary has outstanding significant debt held by the general public.

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[1] Primary capital for bank holding companies consists of common stock, perpetual preferred stock, capital surplus, undivided profits, reserves for contingencies and other capital reserves, mandatory convertible instruments including equity commitment notes, the allowance for possible loan and lease losses, and any minority interest in the equity accounts of consolidated subsidiaries. Total capital for holding companies consists of the primary components plus limited-life preferred stock and unsecured long-term debt of the holding company or its nonbank subsidiaries. To qualify, such debt must have an original weighted average maturity of seven years or more. For capital adequacy purposes, unsecured long-term debt of the holding company or its nonbank subsidiaries is also subject to the amortization adjustments that are made as the debt approaches maturity. Total assets for the purposes of calculating the primary and total capital guideline ratios is total assets plus the allowance for possible loan and lease losses.

[2] In separate but related actions with respect to commercial banks, the Federal Reserve, the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency have established minimum primary and total capital ratios of 5.5 percent and 6.0 percent, respectively, for banks of all sizes. These actions increase the minimum supervisory capital requirements for large banks and generally permit community banks to operate at the same capital levels as regional and multinational banks.

Some holding companies are engaged in significant nonbanking activities that typically require capital ratios higher than those of commercial banking organizations. The Board believes that, as a matter of both safety and soundness and competitive equity, the degree of leverage common in banking should not automatically extend to nonbanking activities. Consequently, in evaluating the consolidated capital positions of bank holding companies, the Board is placing greater weight on the building block approach for assessing capital requirements. This approach generally provides that nonbank subsidiaries of a banking organization should maintain levels of capital consistent with the levels that have been established by industry norms, Federal or State regulatory agencies for similar firms that are not affiliated with banking organizations or that may be established by the Board taking into account risk factors of a particular industry. The assessment of a holding company's consolidated capital adequacy must take into account the amount and nature of all nonbank activities, and a holding company's consolidated capital position should generally reflect the sum of the capital requirements of the organization's bank and nonbank subsidiaries as well as those of the parent holding company. The Board intends to be guided by these principles in determining compliance with the capital guidelines program.

Bank holding companies affected by the guidelines are categorized as either multinational companies (as designated by their respective supervisory agency); regional companies (all other institutions with assets in excess of $1 billion); or community holding companies (less than $1 billion in total assets). The minimum ratios and guidelines set forth below apply to bank holding companies of all size categories.

**Minimum Guideline Ratios**

The Board has established a minimum ratio of primary capital to total assets of 5.5 percent for all bank holding companies. Holding companies with primary capital ratios below the 5.5 percent minimum will generally be considered to be undercapitalized unless they can demonstrate clear extenuating circumstances. Such companies, as described in greater detail below, will be required to submit an acceptable capital plan and will be subject to appropriate supervisory enforcement action.

A minimum ratio of total capital to total assets of 6.0 percent has been established for all bank holding companies. In addition, the Zone 1 total capital ratio guideline for multinational and regional holding companies is being raised to 7.0 percent, which is the Zone 1 ratio for community organizations. The total capital ratio guidelines establish three broad zones for total capital that apply to holding companies of all sizes:

Zone 1—Above 7.0%
Zone 2—6.0% to 7.0%
Zone 3 (Minimum Total Capital Ratio)—Below 6.0%

Generally, the nature and intensity of supervisory action will be determined by a holding company's compliance with the required minimum primary capital ratio as well as by the zone in which a holding company's total capital ratio falls. While a company's position in the quantitative capital zones will normally trigger the below specified supervisory responses, qualitative analysis will continue to be used in determining minimum levels of capital for banking institutions.

For holding companies operating in Zone 1, the Board will:

—presume that capital is adequate if the primary capital ratio is acceptable and is above the 5.5 percent minimum

For companies operating in Zone 2, the Board will:

—pay particular attention to other financial factors such as asset quality, liquidity, and interest rate risk as they relate to the adequacy of capital and if they are not satisfactory and the Federal Reserve concludes capital is not adequate, intensify its analysis and action

Bank holding companies operating in Zone 3:

—May be considered undercapitalized, absent clear extenuating circumstances
—Would be required to submit a comprehensive capital plan that is acceptable to the Board and that includes a program for achieving compliance with the minimum required ratios within a reasonable time period
—Would be subject to appropriate supervisory and/or administrative enforcement action, or the issuance of a capital directive
—Would generally be subject to denial of applications unless a reasonable capital plan that is acceptable to the Board has been adopted.

While the critical first test of a holding company's capital adequacy is its compliance with the minimum supervisory guideline ratios, the Board will continue to take into account the various qualitative factors that affect an institution's overall level of risk and financial condition. The Board retains the flexibility to make appropriate adjustments in the application of the guidelines to individual institutions.

The Board will issue regulations for enforcing the minimum capital requirements set forth above and for exercising the authority to issue capital directives as provided in the International Lending Supervision Act of 1983.

## PART 263—RULES OF PRACTICE FOR HEARINGS

5. 12 CFR Part 263 is proposed to be amended by revising the authority for the part, and by adding a new Subpart D to read as follows:

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**Subpart D—Procedures for Issuance and Enforcement of Directives To Require Compliance With the Board's Capital Guidelines**

Sec.
263.35 Authority, purpose and scope.
263.36 Definitions.
263.37 Establishment of minimum capital levels.
263.38 Procedures for requiring maintenance of adequate capital.
263.39 Enforcement of directive.
263.40 Establishment of increased capital level for individual bank or bank holding company.

Authority: 12 U.S.C. 248, 324, 329, 1818, 1828, 1844, 3907, 3909, 15 U.S.C. 19.

### Subpart D—Procedures for Issuance and Enforcement of Directives To Require Compliance With the Board's Capital Guidelines

**§ 263.35 Authority, purpose, and scope.**

(a) *Authority.* This subpart is issued under authority of the International Lending Supervision Act of 1983 ("ILSA"), 12 U.S.C. 3907, 3909; section 5(b) of the Bank Holding Company Act ("BHC ACT"), 12 U.S.C. 1844(b); the Financial Institutions Supervisory Act of 1966 ("FIS ACT"), 12 U.S.C. 1818(b)–(n); and sections 9 and 11(i) of the Federal Reserve Act, 12 U.S.C. 248, 324, 329.

(b) *Purpose and scope.* This subpart establishes procedures under which the Board may issue a directive or take other action to require a state member bank or a bank holding company to achieve and maintain adequate capital.

**§ 263.36 Definitions.**

(a) "Bank holding company" means any company that controls a bank as defined in section 2 of the BHC Act, 12 U.S.C. 1841, and in the Board's Regulation Y (12 CFR 225.2(b)).

(b) "Capital Adequacy Guidelines" means those guidelines contained in Appendix A to the Board's Regulation H (12 CFR part 208) in the case of state member banks and in Appendix A to the Board's Regulation Y (12 CFR Part 225) in the case of bank holding companies.

(c) "Directive" means a final order issued by the Board pursuant to ILSA (12 U.S.C. 3907(b)(2)) requiring a state member bank or bank holding company to increase capital to or maintain capital at the minimum level set forth in the Board's Capital adequacy Guidelines or as otherwise established under procedures described in § 263.40 of this subpart.

(d) "State member bank" means any state chartered bank that is a member of the Federal Reserve System.

**§ 263.37 Establishment of minimum capital levels.**

The Board has established minimum capital levels for state member banks and bank holding companies in its Capital Adequacy Guidelines. The Board may set higher capital levels as necessary and appropriate for a particular state member bank or bank holding company based upon its

financial condition, managerial resources, prospects, or similar factors, pursuant to the procedures set forth in § 263.40 of this subpart.

**§ 263.38 Procedures for requiring maintenance of adequate capital.**

(a) *Submission of capital improvement plan.* Any state member bank or bank holding company that may not be in compliance with the Board's Capital Adequacy Guidelines on the date that this regulation becomes effective shall, within 90 days, submit to its appropriate Federal Reserve Bank for review a plan describing the means and the time schedule by which the bank or bank holding company shall achieve the required minimum level of capital.

(b) *Issuance of directive*—(1) *Notice of intent to issue directive.* If a state member bank or bank holding company is operating with less than the minimum level of capital established in the Board's Capital Adequacy Guidelines, or as otherwise established under the procedures described in § 263.40 of this subpart, the Board may issue and serve upon such state member bank or bank holding company written notice of the Board's intent to issue a directive to require the bank or bank holding company to achieve and maintain adequate capital within a specified time period.

(2) *Contents of notice.* The notice of intent to issue a directive shall include:

(i) The required minimum level of capital to be achieved or maintained by the institution;

(ii) Its current level of capital;

(iii) The proposed increase in capital needed to meet the minimum requirements;

(iv) The proposed date or schedule for meeting these minimum requirements;

(v) When deemed appropriate, specific details of a proposed plan for meeting the minimum capital requirements; and

(vi) The date for a written response by the bank or bank holding company to the proposed directive, which shall be at least 14 days from the date of issuance of the notice unless the Board determines a shorter period is necessary because of the financial condition of the bank or bank holding company.

(3) *Response to notice.* The bank or bank holding company may file a written response to the notice within the time period set by the Board. The response may include:

(i) An explanation why a directive should not issue;

(ii) Any proposed modification of the terms of the directive;

(iii) Any relevant information, mitigating circumstances, documentation or other evidence in support of the institution's position regarding the proposed directive; and

(iv) The institution's plan for attaining the required level of capital.

(4) *Failure to file response.* Failure by the bank or bank holding company to file a written response to the notice of intent to issue a directive within the specified time period shall constitute a waiver of the opportunity to respond and shall constitute consent to the issuance of such directive.

(5) *Board consideration of response.* After considering the response of the bank or bank holding company, the Board may:

(i) Issue the directive as originally proposed or in modified form;

(ii) Determine not to issue a directive and so notify the bank or bank holding company; or

(iii) Seek additional information or clarification of the response by the bank or bank holding company.

(6) *Contents of directive.* Any directive issued by the Board may order the bank or bank holding company to:

(i) Achieve or maintain the minimum capital requirement established pursuant to the Board's Capital Adequacy Guidelines or the procedures in this subpart by a certain date;

(ii) Submit for approval and adhere to a plan for achieving the minimum capital requirement by a certain date;

(iii) Take other specific action as the Board directs to achieve the minimum capital levels, including requiring a reduction of assets or asset growth or restriction on the payment of dividends; or

(iv) A combination of the above actions.

(7) *Request for reconsideration of directive.* Any state member bank or bank holding company, upon a change in circumstances, may request the Board to reconsider the terms of a directive and may propose changes in the plan under which it is operating to meet the required minimum capital level. The directive and plan continue in effect while such request is pending before the Board.

**§ 263.39 Enforcement of directive.**

(a) *Judicial and administrative remedies.*—(1) Whenever a bank or bank holding company fails to follow a directive issued under this subpart, or to submit or adhere to a capital adequacy plan submitted pursuant to such directive, the Board may seek enforcement of the directive, including the capital adequacy plan, in the appropriate United States district court, pursuant to section 8(i)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)(2)), in the same manner and to the same extent as if the directive were a final cease and desist order.

(2) The Board may also assess civil money penalties for violation of the directive against any bank or bank holding company and any officer, director, employee, agent, or other person participating in the conduct of the affairs of the bank or bank holding company, in the same manner and to the same extent as if the directive were a final cease and desist order.

(b) *Other enforcement actions.* A directive may be issued separately, in conjunction with, or in addition to any other enforcement actions available to the Board, including issuance of cease and desist orders, the approval or denial of applications or notices, or any other actions authorized by law.

(c) *Consideration in application proceedings.* In acting upon any application or notice submitted to the Board pursuant to any statute administered by the Board, the Board may consider the progress of a state member bank or bank holding company or any subsidiary thereof in adhering to any directive or capital adequacy plan required by the Board pursuant to this subpart, or by any other appropriate banking agency pursuant to ILSA. The Board shall consider whether approval or a notice of intent not to disapprove would divert earnings, diminish capital, or otherwise impede the bank or bank holding company in achieving its required minimum capital level or complying with its capital adequacy plan.

**§ 263.40 Establishment of increased capital level for individual bank or bank holding company.**

(a) *Establishment of capital levels for individual institutions.* The Board may establish a capital level higher than that specified in the Board's Capital Adequacy Guidelines for an individual bank or bank holding company pursuant to:

(1) A written agreement or memorandum of understanding between the Board or the appropriate Federal Reserve Bank and the bank or bank holding company;

(2) A temporary or final cease and desist order issued pursuant to section 8 (b) or (c) of the FIS Act (12 U.S.C. 1818 (b) or (c));

(3) A condition for approval of an application or issuance of a notice of intent not to disapprove a proposal;

(4) Or other similar means; or

(5) The procedures set forth in subsection (b) of this section.

(b) *Procedure to establish higher capital requirement*—(1) *Notice.* When the Board determines that capital levels above those in the Board's Capital Adequacy Guidelines may be necessary and appropriate for a particular bank or bank holding company under the circumstances, the Board shall give the bank or bank holding company notice of the proposed higher capital requirement and shall permit the bank or bank holding company an opportunity to comment upon the proposed capital level, whether it should be required and, if so, under what time schedule. The notice shall contain the Board's reasons for proposing a higher level of capital.

(2) *Response.* The bank or bank holding company shall be allowed at least 14 days to respond, unless the Board determines that a shorter period is necessary because of the financial condition of the bank or bank holding company.

(3) *Board decision.* After considering the response of the institution, the Board shall issue a written decision to the bank or bank holding company as to the appropriate capital level and the date on which this capital level will become effective. The Board may require the bank or bank holding company to submit a plan for achieving such higher capital level as the Board may set.

(4) *Enforcement of higher capital level.* The Board may enforce the capital level established pursuant to the procedures described in this section and any plan submitted to achieve that capital level through the procedures set forth in § 263.38 of this subpart.

By order of the Board of Governors, effective July 24, 1984.

**William W. Wiles,**

*Secretary of the Board.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Parts 71 and 73

**[Airspace Docket No. 84-ANM-11]**

### Proposed Alteration of VOR Federal Airways and Restricted Areas

*Correction*

In FR Doc. 84-15109 beginning on page 23392 in the issue of Wednesday, June 6, 1984, make the following corrections:

1. In the second and third columns, on page 23393 under R-6405, R-6406A, R-6406B, and R-6407, in the Designated altitudes, "FL 280" should read "FL 580".

2. On page 23393, second column, under R-6406A, in the Boundaries description, the fourth line "114°00'0.0" W." should read "114°00'00" W.".

BILLING CODE 1505-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### 21 CFR Parts 431, 436, 440, 442, 444, 446, 448, 449, 450, 452, 453, 455, 460, 536, 539, 540, 544, 546, 548, and 555

**[Docket No. 83N-0378]**

### Antibiotic Drugs; Deletion of Safety Test

**AGENCY:** Food and Drug Administration.

**ACTION:** Proposed rule.

**SUMMARY:** The Food and Drug Administration (FDA) is proposing to amend the antibiotic drug regulations to delte the safety test requirement for antibiotic drugs for both human and veterinary use. Because of greatly improved manufacturing technology since the early years of antibiotic drug manufacture, and because of FDA's ability to assure use of the improved manufacturing technology through its review of antibiotic Forms 5 and 6 applications and factory inspections, the agency has tentatively determined that the safety test requirement is unnecessary.

**DATES:** Comments by September 28, 1984; requests for an informal conference by August 29, 1984.

**ADDRESS:** Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Joan M. Eckert, Center for Drugs and Biologics (HFN-815), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4290.

**SUPPLEMENTARY INFORMATION:** The safety test in § 436.33 (21 CFR 436.33) of the antibiotic regulations is a general safety test designed to determine if extraneous toxic impurities are present in certain antibiotic drugs. This test is not intended as a specific test for assessing the intrinsic toxicity of antibiotic drugs. An appropriate test dose of each subject antibiotic drug is administered to a group of five healthy white mice (preferably of a known strain) by designated route of administration. These mice are observed for 48 hours. If no animal dies within the observation period, the sample passes the safety test. If one or more animals die within the observation period, the test is repeated one or more times using for each test five or more previously unused mice. The sample passes the safety test if the total number of dead mice is no greater than 10 percent of the total animals tested, including the original test.

The reason for this test requirement stems from the history of antibiotic drugs themselves. Early antibiotic drug substances were produced in and extracted from fermentation broths that contained a multitude of chemical by-products. Even minute quantities of some of these chemical by-products could produce toxic reactions. Because of the rudimentary extraction procedures utilized in the manufacture of early antibiotic drugs, the agency believed that antibiotic drugs had a higher than usual possibility of producing toxic reactions than other drugs. Thus, a general safety test was required for certain antibiotic drugs to detect toxigenicity caused by extraneous chemical by-products produced by the fermentation process.

Upon consideration, FDA believes that it can delete the safety test requirement without compromising the safety and efficacy of these antibiotic drugs. Since the imposition of the safety test requirement in 1945, there has been a significant improvement in the extraction and chromatographic separation of antibiotic drug substances from fermentation broths, which has resulted in the production of highly purified antibiotic drug substances. Based on antibiotic Forms 5 and 6 application reviews and factory inspections conducted by FDA under section 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 374), the agency has determined that the methods, facilities, and conditions of production for all FDA-regulated antibiotic drugs are adequate in design and application to preclude the presence of the extraneous toxic impurities that the safety test was intended to detect. In addition to the overall improvement in antibiotic manufacturing technology, the agency notes that the individual regulations for these antibiotic drugs prescribe other specific tests (e.g., identity, pyrogen, chromatographic potency assay) that provide assurance of the absence of extraneous toxic impurities. FDA believes that its position on this matter is further supported by its finding that between 1960 and 1982 (the year antibiotics were exempted from batch certification), only one batch of antibiotic drug had been

rejected for certification by the agency for failure to comply with the safety test standard.

The agency has tentatively concluded, therefore, that the reasons discussed above warrant the deletion of the safety test requirement from the applicable regulations (monographs).

The agency has determined pursuant to 21 CFR 25.24(b)(22) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

The agency has considered the economic impact of this proposed rulemaking and has determined that it does not require a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). Specifically, the proposal provides for the deletion of a testing requirement, thus reducing overall assay costs for manufacturers of antibiotic drugs under this proposal. Accordingly, the agency certifies that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities.

**List of Subjects**

*21 CFR Part 431*

Administrative practice and procedure, Antibiotics.

*21 CFR Part 436*

Antibiotics.

*21 CFR Part 440*

Antibiotics, Penicillin.

*21 CFR Part 442*

Antibiotics, Cepha.

*21 CFR Part 444*

Antibiotics, Oligosaccharide.

*21 CFR Part 446*

Antibiotics, Tetracycline.

*21 CFR Part 448*

Antibiotics, Peptide.

*21 CFR Part 449*

Antibiotics, Antifungal.

*21 CFR Part 450*

Antibiotics, Antitumor.

*21 CFR Part 452*

Antibiotics, Macrolide.

*21 CFR Part 453*

Antibiotics, Lincomycin.

*21 CFR Part 455*

Antibiotics.

*21 CFR Part 460*

Antibiotics.

*21 CFR Part 536*

Animal drugs, Antibiotics.

*21 CFR Part 539*

Animal drugs, Antibiotics, Bulk.

*21 CFR Part 540*

Animal drugs, Antibiotics, Penicillin.

*21 CFR Part 544*

Animal drugs, Antibiotics, Oligosaccharide.

*21 CFR Part 546*

Animal drugs, Antibiotics, Tetracycline.

*21 CFR Part 548*

Animal drugs, Antibiotics, Peptides.

*21 CFR Part 555*

Animal drugs, Antibiotics, Chloramphenicol.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 512(n), 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended, 82 Stat. 350–351 (21 U.S.C. 357, 360b(n), 371 (f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 431, 436, 440, 442, 444, 446, 448, 449, 450, 452, 453, 455, 460, 536, 539, 540, 544, 546, 548, and 555 be amended as follows:

## PART 431—CERTIFICATION OF ANTIBIOTIC DRUGS

1. Part 431 is amended in § 431.53 *Fees* by removing the item "Safety test" from the table in paragraph (b)(1).

## PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

2. Part 436 is amended by removing and reserving § 436.33 *Safety Test.*

## PART 440—PENICILLIN ANTIBIOTIC DRUGS

3. Part 440 is amended:

a. By removing and reserving the following: §§ 440.3 (a)(1)(ii) and (b)(2); 440.5 (a)(1)(ii) and (b)(2); 440.7 (a)(1)(ii) and (b)(2); 440.7a (a)(1)(iv) and (b)(4); 440.8 (a)(1)(ii) and (b)(2); 440.9a (a)(1)(iv) and (b)(4); 440.11 (a)(1)(ii) and (b)(2); 440.13a (a)(1)(iv) and (b)(4); 440.15 (a)(1)(ii) and (b)(2); 440.17 (a)(1)(ii) and (b)(2); 440.19 (a)(1)(ii) and (b)(2); 440.19a (a)(1)(iv) and (b)(4); 440.25 (a)(1)(ii) and (b)(2); 440.29 (a)(1)(ii) and (b)(2); 440.29a (a)(1)(iv) and (b)(4); 440.36a (a)(1)(iv) and (b)(4); 440.37a (a)(1)(iv) and (b)(4); 440.41 (a)(1)(ii) and (b)(2); 440.41a (a)(1)(iv) and (b)(4); 440.49 (a)(1)(ii) and (b)(2); 440.49a (a)(1)(iv) and (b)(4); 440.51 (a)(1)(ii) and (b)(2); 440.55a (a)(1)(iv) and (b)(4); 440.71 (a)(1)(ii) and (b)(2); 440.73 (a)(1)(ii) and (b)(2); 440.74a (a)(1)(iv) and (b)(4); 440.80a (a)(1)(iv) and (b)(4); 440.81a (a)(1)(iv) and (b)(4); 440.83a (a)(1)(iv) and (b)(4); 440.90a (a)(1)(iv) and (b)(4); 440.207(b)(4); 440.210(b)(4); 440.219b(b)(4); 440.229b(b)(4); 440.236(b)(4); 440.241(b)(4); 440.249(b)(4); 440.255b(b)(4); 440.255c(b)(4); 440.255d(b)(4); 440.274b (b)(4); 440.274c(b)(4); 440.280b(b)(4); 440.281b(b)(4); 440.1080a (a)(1)(iv) and (b)(4); and 440.1081a (a)(1)(iv) and (b)(4).

b. By removing the word "safety," wherever it appears from the following: §§ 440.3(a)(3)(i); 440.5(a)(3)(i); 440.7(a)(3)(i); 440.7a(a)(3)(i); 440.8(a)(3)(i); 440.9a(a)(3)(i); 440.11(a)(3)(i); 440.13a(a)(3)(i); 440.15(a)(3)(i); 440.17(a)(3)(i); 440.19(a)(3)(i); 440.19a(a)(3)(i); 440.25(a)(3)(i); 440.29(a)(3)(i); 440.29a(a)(3)(i); 440.36a(a)(3)(i); 440.37a(a)(3)(i); 440.41(a)(3)(i); 440.41a(a)(3)(i); 440.49(a)(3)(i); 440.49a(a)(3)(i); 440.51(a)(3)(i); 440.55a(a)(3)(i); 440.71(a)(3)(i); 440.73(a)(3)(i); 440.74a(a)(3)(i); 440.80a(a)(3)(i); 440.81a(a)(3)(i); 440.83a(a)(3)(i); 440.90a(a)(3)(i); 440.103a(a)(3)(i)(*a*); 440.103b(a)(3)(i)(*a*); 440.103c(a)(3)(i)(*a*); 440.105a(a)(3)(i)(*a*); 440.105b(a)(3)(i)(*a*); 440.105c(a)(3)(i)(*a*); 440.105d(a)(3)(i)(*a*); 440.107a(a)(3)(i)(*a*); 440.107b(a)(3)(i)(*a*); 440.107c(a)(3)(i)(*a*); 440.107d(a)(3)(i)(*a*); 440.107e(a)(3)(i)(*a*); 440.108a(a)(3)(i)(*a*); 440.108b(a)(3)(i)(*a*); 440.111(a)(3)(i)(*a*); 440.115a(a)(3)(i)(*a*); 440.115b(a)(3)(i)(*a*); 440.117a(a)(3)(i)(*a*); 440.117b(a)(3)(i)(*a*); 440.119a(a)(3)(i)(*a*); 440.119b(a)(3)(i)(*a*); 440.125a(a)(3)(i)(*a*); 440.125b(a)(3)(i)(*a*); 440.129(a)(3)(i)(*a*); 440.141a(a)(3)(i)(*a*); 440.141b(a)(3)(i)(*a*); 440.141c(a)(3)(i)(*a*); 440.149a(a)(3)(i)(*a*); 440.149b(a)(3)(i)(*a*); 440.151a(a)(3)(i)(*a*); 440.151b(a)(3)(i)(*a*); 440.155c(a)(3)(i)(*a*); 440.155d(a)(3)(i)(*a*); 440.171a(a)(3)(i)(*a*); 440.171b(a)(3)(i)(*a*); 440.171c(a)(3)(i)(*a*); 440.173a(a)(3)(i)(*a*); 440.173b(a)(3)(i)(*a*); 440.173c(a)(3)(i)(*a*); 440.173d(a)(3)(i)(*a*); 440.180a(a)(3)(i)(*a*); 440.180c(a)(3)(i)(*a*); 440.180f(a)(3)(i)(*a*); 440.180g(a)(3)(i)(*a*); 440.207(a)(3)(i)(*b*); 440.210(a)(3)(i)(*b*); 440.219b(a)(3)(i)(*b*); 440.229b(a)(3)(i)(*b*); 440.236(a)(3)(i)(*b*); 440.241(a)(3)(i)(*b*); 440.249(a)(3)(i)(*b*); 440.255b(a)(3)(i)(*b*); 440.255c(a)(3)(i)(*c*); 440.255d(a)(3)(i)(*b*); 440.274a(a)(3)(i)(*a*); 440.274b(a)(3)(i)(*b*); 440.274c(a)(3)(i)(*b*); 440.280b(a)(3)(i)(*b*); 440.281b(a)(3)(i)(*b*); 440.1080a(a)(3)(i); and 440.1081a(a)(3)(i).

c. In paragraph (a)(1) of §§ 440.207; 440.210; 440.219b; 440.236; 440.241; 440.249; 440.255b; 440.255c; 440.255d; 440.274b; 440.274c; 440.280b; and 440.281b by removing the sentence "It passes the safety test." wherever it appears.

d. In § 440.229b(a)(1), by revising the third sentence to read as follows: "It is sterile and nonpyrogenic."

## PART 442—CEPHA ANTIBIOTIC DRUGS

4. Part 442 is amended:

a. By removing and reserving the following: §§ 442.6 (a)(1)(ii) and (b)(2); 442.8a (a)(1)(iv) and (b)(4); 442.9a (a)(1)(iv) and (b)(4); 442.11a (a)(1)(iv) and (b)(4); 442.13a (a)(1)(iv) and (b)(4); 442.14a (a)(1)(iv) and (b)(4); 442.19 (a)(1)(ii) and (b)(2); 442.21 (a)(1)(ii) and (b)(2); 442.23a (a)(1)(iv) and (b)(4); 442.25a (a)(1)(iv) and (b)(4); 442.27 (a)(1)(ii) and (b)(2); 442.29a (a)(1)(iv) and (b)(4); 442.40 (a)(1)(ii) and (b)(2); 442.40a (a)(1)(iv) and (b)(4); 442.41 (a)(1)(ii) and (b)(2); 442.208(b)(4); 442.209(b)(4); 442.219(b)(4); 442.225b(b)(4); 442.225c(b)(4); and 442.240a(b)(4).

b. By removing the word "safety," wherever it appears from the following: §§ 442.6(a)(3)(i); 442.8a(a)(3)(i); 442.9a(a)(3)(i); 442.11a(a)(3)(i); 442.13a(a)(3)(i); 442.14a(a)(3)(i); 442.19(a)(3)(i); 442.21(a)(3)(i); 442.23a(a)(3)(i); 442.25a(a)(4)(i); 442.27(a)(3)(i); 442.29a(a)(3)(i); 442.40(a)(3)(i); 442.40a(a)(3)(i); 442.41(a)(3)(i); 442.106a(a)(3)(i)(*a*); 442.106b(a)(3)(i)(*a*); 442.106c(a)(3)(i)(*a*); 442.121a(a)(3)(i)(*a*); 442.121b(a)(3)(i)(*a*); 442.127a(a)(3)(i)(*a*); 442.127b(a)(3)(i)(*a*); 442.127c(a)(3)(i)(*a*); 442.140a(a)(3)(i)(*a*); 442.140b(a)(3)(i)(*a*); 442.140c(a)(3)(i)(*a*); 442.141(a)(3)(i)(*a*); 442.208(a)(3)(i)(*b*); 442.209(a)(3)(i)(*b*); 442.219(a)(3)(i)(*b*); 442.225b(a)(3)(i)(*b*); 442.225c(a)(3)(i)(*b*); 442.240a(a)(3)(i)(*b*).

c. In paragraph (a)(1) of §§ 442.208; 442.209; 442.219; 442.225b; 442.225c; and 442.240a by removing the sentence "It passes the safety test." wherever it appears.

## PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

5. Part 444 is amended:

a. By removing and reserving the following: §§ 444.6 (a)(1)(ii) and (b)( 2); 444.20 (a)(1)(ii) and (b)(2); 444.20a (a)(1)(iii) and (b)(3); 444.30 (a)(1)(ii) and (b)(2); 444.30a (a)(1)(iii) and (b)(3); 444.42 (a)(1)(ii) and (b)(2); 444.42a (a)(1)(iv) and (b)(4); 444.50 (a)(1)(ii) and (b)(2); 444.62 (a)(1)(ii) and (b)(2); 444.70a (a)(1)(iv) and (b)(4); 444.80 (a)(1)(ii) and (b)(2); 444.81a (a)(1)(iv) and (b)(4); 444.206(b)(4); 444.220(b)(3); 444.230(b)(3); 444.262(b)(4); 444.270b(b)(4); 444.280(b)(4); and 444.942a(a)(1)(ii).

b. By removing the word "safety" or "toxicity" wherever it appears from the following: §§ 444.20(a)(3)(i); 444.20a(a)(3)(i); 444.30(a)(3)(i); 444.30a(a)(3)(i); 444.42(a)(3)(i); 444.42a(a)(4)(i); 444.50(a)(3)(i); 444.62(a)(3)(i); 444.70a(a)(3)(i); 444.80(a)(3)(i); 444.81a(a)(3)(i); 444.130(a)(3)(i)(*a*); 444.142a(a)(3)(i)(*a*); 444.142b(a)(3)(i)(*a*); 444.150a(a)(3)(i)(*a*); 444.150b(a)(3)(i)(*a*); 444.206(a)(3)(i) (*a*) and (*b*); 444.220(a)(3)(i) (*a*) and (*b*); 444.230(a)(3)(i)(*b*); 444.262(a)(3)(i) (*a*) and (*b*); 444.270b(a)(3)(i)(*b*); 444.280(a)(3)(i)(*b*); 444.320a(a)(3)(i)(*a*); 444.320b(a)(3)(i)(*a*); 444.342a(a)(3)(i)(*a*); 444.342b(a)(3)(i) (*a*), (*b*), and (*c*); 444.342c(a)(3)(i) (*a*) and (*b*); 444.342d(a)(3)(i) (*a*) and (*b*); 444.342g(a)(3)(i)(*a*); 444.342h(a)(3)(i) (*a*) and (*b*); 444.342i(a)(3)(i) (*a*) and (*b*); 444.342j(a)(3)(i) (*a*) and (*b*); 444.342k(a)(3)(i) (*a*) and (*b*); 444.380a(a)(3)(i)(*a*); 444.380b(a)(3)(i)(*a*); 444.942a(a)(4)(i); and 444.942b(a)(3)(i) (*a*) and (*b*).

c. In paragraph (a)(1) of the following sections remove references as follows: § 444.142a, remove "(iv)" from the fifth sentence; § 444.142b, remove "(iv)" from the fifth sentence; § 444.342a, remove "(iv)" from the fifth sentence; § 444.342b, remove "(iv)" from the fourth and fifth sentences and "(ii)" from the sixth sentence; § 444.342c, remove "(iv)" from the fifth and sixth sentences; § 444.342d, remove "(iv)" from the fifth and sixth sentences; § 444.342g, remove "(iv)" from the sixth sentence; § 444.542f, remove "(iv)" from the fifth sentence and "(ii)" from the sixth sentence; and § 444.942b, remove "(iv)" from the fifth and sixth sentences.

d. In paragraph (a)(1) of §§ 444.206; 444.220; 444.230; 444.262; 444.270b; and 444.280 by removing the sentence "It passes the safety test." wherever it appears.

e. In paragraph (a)(1) of §§ 444.442g; 444.442h; 444.520a; 444.520b; and 444.542a by removing ", except safety" or "and, if for ophthalmic use, paragraph (a)(1)(iv) of that section" wherever they appear.

f. By revising § 444.542a(a)(3)(i)(*a*) to read "The neomycin sulfate used in making the batch for potency, pH, and identity."

g. By revising § 444.542f(a)(3)(i)(*a*) to read "The neomycin sulfate used in making the batch for potency, moisture, pH, and identity."

h. By revising § 444.542f(a)(3)(i)(*b*) to read "The gramicidin used in making the batch for potency, moisture, residue on ignition, melting point, crystallinity, and identity."

i. By revising § 444.942a(b) to read *"Tests and methods of assay; potency, moisture, pH, and identity.* Proceed as directed in § 444.42a(b) (1), (5), (6), and (7)."

## PART 446—TETRACYCLINE ANTIBIOTIC DRUGS

6. Part 446 is amended:

a. By removing and reserving the following: §§ 446.10 (a)(1)(ii) and (b)(2); 446.10a (a)(1)(iv) and (b)(4); 446.15 (a)(1)(ii) and (b)(2); 446.16 (a)(1)(ii) and (b)(2); 446.20 (a)(1)(ii) and (b)(2); 446.20a (a)(1)(iv) and (b)(4); 446.21 (a)(1)(ii) and (b)(2); 446.50 (a)(1)(ii) and (b)(2); 446.60 (a)(1)(ii) and (b)(2); 446.65 (a)(1)(ii) and (b)(2); 446.65a (a)(1)(iv) and (b)(4); 446.66 (a)(1)(ii) and (b)(2); 446.67 (a)(1)(ii) and (b)(2); 446.67a (a)(1)(iv) and (b)(4); 446.75a (a)(1)(iv) and (b)(4); 446.76a (a)(1)(iv) and (b)(4); 446.80 (a)(1)(ii) and (b)(2); 446.81 (a)(1)(ii) and (b)(2); 446.81a (a)(1)(iv) and (b)(4); 446.82 (a)(1)(ii) and (b)(2); 446.181b(b)(2)(ii); 446.220(b)(4); 446.260(b)(4); 446.265(b)(4); 446.267(b)(4); 446.275a(b)(4); 446.276a(b)(4); and 446.281d(b)(4).

b. By removing the word "safety," or "toxicity," wherever it appears from the following: §§ 446.10(a)(3)(i); 446.10a(a)(3)(i); 446.15(a)(3)(i); 446.16(a)(3)(i); 446.20(a)(3)(i); 446.20a(a)(3)(i); 446.21(a)(3)(i); 446.50(a)(3)(i); 446.60(a)(3)(i); 446.65(a)(3)(i); 446.65a(a)(3)(i); 446.66(a)(3)(i); 446.67(a)(3)(i); 446.67a(a)(3)(i); 446.75a(a)(3)(i); 446.76a(a)(3)(i); 446.80(a)(3)(i); 446.81(a)(3)(i); 446.81a(a)(3)(i); 446.82(a)(3)(i); 446.110(a)(3)(i)(*a*); 446.115a(a)(3)(i)(*a*); 446.115b(a)(3)(i)(*a*); 446.115c(a)(3); 446.116a(a)(3)(i)(*a*); 446.116c(a)(3)(i)(*a*); 446.116d(a)(4); 446.120a(a)(3)(i)(*a*); 446.120b(a)(3)(i)(*a*); 446.120c(a)(3)(i)(*a*); 446.121(a)(3)(i)(*a*); 446.150a(a)(3)(i)(*a*); 446.150b(a)(3)(i)(*a*); 446.160a(a)(3)(i)(*a*); 446.160b(a)(3)(i)(*a*); 446.160c(a)(3)(i)(*a*); 446.165a(a)(3)(i)(*a*); 446.165c(a)(3)(i) (*a*) and (*b*); 446.165d(a)(3)(i)(*a*); 446.165e(a)(3)(i) (*a*) and (*b*); 446.166(a)(3)(i)(*a*); 446.167(a)(3)(i)(*a*); 446.180a(a)(3); 446.180b(a)(4); 446.180c(a)(3)(i)(*a*); 446.181b(a)(3); 446.181d(a)(3)(i)(*a*); 446.181e(a)(3)(i)(*a*); 446.182(a)(3)(i)(*a*); 446.220(a)(3)(i)(*b*); 446.260(a)(3)(i)(*b*); 446.265(a)(3)(i)(*b*); 446.267(a)(3)(i)(*b*); 446.275a(a)(3)(i)(*b*); 446.275b(a)(3)(i)(*a*); 446.276a(a)(3)(i)(*b*); 446.276b(a)(3)(i)(*a*); 446.281c(a)(3)(i)(*a*); 446.281d(a)(3)(i)(*b*); 446.282(a)(3)(i)(*a*); 446.310(a)(3)(i)(*a*); 446.367c(a)(3)(i)(*a*); 446.367e(a)(3)(i) (*a*) and (*b*); 446.381a(a)(3)(i)(*a*); and 446.381b(a)(3)(i)(*a*).

c. In paragraph (a)(1) of §§ 446.181b; 446.220; 446.260; 446.265; 446.267;

446.275a; 446.276a; and 446.281d by removing the sentence "It passes the safety test." or "It is nontoxic." wherever it appears.

d. In paragraph (a)(1) of §§ 446.265, in the ninth sentence; 446.267, in the ninth sentence; 446.581c, in the seventh sentence; and 446.581d, in the fifth sentence by removing the words "safety," and "safety, and".

e. In paragraph (a)(1) of §§ 446.467; 446.510; 446.567a; 446.567b; 446.567c; 446.567e; and 446.667 by removing the words ", except safety" wherever they appear.

## PART 448—PEPTIDE ANTIBIOTIC DRUGS

7. Part 448 is amended:

a. By removing and reserving the following: §§ 448.10 (a)(1)(ii) and (b)(2); 448.10a (a)(1)(iii) and (b)(4); 448.13 (a)(1)(ii) and (b)(2); 448.13a (a)(1)(iii) and (b)(3); 448.15a (a)(1)(iii) and (b)(3); 448.20a (a)(1)(iii) and (b)(4); 448.21 (a)(1)(ii) and (b)(2); 448.25 (a)(1)(ii) and (b)(2); 448.30 (a)(1)(ii) and (b)(2); 448.30a (a)(1)(iv) and (b)(4); 448.910 (a)(1)(ii) and (b)(2); 448.913 (a)(1)(ii) and (b)(2); and 448.930a (a)(1)(ii) and (b)(2).

b. removing the word "safety," from the following: §§ 448.10(a)(3)(i); 448.10a(a)(3)(i); 448.13(a)(3)(i); 448.13a(a)(3)(i); 448.15a(a)(3)(i); 448.20a(a)(3)(i); 448.21(a)(3)(i); 448.25(a)(3)(i); 448.30(a)(3)(i); 448.30a(a)(3)(i); 448.121(a)(3)(i)(*a*); 448.310b(a)(3)(i) (*a*), (*b*), and (*c*); 448.310c(a)(3)(i)(*a*); 448.313a(a)(3)(i) (*a*) and (*b*); 448.313b(a)(3)(i) (*a*), (*b*), and (*c*); 448.321(a)(3)(i)(*a*); 448.513d(a)(3)(i) (*a*), (*b*), and (*c*); 448.513e(a)(3)(i) (*a*), (*b*), (*c*); 448.910(a)(4)(i); 448.913(a)(4)(i); 448.930a(a)(4)(i); and 448.930b(a)(3)(i)(*a*).

c. In paragraph (a)(1) of §§ 448.421; 448.430; 448.510a; 448.510d; 448.510e; 448.513a; 448.513b; 448.513c; and 448.513f by removing ", except safety" or ", except for safety" wherever it appears.

## PART 449—ANTIFUNGAL ANTIBIOTIC DRUGS

8. Part 449 is amended:

a. By removing and reserving the following: §§ 449.4 (a)(1)(iii) and (b)(3); 449.4a (a)(1)(iii) and (b)(3); 449.20 (a)(1)(ii) and (b)(2); 449.50 (a)(1)(ii) and (b)(2); and 449.204(b)(3).

b. By removing the word "safety," wherever it appears from the following: §§ 449.4(a)(3)(i); 449.4a(a)(3)(i); 449.20(a)(3)(i); 449.50(a)(3)(i); 449.104(a)(3)(i)(*a*); 449.120a(a)(3)(i)(*a*); 449.120b(a)(3)(i)(*a*); 449.120c(a)(3)(i)(*a*); 449.120d(a)(3)(i)(*a*); 449.150a(a)(3)(i)(*a*); 449.150b(a)(3)(i)(*a*); 449.150c(a)(3)(i)(*a*); 449.204(a)(3)(i)(*b*); 449.550b(a)(3)(i)(*a*); and 449.650b(a)(3)(i)(*a*).

c. In § 449.204(a)(1) by removing the sentence "It passes the safety test."

d. In paragraph (a)(1) of §§ 449.550c; 449.550e; 449.550g; and 449.550h by removing the phrase "except safety" wherever it appears.

## PART 450—ANTITUMOR ANTIBIOTIC DRUGS

9. Part 450 is amended:

a. By removing and reserving the following: §§ 450.10a (a)(1)(iv) and (b)(4); 450.45 (a)(1)(ii) and (b)(2); and 450.245(b)(4).

b. In §§ 450.10a(a)(3)(i); 450.45 (a)(3)(i); and 450.245(a)(3)(i)(*b*) by removing the word "safety," wherever it appears.

c. In § 450.245(a)(1), by removing the sentence "It passes the safety test."

## PART 452—MACROLIDE ANTIBIOTIC DRUGS

10. Part 452 is amended:

a. By removing and reserving the following: §§ 452.10 (a)(1)(ii) and (b)(2); 452.15 (a)(1)(ii) and (b)(2); 452.25 (a)(1)(ii) and (b)(2); 452.25a (a)(1)(iii) and (b)(3); 452.30a (a)(1)(iii) and (b)(4); 452.35 (a)(1)(ii) and (b)(2); 452.75 (a)(1)(ii) and (b)(2); 452.225(b)(3); and 452.232(b)(4).

b. By removing the word "safety," wherever it appears from the following: §§ 452.10(a)(3)(i); 452.15(a)(3)(i); 452.25(a)(3)(i); 452.25a(a)(3)(i); 452.30a(a)(4)(i); 452.35(a)(3)(i); 452.75(a)(3)(i); 452.110a(a)(3)(i)(*a*); 452.110b(a)(3)(i)(*a*); 452.110c(a)(3)(i)(*a*); 452.115a(a)(3)(i)(*a*); 452.115b(a)(3)(i)(*a*); 452.115c(a)(3)(i)(*a*); 452.115d(a)(3)(i)(*a*); 452.115e(a)(3)(i)(*a*); 452.115f(a)(3)(i)(*a*); 452.125a(a)(3)(i)(*a*); 452.125b(a)(3)(i)(*a*); 452.125c(a)(3)(i)(*a*); 452.125d(a)(3)(i)(*a*); 452.125e(a)(3)(i)(*a*); 452.135a(a)(3)(i)(*a*); 452.135b(a)(3)(i)(*a*); 452.135c(a)(3)(i)(*a*); 452.175a(a)(3)(i)(*a*); 452.175b(a)(3)(i)(*a*); 452.175c(a)(3)(i)(*a*); 452.175d(a)(3)(i)(*a*); 452.225(a)(3)(i)(*b*); 452.232(a)(3)(i)(*b*); 452.310(a)(3)(i)(*a*); and 452.710(a)(3)(i)(*a*).

c. In paragraph (a)(1) of the following sections remove references as follows: § 452.110b, remove "(ii)" from the sixth sentence; § 452.310, remove "(ii)" from the sixth sentence; and § 452.710, remove "(ii)" from the fourth sentence.

d. In paragraph (a)(1) of §§ 452.225 and 452.232 by removing the sentence "It passes the safety test." wherever it appears.

e. In § 452.510b(a)(1) by removing the words "safety and" from the seventh sentence.

## PART 453—LINCOMYCIN ANTIBIOTIC DRUGS

11. Part 453 is amended:

a. By removing and reserving the following: §§ 453.20 (a)(1)(iii) and (b)(3); 453.21 (a)(1)(ii) and (b)(2); 453.22 (a)(1)(iii) and (b)(3); 453.22a (a)(1)(v) and (b)(5); 453.30 (a)(1)(ii) and (b)(2); 453.30a (a)(1)(iii) and (b)(3); 453.222(b)(4); and 453.230(b)(3).

b. By removing the word "safety," wherever it appears from the following: §§ 453.20(a)(3)(i); 453.21(a)(3)(i); 453.22(a)(3)(i); 453.22a(a)(3)(i); 453.30(a)(3)(i); 453.30a(a)(3)(i); 453.120(a)(3)(i)(*a*); 453.121a(a)(3)(i)(*a*); 453.121b(a)(3)(i)(*a*); 453.130a(a)(3)(i)(*a*); 453.130b(a)(3)(i)(*a*); 453.222(a)(3)(i)(*b*); and 453.230(a)(3)(i)(*b*).

c. In § 453.130b(a)(1), remove the reference "(ii)" from the fifth sentence.

d. In paragraph (a)(1) of §§ 453.222 and 453.230 by removing the sentence "It passes the safety test." wherever it appears.

## PART 455—CERTAIN OTHER ANTIBIOTIC DRUGS

12. Part 455 is amended:

a. By removing and reserving the following: §§ 455.10 (a)(1)(ii) and (b)(2); 455.10a (a)(1)(iv) and (b)(4); 455.11 (a)(1)(ii) and (b)(2); 455.12a (a)(1)(iv) and (b)(4); 455.20 (a)(1)(ii) and (b)(2); 455.50 (a)(1)(ii) and (b)(2); 455.51 (a)(1)(ii) and (b)(2); 455.51a (a)(1)(iv) and (b)(4); 455.70 (a)(1)(ii) and (b)(2); 455.80a (a)(1)(v) and (b)(5); 455.85 (a)(1)(ii) and (b)(2); 455.85a (a)(1)(iii) and (b)(3); 455.90a (a)(1)(iii) and (b)(3); 455.210(b)(4); 455.230(b)(4); and 455.251(b)(4).

b. By removing the word "safety," or "toxicity," wherever it appears from the following: §§ 455.10(a)(3)(i); 455.10a(a)(3)(i); 455.11(a)(3)(i); 455.12a(a)(3)(i); 455.20(a)(3)(i); 455.50(a)(3)(i); 455.51(a)(3)(i); 455.51a(a)(3)(i); 455.70(a)(3)(i); 455.80a(a)(3)(i); 455.85(a)(3)(i); 455.85a(a)(4)(i); 455.90a(a)(3)(i); 455.110(a)(3)(i)(*a*); 455.111(a)(3)(i)(*a*); 455.120(a)(3)(i)(*a*); 455.150(a)(3)(i)(*a*); (both sentences); 455.151a(a)(3)(i)(*a*); 455.151b(a)(3)(i)(*a*); 455.170a(a)(3)(i)(*a*); 455.170b(a)(3)(i)(*a*); 455.185(a)(3)(i)(*a*); 455.210(a)(3)(i)(*b*); 455.230(a)(3)(i); 455.251(a)(3)(i)(*b*); 455.290(a)(3)(i)(*a*); 455.310a(a)(3)(i)(*a*); 455.310b(a)(3)(ii)(*b*); 455.310c(a)(4)(i)(*a*); 455.310d(a)(3); and 455.390(a)(3)(i)(*a*).

c. In paragraph (a)(1) of §§ 455.150, 455.251, and 455.310c by removing the word "safety" or "nontoxic"; in § 455.150(a)(1) by removing "(ii)" from the fifth and sixth sentences; in § 455.251(a)(1) by revising the fourth sentence to read "It is sterile and nonpyrogenic." and by removing "(iv)" from the seventh sentence; and in § 455.310c(a)(1) by removing "(iv)" from the sixth sentence.

d. In paragraph (a)(1) of §§ 455.210 and 455.230 by removing the sentence "It passes the safety test." wherever it appears.

e. In paragraph (a)(1) of §§ 455.410 and 455.510d by removing the words ", except safety" and "safety" wherever they appear.

## PART 460—ANTIBIOTIC DRUGS INTENDED FOR USE IN LABORATORY DIAGNOSIS OF DISEASE

13. Part 460 is amended in § 460.42(a)(1) in the seventh sentence by removing the word "toxicity,".

## PART 536—TESTS FOR SPECIFIC ANTIBIOTIC DOSAGE FORMS

14. Part 536 is amended:

a. In § 536.507 by removing and reserving paragraph (c).

b. In § 536.513(b) by removing "toxicity," "§ 444.10a(b)(2)," and "§ 440.80a(b)(5)(iii)".

## PART 539—BULK ANTIBIOTIC DRUGS SUBJECT TO CERTIFICATION

15. Part 539 is amended:

a. By removing and reserving the following: §§ 539.3 (a)(1)(iv) and (b)(4); 539.15 (a)(1)(iv) and (b)(4); 539.170 (a)(1)(ii) and (b)(2); 539.210a (a)(1)(ii) and (b)(2); 539.210b (a)(1)(ii) and (b)(2); 539.310a (a)(1)(ii) and (b)(2); and 539.310b (a)(1)(ii) and (b)(2).

b. By removing the word "safety," or "toxicity," wherever it appears from the following: §§ 539.3(a)(3)(i); 539.15(a)(3)(i); 539.170(a)(4)(i); 539.210a(a)(4)(i); 539.210b(a)(4)(i); 539.310a(a)(3)(i); and 539.310b(a)(3)(i).

## PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

16. Part 540 is amended:

a. By removing and reserving the following: §§ 540.114 (a)(1)(ii) and (b)(2); 540.114a (a)(1)(iii) and (b)(3); 540.203(b)(4); 540.207b(b)(4); and 540.274d (a)(1)(iv) and (b)(3).

b. By removing the word "safety," or "toxicity," wherever it appears from the following: §§ 540.103a(a)(3)(i)(*a*); 540.103b(a)(3)(i)(*a*); 540.103c(a)(3)(i)(*a*); 540.105(a)(3)(i)(*a*); 540.107a(a)(4)(i)(*a*); 540.107b(a)(3)(i)(*a*); 540.107c(a)(3)(i)(*a*); 540.107d(a)(3)(i)(*a*); 540.107e(a)(3)(i)(*a*); 540.114(a)(3)(i); 540.114a(a)(3)(i); 540.119(a)(3)(i)(*a*); 540.129a(a)(3)(i)(*a*); 540.129b(a)(3)(i)(*a*); 540.129c(a)(3)(i)(*a*); 540.203(a)(3)(i)(*b*); 540.207a(a)(3)(i)(*a*); 540.207b(a)(3)(i)(*b*); 540.274c(a)(4); 540.814(a)(3)(i)(*a*); 540.814a(a)(3)(i)(*a*); 540.815(a)(3)(i)(*a*); 540.815a(a)(3)(i)(*a*); 540.829(a)(3)(i)(*a*); 540.874e(a)(1); and 540.874f(a)(3)(i) (*a*) and (*b*).

c. In paragraph (a)(1) of §§ 540.203 and 540.207b by removing the sentence "It passes the safety test." wherever it appears.

d. In § 540.274c(a)(1), in the last sentence, by revising the phrase "§ 440.74a(a)(1) (ii), (iii), and (iv) of this chapter." to read "§ 440.74a(a)(1) (ii) and (iii) of this chapter."

e. § 540.274d(a)(4)(ii) (*a*), (*b*), and (*c*) by removing the words "toxicity and".

f. In § 540.380a(a)(1), in the fifth sentence, by removing the phrase "and (iv)" in the cross-reference to § 440.80a(a)(1); in the sixth sentence by removing the phrase "and except § 440.80a(a)(1)(iv) of this chapter"; and by removing the next to the last sentence that reads "The 1-ephenamine penicillin G used conforms to the requirements of § 440.65a(a)(1) except paragraph (a)(1) (ii), (iii), and (iv) of that section."

g. In § 540.380a(a)(4)(i)(*a*) by removing the words ", and for toxicity if the ointment is intended for ophthalmic use."

h. In § 540.380b(a)(1) in the sixth sentence, by revising the phrase "except paragraph (a)(1) (ii), (iii), and (iv)" to read "except paragraph (a)(1) (ii) and (iii)"; and in the next to the last sentence, by removing the phrase "except the standard for toxicity".

i. In § 540.874e(a)(1), in the fifth sentence, by revising the phrase "except § 440.74a(a)(1) (ii), (iii), and (iv)." to read "except sterility and pyrogens.", and in the last sentence by removing the word "safety."

## PART 544—OLIGOSACCHARIDE CERTIFIABLE ANITBIOTIC DRUGS FOR ANIMAL USE

17. Part 544 is amended:

a. By removing the words "safety," and "and safety" wherever they appear from the following: §§ 544.170a(a)(4)(ii) (*b*), (*c*), and (*d*); 544.170b(a)(4)(i); 544.173a(a)(4)(ii)(*b*); 544.173b(a)(4)(ii)(*b*); 544.173d(a)(4)(ii)(*b*); 544.173e(a)(4)(ii)(*b*); 544.211a(b)(3); 544.211b (a)(4)(ii)(*a*) and (b)(3); 544.274(a)(4)(ii)(*a*); 544.370a (a)(4)(i) and (b)(2); 544.373(a)(1); and 544.373b(a)(1).

b. In paragraph (a)(1) of §§ 544.170b and 544.173c by removing the sentence "It passes the safety test." wherever it appears.

c. By removing and reserving the following: §§ 544.170b(b)(2); 544,173c(b)(3); and 544.211b(a)(1)(ii).

d. § 544.170a(a)(1) in the fourth sentence by revising the phrase "except § 444.70a(a)(1), (ii), (iii), and (v)" to read "except for sterility, pyrogens, and depressor substances," and by revising the fifth sentence to read "The polymyxin used conforms to the standards as prescribed by § 448.30(a)(1) of this chapter."

e. In paragraph (b)(3) of §§ 544.211a and 544.211b by removing the number "(4)" in the cross-reference to § 444.70a(b).

f. In § 544.370a(b)(2) by revising the cross-reference "§ 544.70a(b) (2) through (7)" to read "§ 444.70a(b) (3) through (7)."

g. In § 544.370b(a)(1) by revising the phrase "§ 444.70a(a)(1) of this chapter, except paragraph (a)(1) (ii), (iii), (iv), and (v) of that section" to read "§ 444.70a(a)(1) of this chapter, except for sterility, pyrogens and depressor substances," and by revising "§ 452.10(a)(1) of this chapter, except paragraph (a)(1)(ii), (v), (vi), and (viii) of that section." to read "§ 452.10(a)(1), except for residue on ignition, heavy metals, and crystallinity."

h. In § 544.373a(a)(1) by revising the phrase "requirements of § 444.70a(a)(1) of this chapter, except paragraph(a)(1), (ii), (iii), (iv), (v), and (vi) of that section." to read "requirements of § 444.70a(a)(1) (i), (vii), and (viii) of this chapter."

i. In § 544.373b(a)(1) by revising the phrase "requirements of § 444.70a(a)(1) of this chapter, except paragraph (a)(1) (ii), (iii), (iv), and (v) of that section." to read "requirement of § 444.70a(a)(1) (i), (vi), (viii), and (viii) of this chapter."

## PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

18. Part 546 is amended:

a. By removing the word "toxicity," wherever it appears from the following: §§ 546.110b(a)(4)(ii)(*b*); 546.110c(a)(4)(ii)(*b*); 546.110d(a)(5)(ii)(*b*); 546.110g(a)(4)(ii)(*b*); 546.113a(a)(4)(ii)(*b*); and 546.312a(a)(1)(iii).

b. By removing the word "safety," wherever it appears from the following: §§ 546.180e(a)(3)(i)(*a*); 546.180g(a)(3)(i) (*a*) (*b*); 546.180h(a)(3)(i) (*a*) (*b*); and 546.180i(a)(3)(i) (*a*) (*b*).

c. In § 546.180h(a)(1) by revising the cross-reference "§ 446.81a(a)(1) of this chapter, except for § 446.81a(a)(1) (ii), (iv), and (v)." to read "§ 446.81a(a)(1) of this chapter, except for sterility and depressor substances."

d. In § 546.312a(a)(1)(iii) by revising the cross-reference "§ 444.70a(a)(1) of this chapter, except paragraph (a)(1) (ii), (iii), (iv), and (v) of that section." to read "§ 444.70a(a)(1) of this chapter, except for pyrogens and depressor substances."

## PART 548—CERTIFIABLE PEPTIDE ANTIBIOTIC DRUGS FOR ANIMAL USE

19. Part 548 is amended:

a. By removing the word "safety," wherever it appears from the following: §§ 548.112a(a)(3)(i)(*a*); 548.112b(a)(3)(i)(*a*) and (*b*); 548.112d(a)(3)(i) (*a*) and (*b*); and 548.314a(a)(3)(i) (*a*), (*b*), and (*c*).

b. In § 548.112d(a)(1) by removing the phrase ", and in addition, it passes the safety test".

## PART 555—CHLORAMPHENICOL DRUGS FOR ANIMAL USE

20. Part 555 is amended:

a. By removing the word "safety," wherever it appears from the following: §§ 555.110a(a)(3)(i)(*a*); 555.110b(a)(3)(i)(*a*); 555.110c(a)(4)(i)(*a*); 555.111(a)(3)(i)(*a*); 555.210a(a)(4)(i)(*b*); and 555.310d(a)(3)(i)(*a*).

b. In § 555.210 by removing the sentence "It passes the safety test." from paragraph (a)(1), and by removing and reserving paragraph (b)(4).

c. In § 555.310e(a)(1) by removing the phrase ", except safety."

Interested persons may, on or before September 28, 1984, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Interested persons may also, on or before August 29, 1984, submit to the Dockets Management Branch (address above) a request for an informal conference. The participants in an informal conference, if one is held, will have until September 28, 1984 or 30 days from the date of the conference, whichever is later, to submit their comments.

Dated: July 18, 1984.

**Mark Novitch**

*Deputy Commissioner of Food and Drugs.*

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## DEPARTMENT OF HOUSING AND URBAN DEVELOPMMENT

### Office of the Assistant Secretary for Public and Indian Housing

### 24 CFR Part 990

[Docket No. R–84–1170; FR–1834]

### Modification to the Performance Funding System

**AGENCY:** Office of the Assistant Secretary for Public and Indian Housing, HUD.

**ACTION:** Proposed rule.

**SUMMARY:** This proposed rule would make three primary changes in the Performance Funding System. It would simplify the determination of the change in Allowable Expense Level from one year to the next. It would require estimates of investment income to reflect the adjusted average yield for 91-day Treasury bills. It would require additional end of year adjustments to estimates of income other than dwelling rental income, and would change the year-end adjustment to estimates of dwelling rental income from an elective to a mandatory one. The rule would make a few additional minor clarifying changes.

**DATE:** Comments must be received on or before September 28, 1984.

**ADDRESSES:** Comments on rule: Interested persons are invited to submit comments regarding this proposed rule to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying during regular business hours at the above address.

Comments on the information collection: Comments on the information collection requirements contained in this rule should be submitted both to the HUD Rules Docket Clerk at the above address and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for HUD. They should contain the docket number and title of this rule.

**FOR FURTHER INFORMATION CONTACT:** John T. Comerford, Chief, Financial Management Branch, Office of Public and Indian Housing, Room 4216, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 426–1872. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** The Allowable Expense Level (AEL) is updated from year to year to reflect both changes in wage and non-wage prices (by using an Inflation Factor) and changes in the operating characteristics of a Public Housing Agency (PHA) (by using an adjustment called the Delta). The Delta is derived by determining the difference between applying the Performance Funding System (PFS) equation weights and constant to various factors for the requested budget year and for the current budget year. These factors include the age of a PHA's units, building height, average unit size, and relative regional operating cost. Unless a PHA has added or subtracted (e.g., demolished or sold) units, the only year-to-year change is the result of aging of the buildings. Since most PHAs do not add or subtract units each year, the substitution of a fixed amount for the Delta that represents the effect of aging of the housing stock for those PHAs would simplify this yearly calculation.

Sections 990.105(e)–(5) are proposed to be amended to provide that PHAs whose units have not changed by more than a designated amount be allotted a Delta of .005 (a .5 percent increase in the AEL) to approximate the amount previously provided by the formula to account for changes resulting from aging. PHAs that do experience more substantial changes in housing stock would still compute their Delta by applying the PFS equation to the PHA's data for both years. The Inflation Factor part of the computation of the AEL would remain unchanged.

Section 990.109(e) would be revised to require a PHA's estimate of investment income to reflect interest at the Treasury bill rate projected for the year by HUD on the PHA's HUD-approved average cash balance. This revision reflects current HUD policy on investment income found in HUD Handbook 7475.1 CHG 10, Low Income Housing Financial Management. Requiring the use of the Treasury bill rate encourages PHAs to invest wisely, and that rate of return is readily achievable at local financial institutions. This section would also be revised to exclude government grants for purposes other than utility costs from income. This revision reflects current practice under the Department's instructions for completing HUD Form 52721A. In addition, payments received from tenants for repairs for which the PHA incurs an offsetting expense would now be excluded from income for the purpose of calculating a PHA's operating subsidy eligibility.

The third primary change would be to reorganize § 990.110 on year-end adjustments, distinguishing between mandatory and elective adjustments.

The adjustments to estimated dwelling rental income would be changed from the elective to the mandatory category. A new category of adjustment would be added for estimated investment income and Other Income (income other than dwelling rental income and investment income). These changes would be made to assure that major sources of PHA income are properly assessed in determining need for Federal funds. The mandatory adjustment to estimated utilities expense and the provision for HUD-initiated changes would be retained.

Section 990.110(b), which now describes how to calculate the AEL for new projects, would be removed, and this subject would be covered by a new § 990.105(e)(3). The reason for the change in location of this topic is that the method for calculating the AEL for new projects is being changed from an adjustment to a Base Year Expense Level, a subject covered in §990.110, to a determination made on the basis of the AEL of a comparable PHA, a subject that fits better within the framework of § 990.105. This change reflects current HUD procedure as reflected in HUD Handbook 7475.13 CHG 6. The proposed revision of § 990.110(a), pertaining to adjustment of the Base Year Expense Level for existing projects, also reflects a simplification of procedures that have taken place through the Handbook, which do not have a substantive impact.

Additional clarifying changes would be made in § 990.105(e) to indicate that the AEL for "new projects" is to be established in their first year of operation under PFS by the use of a comparable project. Section 990.115 is changed to clarify that the frequency of income reexaminations and the calculation of rents are to be determined in accordance with provisions of regulations found in 24 CFR Parts 913, 904, 905 or 960, which have superseded the referenced contract provision and rent schedules.

A further regulatory change is being made to carry out a policy of the U.S. Department of Treasury (Treasury) to require that certain types of disbursements by Federal agencies must be made by letters of credit, as stated in 31 CFR Part 205. The use of an automated letter of credit system is intended primarily to preclude withdrawal of funds from the U.S. Treasury any sooner than needed to meet immediate program requirements. It will benefit program recipients, PHAs in this case, by enabling them to obtain advances of approved funds on one day's notice. Accordingly, § 990.113(a) would be revised to require that PHAs that receive annual operating subsidy funding at or above a level prescribed by Treasury and HUD accept disbursement of those funds through Treasury's automated letter of credit system. Current general requirements and procedures covering the use of this system are found in HUD Notice PIH–83–9 (December 5, 1983), supplementing HUD Handbooks concerning letters of credit, Handbook 1900.27 (for recipient organizations) and Handbook 1900.28 (for HUD staff).

### Other Matters

The Department normally provides sixty days for public comment on proposed rules. In this instance, the public comment period has been reduced to thirty days. This abbreviated comment period will make it possible for the Department to take into account the views expressed in response to this rule, while publishing a final rule early enough in calendar 1984 to provide adequate notice to Public Housing Agencies of the effect of changes in the Performance Funding System, before these changes are applied.

Because of the congressional review requirements of section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)), and because of the early recess planned for the current session of Congress, it is unlikely that the final rule will be published in time to be announced for effectiveness during calendar 1984, even if the final rule is in fact published (as HUD plans) in September of 1984. Instead, the published rule will be announced for effectiveness thirty congressional session days following Congress' return in January, 1985. However, when the rule does become effective, it will be made effective retroactive to PHA fiscal years beginning on January 1, 1985.

### Findings and Certifications

A finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50 that implement Section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of Regulations, Room 10276, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in Section 1 (b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more, (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities, because the proposed rule would primarily simplify procedures used for calculating Federal subsidy to small governmental entities operating public housing projects.

This rule was listed as item numbers H–2–84, RIN–2577–AA00, and H–47–84, RIN 2577–AA06, in the Department's Semiannual Agenda of Regulations published on April 19, 1984 (49 FR 15901, 15960) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

### Paperwork Reduction Act

The information collection requirements contained in §§ 990.109 (e) and (f) and 990.110 (b), (c) and (d) of this rule have been submitted to the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register**. The information collection requirements contained in §§ 990.110 (a) and (e) and 990.115 (b) and (c) have been approved by OMB under the Paperwork Reduction Act and have been assigned OMB control numbers 2577–0029, and 2577–0026.

The Catalog of Federal Domestic Assistance Program Number is 14.146, Low Income Housing Assistance Program (Public Housing).

### List of Subjects in 24 CFR Part 990

Grant programs—Housing and community development, Low and moderate income housing, Public housing.

## PART 990—ANNUAL CONTRIBUTIONS FOR OPERATING SUBSIDY

Accordingly, 24 CFR Part 990 is proposed to be amended as follows:

1. Section 990.102 would be amended by revising paragraph (a) and adding new paragraph (x), to read as follows:

**§ 990.102 Definitions.**

(a) *Allowable expense level (AEL).* The per unit per month dollar amount of expenses (excluding utilities and expenses allowed under § 990.108) computed in accordance with § 990.105, which is used to compute the amount of operating subsidy.

* * * * *

(x) *Other income.* Income other than dwelling rental income and income from investments.

2. Section 990.105(e) would be amended by redesignating existing paragraphs (e)(3) and (e)(4) as (e)(5) and (e)(6), by adding new paragraphs (e)(3) and (e)(4), and by revising the text of the redesignated paragraph (3)(5), to read as follows:

**§ 990.105 Computation of allowable expense level.**

* * * * *

(e) *Computation of allowable expense level.* The PHA shall compute its Allowable Expense Level as follows:

* * * * *

(3) *Allowable Expense Level for first budget year under PFS for new project(s).* A new project of a new PHA or a new project of an existing PHA that is placed under a separate ACC, that did not have a sufficient number of units available for occupancy in the Base Year to have a level of operations representative of a full fiscal year of operation, is considered to be a "new project". HUD will determine the AEL for the first budget year under PFS for a new project based on the AEL for a comparable project.

(4) *Allowable Expense Level for budget years after the furst budget yer under PFS through budget years beginning in calendar year 1984.* For each budget year after the first budget year under PFS through budget years beginning in calendar year 1984, the AEL will be equal to the AEL for the Current Budget Year increased (or decreased) by the following:

(i) Any increase to the Allowable Expense Level approved by HUD under § 990.108(c);

(ii) The increase (decrease) between the Formula Expense Level for the Current Budget Year and the Formula Expense Level for the Requested Budget Year; and

(iii) The sum of the AEL for the Current Budget Year and the increase (decrease) described in paragraphs (e)(4) (i) and (ii) of this section, multiplied by the Local Inflation Factor.

(5) *Allowable Expense Level for budget years after the first budget year under PFS that begin in calendar year 1985 and thereafter.* For each budget year after the first budget year under PFS that begins in calendar year 1985 and thereafter, the AEL shall be computed as follows:

(i) The Allowable Expense Level shall be increased by any increase to the AEL approved by HUD under § 990.108(c);

(ii) The AEL for the Current Budget Year also shall be increased (or decreased) by either:

(A) If the PHA has not experienced a change in excess of 5 percent or 1,000 units, whichever is less, the number of units since the last adjustment to the AEL based on paragraph (e)(4) or paragraph (e)(5)(ii)(B) of this section, the AEL shall be increased by one-half of one percent (.5 percent); or

(B) If the PHA has experienced a change in excess of 5 percent or 1,000 units, whichever is less, in the number of its units since the last adjustment to the AEL based on paragraph (e)(4) of this section or this paragraph (e)(5)(ii)(B), it shall use the increase (decrease) between the Formula Expense Level for the Current Budget Year and the Formula Expense Level for the Requested Budget Year. The PHA characteristics that shall be used to compute the Formula Expense Level for the Current Budget Year shall be the same as those that were used for the Requested Budget Year when the last adjustment to the AEL was made based on paragraph (e)(4) of this section or this paragraph (e)(5)(ii)(B), except that the number of interim years in which the .5 percent adjustment was made under paragraph (e)(5)(ii)(A) shall be added to the average age that was used for the last adjustment; and

(iii) The amount computed in accordance with paragraphs (e)(5) (i) and (ii) of this section shall be multiplied by the Local Inflation Factor.

*Example:*

*FY 1986.* Assume that: (1) The PHA has experienced no change in the number of its units, (2) the AEL for the PHA's FY 1985 is $64.00, and (3) the applicable Local Inflation Factor is 6 percent (expressed as 1.06). The AEL for FY 1986 is $68.18, computed as follows:

| | |
|---|---|
| 1. Allowable Expense Level for FY 1985 | $64.00 |
| 2. Delta: Increase (or Decrease) in Formula Expense Level ($64.00 x .5 percent) | .32 |
| 3. Sum (line 1 plus line 2) | 64.32 |
| 4. Local Inflation Factor | 1.06 |
| 5. Allowable Expense Level for FY 1986 (line 3 multiplied by line 4) | $68.18 |

*FY 1987.* Assume that the PHA has deprogrammed (e.g., demolished or sold) a project that represents seven percent of its units, and that the last time and adjustment to the AEL was made based on paragraph (e)(4) or paragraph (e)(5)(ii)(B) was in its FY 1984, at which time the PHA had the following characteristics for its Requested Budget Year: average age of 10 years, average project height of 5 stories, and average unit size of 4 bedrooms. The Formula Expense Level for the Current Budget Year is calculated using 12 years (10 years plus the two years in which the standard .5 percent adjustment was used), 5 stories and 4 bedrooms.

Also assume that the Formula Expense Level calculated based on these characteristics is $70.00 and that the PHA aveerge characteristics for the Requested Budget Year are now an average age of 8 years, average project height of 4 stories and average unit size of 2 bedrooms, resulting in a Formula Expense Level for the Requested Budget Year of $66.00. The Formula Expense Level for the Requested Budget Year, therefore, decreases by $2.00. Assuming that the Local Inflation Factor is 4.5% (expressed as 1.045), the AEL for FY 1987 is $69.16, computed as follows:

| | |
|---|---|
| 1. Allowable Expense Level for FY 1986 | $68.18 |
| 2. Delta: Increase (or Decrease) in Formula Expense Level | (2.00) |
| 3. Sum (line 1 plus line 2) | 66.18 |
| 4. Local Inflation Factor | 1.045 |
| 5. Allowable Expense Level for FY 1987 (line 3 multiplied by line 4) | $69.16 |

It should be noted that the Delta in line 2 of the example reflects the application of the Formula weights, constant and Local Inflation Factor for the Requested Budget Year applied first to the PHA characteristics for the Current Budget Year and then to the PHA characteristics for the Requested Budget Year, to determine the respective Formula Expense Levels. The Local Inflation Factor shown on line 4 of the example is the same one used in determining the Formula Expense Levels.

3. Paragraphs (e) and (f) of § 990.109 would be revised to read as follows:

**§ 990.109 Projected operating income level.**

* * * * *

(e) *PHA's estimate of income other than dwelling rental income.* The PHA shall estimate interest on general fund investments based on the estimated average yield for 91-day Treasury bills for the PHA's Requested Budget Year (yield information will be provided by HUD) and on the estimated average cash balance that will be available for investment during the Requested Budget Year, which estimate shall be subject to HUD approval. The PHA shall estimate Other Income based on past experience and a reasonable projection for the

Requested Budget Year, which estimate shall be subject to HUD approval. Grants and gifts for operations other than for utility expenses, received from Federal, State and local governments, individuals or private organizations, shall be excluded from Other Income for the purpose of calculating a PHA's operating subsidy eligibility. In addition, payments received from tenants for repairs for which the PHA incurs an offsetting expense shall be excluded from Other Income for this purpose. The estimated total amount of income from investments and Other Income, as approved, shall be divided by the number of Unit Months Available to obtain a per unit per month amount. Such amount shall be added to the projected average dwelling rental income per unit to obtain the Projected Operating Income Level.

(f) *Required adjustments to estimates.* The PHA shall submit adjustments of projected operating income levels in accordance with § 990.110 (b), (c), and (d), which cover investment income, Other Income, and dwelling rental income, respectively.

4. Section 990.110 would be revised to read as follows:

**§ 990.110 Adjustments**

Adjustment information submitted to HUD under this section must be accompanied by an original or revised operating budget.

(a) *Adjustment of base year expense level*—(1) *Policy.* A PHA with projects that have been in management for at least one full fiscal year, for which operating subsidy is being requested for the first time, may, during its first budget year under PFS, request HUD to increase its Base Year Expense Level. Included in this category are existing PHAs requesting subsidy for a project or projects in operation at least one full fiscal year under separate ACC, for which operating subsidy has never been paid, except for IPA audit costs. This request may be granted by HUD, in its descretion, only where the PHA establishes to HUD's satisfaction that the Base Year Expense Level computed under § 990.105(a) will result in operating subsidy at a level insufficient to support a reasonable level of essential services. The approved increase cannot exceed the lesser of the per unit per month amount by which the top of the Range exceeds the Base Year Expense Level or the dollar amount used to compute the Range.

(2) *Procedure.* A request under paragraph (a)(1) of this section may only be made once for a particular project or group of projects by a PHA. Such request shall be submitted to the HUD Field Office, which will review, modify as necessary and approve or disapprove the request. A request under this paragraph must include a calculation of the amount per unit per month of requested increase in the Base Year Expense Level, and must show the requested increase as a percentage of the Base Year Expense Level.

(b) *Adjustments to estimated investment income.* A PHA must submit a year-end adjustment to the estimated amount of investment income that was used to determine subsidy eligibility at the beginning of the PHA's fiscal year. The amount of the adjustment will be the difference between the estimate and a Target Investment Income amount based on the actual average yield on 91-day Treasury bills for the PHA's fiscal year being adjusted and the actual average cash balance available for investment during the PHA's fiscal year, computed in accordance with HUD requirements. HUD will provide the PHA with the actual average yield on 91-day Treasury bills for the PHA's fiscal year. Failure of a PHA to submit the required adjustment of investment income by the date due may, in the discretion of HUD, result in the withholding of approval of future obligation of operating subsidies until the adjustment is received.

(c) *Adjustments to estimates of Other Income.* Effective for PHA fiscal years beginning in calendar year 1985 and thereafter, a PHA must submit a year-end adjustment to the estimated amount of Other Income that was used to determine operating subsidy eligibility at the beginning of the PHA fiscal year. The amount of the adjustment will be the difference between the estimate and the actual total Other Income reported on the PHA's Statement of Operating Receipts and Expenditures (Form HUD 52599). Failure of a PHA to submit the required adjustment of all Other Income by the date due may, in the discretion of HUD, result in the withholding of approval of future obligation of operating subsidies until the adjustment is received.

(d) *Adjustments to projected dwelling rental income.* Effective for PHA fiscal years beginning in calendar year 1985 and thereafter, a PHA shall, at the end of its fiscal year, compare the amount of projected dwelling rental income used to determine operating subsidy eligibility computed under § 990.109 and the actual dwelling rental income reported on the PHA's Statement of Operating Receipts and Expenditures (Form HUD 52599) for the year.

(1) In cases where the actual dwelling rental income is greater than the amount projected, the PHA must submit an adjustment to the estimated amount of dwelling rental income used to determine operating subsidy eligibility under § 990.109. The amount of the adjustment will be the difference between the estimate and the actual dwelling rental income reported on the PHA's Statement of Operating Receipts and Expenditures. Failure of a PHA to submit the required adjustment of dwelling rental income by the date due may, in the discretion of HUD, result in the withholding of approval of future obligation of operating subsidies until the adjustment is received.

(2) In cases where the actual dwelling rental income is less than the amount projected, the PHA may request an adjustment to the estimated amount if the PHA can establish to HUD's satisfaction that the PHA failed to obtain the estimated amount computed under § 990.109 because of circumstances beyond the control of the PHA, such as a substantial increase in general unemployment in the locality, a loss of higher income tenants in response to rent increases, the impact of legislative changes, or a revision of the PHA's utility allowances that was approved by HUD. The PHA seeking a downward adjustment must also demonstrate to HUD's satisfaction that it has established and is effectively implementing tenant selection criteria in compliance with HUD requirements. HUD shall have discretion to approve in full, to approve in part, or to deny any requested adjustment to projected average monthly dwelling rental income. A request for such an adjustment shall be submittted to the HUD Field Office by a deadline established by HUD, which will be within twelve months following the PHA's fiscal year being adjusted. In emergency cases, however, where a PHA establishes to HUD's satisfaction that decreased rental income would result in a severe financial crisis, a request for adjustment may be submitted to HUD during the PHA fiscal year in which it occurs.

(e) *Adjustments to Utilities Expense Level.* A PHA receiving operating subsidy under § 990.104, excluding those PHAs that receive operating subsidy solely for IPA audit (§ 990.108(a)), must submit a year-end adjustment regarding the Utility Expense Level aproved for operating subsidy eligibility purposes. This adjustment, which will compare the actual utility expense and consumption for the PHA fiscal year to the estimates used for subsidy eligibility purposes, shall be submitted on forms prescribed by HUD. This request shall be submittted to the HUD Field Office by a deadline established by HUD, which

will be during the PHA fiscal year following the PHA fiscal year for which an operating subsidy was received by the PHA, exclusive of a subsidy solely for IPA audit costs. Failure to submit the required adjustment of the Utilities Expense Level by the due date may, in the discretion of HUD, result in withholding of approval of future obligation of operating subsidies until it is received. Adjustments under this subsection normally will be made in the PHA fiscal year following the year for which adjustment is applicable, except as provided in paragraph (e)(5) of this section or unless a repayment plan is necessary as noted in paragraph (f) of this section.

(1) A decrease in Utilities Expense Level because of deceased utility rates to the extent funded by operating subsidy will be deducted by HUD from future operating subsidy payments.

(2) An increase in Utilities Expense Level because of increased utility rates will be fully funded by residual receipts, if available during that fiscal year, or by increased operating subsidy, subject to availability of funds.

(3) Fifty percent of any decrease in Utilities Expense Level attributable to decreased consumption will be retained by the PHA; 50 percent will be offset by HUD against subsequent payments of operating subsidy.

(4) An increase in Utilities Expense Level attributable to increased consumption will be fully funded by residual receipts after provision for reserves, if available; if not available and if the increase would result in a reduction of the operating reserve below the authorized maximum, 50 percent of the amount of the reduction below such maximum will be funded by increased operating subsidy payments, subject to the availability of funds, if such excess utility consumption was attributable to causes that were beyond the control of the PHA.

(5) In emergency cases, where a PHA establishes to HUD's satisfaction that a severe financial crisis would result from a utility rate increase, an adjustment covering only the rate increase may be submitted to HUD at any time during the PHA Current Budget Year. Unlike the adjustments mentioned in paragraphs (e)(1) through (e)(4) of this section, this adjustment shall be submitted to the HUD Field Office by revision of the original submission of the estimated Utility Expense Level for the fiscal year to be adjusted.

(6) Supporting documentation substantiating the requested adjustments shall be retained by the PHA pending HUD audit.

(f) *Additional HUD-initiated adjustments.* Notwithstanding any other provisions of this Subpart, HUD may at any time make an upward or downward adjustment in the amount of the PHA's operating subsidy as a result of data subsequently available to HUD which alters any of the components, data and projections upon which the approved operating subsidy was based. Normally adjustments shall be made in total in the PHA fiscal year in which the needed adjustment is determined; however, if a downward adjustment would cause a severe financial hardship on the PHA, the HUD Field Office may establish a recovery schedule which represents the minimum number of years needed for repayment.

(Information collection requirements contained in paragraph (a) of this section have been approved by the Office of Management and Budget under control numbers 2577–0029 and 2577–0026. Information collection requirements contained in paragraph (e) have been approved by OMB under control number 2577–0029.)

4. Section 990.113(a) would be revised to read as follows:

**§ 990.113 Payments procedure for operating subsidy under PFS.**

(a) *General.* Payments of operating subsidy to each PHA under PFS shall be made, subject to the availability of funds, either (1) pro rata at the beginning of each year, or each month or each quarter, as determined by HUD, or (2) for PHAs receiving funding at or above a level determined by the U.S. Department of Treasury (Treasury) and HUD, through a letter of credit under the Letter of Credit—Treasury Financial Communications System, as prescribed in Treasury regulations, 31 CFR Part 205, and HUD directives.

5. Section 990.115 would be revised to read as follows:

**§ 990.115 Payments of operating subsidy conditioned upon reexamination of income of families in occupancy.**

(a) *Policy.* The income of each family must be reexamined at least annually (see Parts 913, 904, 905 and 960 of this chapter). PHAs must be in compliance with this reexamination requirement to be eligible to receive full operating subsidy payments.

(b) *PHAs in compliance with requirements.* Each submission of the original Operating Budget for a fiscal year shall be accompanied by a certification by the PHA that it is in compliance with the annual income reexamination requirements and that rents have been or will be adjusted in accordance with Part 913 of this chapter.

(c) *PHAs not in compliance with requirements.* Any PHA not incompliance with the annual income reexamination requirement at the time of Operating Budget submission shall furnish to the HUD Field Office a copy of the procedure it is using to attain compliance and a statement of the number of families that have undergone reexamination during the twelve months preceding the date of the Operating Budget submission, or the revision thereof. If, on the basis of such submission, or any other information, the Field Office Director determines that the PHA is not substantially in compliance with the annual income reexamination requirement, he or she shall withhold payments to which the PHA might otherwise be entitled under this Part, equal to his or her estimate of the loss of rental income to the PHA resulting from its failure to comply with those requirements. (Information collection requirements contained in this section have been approved by the Office of Management and Budget under OMB control number 2577–0026.)

**Authority:** Sec. 9, United States Housing Act of 1937 (42 U.S.C. 1437g); Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)).

Dated: July 24, 1984.

**Warren T. Lindquist,**

*Assistant Secretary for Public and Indian Housing.*

[FR Doc. 84–19983 Filed 7–27–84; 8:45 am]

BILLING CODE 4210–33–M

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## DEPARTMENT OF THE INTERIOR

## Office of Surface Mining Reclamation and Enforcement

## 30 CFR Part 914

## Indiana Permanent Regulatory Program

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

**ACTION:** Reopening and extension of public comment period.

**SUMMARY:** On March 19, 1984, the Indiana Department of Natural Resources submitted to OSM a proposed amendment consisting of modifications to the Indiana regulations pertaining to the hearing on a lands unsuitable petition, various provisions on the blasting plan and use of explosives, administrative and judicial review of decisions on permit applications, requirements for signs and markers, and protection of underground mining.

OSM published a notice in the **Federal Register** on April 9, 1984, announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (49 FR 13891). The public comment period ended May 9, 1984. During its review of Indiana's proposed amendment OSM identified several concerns relating to the blasting plan and use of explosives. OSM notified Indiana of its concerns and on June 8, 1984, Indiana responded by submitting additional information and explanation concerning its proposed amendment.

Accordingly, OSM is reopening and extending the comment period for Indiana's proposed amendment and explanatory information. This action is being taken to provide the public an opportunity to reconsider the adequacy of the proposed amendment in light of the additional information.

**DATE:** Written comments relating to Indiana's proposed modification of its program not received on or before 4:00 p.m. on August 14, 1984, will not necessarily be considered in the Director's decision to approve or disapprove the proposed program modifications.

**ADDRESSES:** Written comments should be mailed or hand-delivered to: Mr. Richard D. McNabb, Director, Indiana Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204. Telephone: (317) 269–2600.

Copies of the Indiana program, the proposed amendment, and all written comments received in response to this notice will be available for review at the OSM offices and the Office of the State Regulatory Authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m. excluding holidays.

Office of Surface Mining Reclamation and Enforcement, Room 5124, 1100 L Street, NW., Washington, D.C. 20240.

Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana.

Indiana Department of Natural Resources, 608 State Office Building, Indianapolis, Indiana 46204.

**FOR FURTHER INFORMATION CONTACT:** Mr. Richard D. McNabb, Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Federal Building and U.S. Courthouse, Room 522, 46 East Ohio Street, Indianapolis, Indiana 46204. Telephone: (317) 269–2600.

**SUPPLEMENTARY INFORMATION:** Information regarding the general background on the Indiana State Program, including the Secretary's Findings, the disposition of comments and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982 **Federal Register** (47 FR 32071–32108).

On March 19, 1984, the Director, Indiana Department of Natural Resources, submitted to OSM pursuant to 30 CFR 732.17, a proposed State program amendment for approval. The proposed amendment to the Indiana regulations would amend various provisions of the approved Indiana program. OSM announced receipt of the amendment and initiated a public comment period on April 9, 1984 (49 FR 13891). The public comment period ended on May 9, 1984. A public hearing scheduled for May 4, 1984, was not held because no one expressed a desire to present testimony.

During the review of Indiana's proposed amendment, OSM identified the following concerns:

1. The Indiana proposed rules provide an exception to the requirement that a copy of a pre-blasting survey be submitted to the regulatory authority. Federal rules at 30 CFR 816.62(d) and 817.62(d) do not provide this exception.

2. Indiana's proposed rules require protection of active underground mines from blasting damage. Federal rules at 30 CFR 816.67(d)(1) and 817.67(d)(1) require such protection for underground mines whether active or inactive.

3. Indiana rules do not contain the requirement found in 30 CFR 816.67(c)(3) and 817.67(c)(3) that flyrock travelling in the air or along the ground shall not be cast from the blasting site beyond the permit boundary.

4. Indiana rules do not require that, if necessary to prevent damage, the regulatory authority shall specify lower maximum airblast levels than those contained in the rules, for use in the vicinity of a specific blasting operation. Federal rules contain this requirement at 30 CFR 816.67(b)(1)(ii) and 817.67(b)(1)(ii).

5. Indiana's proposed rules do not contain counterparts to Federal rules at 30 CFR 816.61 (a), (b) and (d) and 817.61 (a), (b) and (d) concerning blasts using more than five pounds of explosive and blast design.

OSM notified Indiana of these concerns in a letter dated June 1, 1984, and Indiana responded in a letter dated June 8, 1984, by submitting additional information on and explanation of its proposed amendment.

The full text of the proposed program amendment and the additional material are available for review at the locations listed above under **"ADDRESSES"**. Accordingly, the Director, OSM, is now seeking public comments on the adequacy of the State's submissions. The public comment period is hereby extended to August 14, 1984. All comments should be submitted to the location shown above under **"ADDRESSES"** in order to be considered by the Director in his decision on the program amendment.

**List of Subjects in 30 CFR Part 914**

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

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: July 24, 1984.

**William B. Schmidt,**

*Assistant Director, Program Operations and Inspection.*

[FR Doc. 84-20025 Filed 7-27-84; 8:45 am]

BILLING CODE 4310-05-M

## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Part 100

**[CGD3 84–52]**

## Head of the Connecticut Regatta, Middletown, CT

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of proposed rule making.

**SUMMARY:** Special Local Regulations are being proposed for the head of the Connecticut Regatta being sponsored by the City of Middletown, Connecticut. This event will be held on October 7, 1984 between the hours of 9:30 a.m. and 6:00 p.m. The Coast Guard is considering the issuance of this regulation to provide for the safety of participants and spectators on navigable waters during the event.

**DATES:** Comments must be received on or before August 29, 1984.

**ADDRESSES:** Comments should be mailed to Commander (b), Third Coast Guard District, Governors Island, New York, NY 10004. The comments will be available for inspection and copying at the Boating Safety Office, Building 110, Governors Island, New York, NY. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

**FOR FURTHER INFORMATION CONTACT:** LTJG D.R. Cilley, (212) 668–7974.

**SUPPLEMENTARY INFORMATION:** Interested persons are invited to participate in this proposed rule making submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD3 84–52) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed. The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rule making process.

**Drafting Information**

The drafters of this notice are LTJG D.R. CILLEY, Project Officer, Boating Safety Office, and Ms. MaryAnn ARISMAN, Project Attorney, Third Coast Guard District Legal Office.

**Discussion of Proposed Regulations**

The Tenth Annual Head of the Connecticut Regatta sponsored by the City of Middletown, Connecticut is well known to the boaters and residents of this area. In the past few years it has grown to become on the largest crew shell race events of it's type on the East Coast. Approximately 410 crew shells will race against the clock in 18 heats during the day. The sponsor will provide 6–8 vessels to help the Coast Guard, State of Connecticut and local authorities in patrolling this event. Several of the sponsor's vessels will assist in controlling the spectator fleet which has been growing larger in the past few years despite the late date of this event. Although the race course has not been altered, several changes to this Special Local Regulation have been made as a result of a Coast Guard review of last year's event. The Coast Guard intends to restrict vessel movement within this section of the Connecticut River during this event to provide for the safety of the participants and spectators on navigable waters. The Coast Guard intends to escort vessels less than 20 meters in length through the regulated area after each race heat or as directed by the Patrol Commander. Larger vessels will be allowed to transit the regulated area only during the 12:30 p.m.—1:45 p.m. period in the afternoon. The Coast Guard Captain of the Port, New London will ask for the cooperation of the oil facilities along the Connecticut River in scheduling any vessel transit to coincide with the scheduled break so as not to interfere with this event. This will allow "commercial" traffic to transit the area during a break in the race heats while maintaining a safe area for participants and spectators during the races. Mariners are urged to use extreme caution when transiting the regulated area. The Coast Guard will issue a safety voice broadcast and this regulation will be published in the Local Notice to Mariners to advise the general public and commercial users of the Connecticut River of the event.

**Economic Assessment and Certification**

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This event will draw a large number of spectator craft into the area for the duration of the races. This should easily compensate area merchants for the slight inconvenience of having navigation restricted. Larger commercial vessels are being given an opportunity to transit the area during the afternoon break (12:30 p.m. to 1:45 p.m.). There is minimal commercial traffic this far up the Connecticut River, at this time of the year. On the average, fewer than 2 fuel barges transit this section of the river on any given day enroute oil facilities along the river. The Captain of the Port, New London will make efforts to seek the cooperation of these facilities to not schedule trips on the river during the effective period. What little traffic must go through can easily be accommodated during the 1¼ hour break in the race schedule. Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

**List of Subjects in 33 CFR Part 100**

Marine Safety, Navigation (water).

**Proposed Regulation**

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations by adding a temporary § 100.35–310 to read as follows:

**§ 100.035–310 Head of the Connecticut Regatta, Middletown CT.**

(a) *Effective Dates.* This regulation will be effective from 9:00 a.m. to 6:00 p.m. on October 7, 1984.

(b) *Regulated Area.* That section of the Connecticut River between the southern tip of Gildersleeve Island and Light Number 87.

(c) *Special Local Regulations.* (1) The regulated area shall be intermittently closed to all vessel traffic from 9:00 a.m. to 6:00 p.m. on October 7, 1984 except as specified below or as directed by the Coast Guard Patrol Commander.

(2) No person or vessel shall enter or remain in the regulated area unless participating in the event or authorized by the event sponsor or Coast Guard patrol personnel.

(3) Vessels of less than 20 meters in length shall be escorted through the regulated area after each race heat or as directed by the Coast Guard Patrol Commander. Vessels of 20 meters or more in length shall be allowed to transit the regulated area, under Coast Guard escort, from 12:30 p.m. to 1:45 p.m. as directed by the Coast Guard Patrol Commander.

(4) Vessels awaiting passage through the regulated area will be held in the vicinity of the southern tip of Guildersleeve Island, if southbound and at Light Number 87 if northbound, until they are escorted at no wake speeds by Coast Guard patrol personnel through the race course.

(5) The sponsor shall ensure that all races are completed by 6:00 p.m. on October 7, 1984.

(6) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, the operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(7) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel.

(ii) $500 for the owner of a vessel actually on board.

(iii) $250 for any other person.

(iv) Suspension or revocation of a license for a licensed officer.

(33 U.S.C. 1233; 49 U.S.C. 108(b); 49 CFR 1.46(b) and 33 CFR 100.35)

Dated: July 23, 1984.

R.L. Johanson,

*Captain, U.S. Coast Guard, Commander, Third Coast Guard District, Acting.*

[FR Doc. 84-20010 Filed 7-27-84; 8:45 am]

BILLING CODE 4910-14-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 60

[AD-FRL-2641-5]

### Standards of Performance for New Stationary Sources; Industrial—Commercial—Institutional Steam Generating Units

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Rescheduling of Public Hearing and Extension of Comment Period.

**SUMMARY:** On June 19, 1984, new source performance standards were proposed for industrial—commercial—institutional steam generating units [49 FR 25102]. The proposal contained particulate matter and nitrogen oxides emission standards for new, modified, and reconstructed industrial—commercial—institutional steam generating units capable of combustion more than 29 MW (100 million Btu/hour) heat input. As announced in the proposal, a public hearing was scheduled for August 1, 1984 and written comments were requested by September 17, 1984.

On July 13, 1984, a letter was received from the Council of Industrial Boiler Owners (CIBO) requesting the public hearing be rescheduled to a later date and the public comment period be extended. In response to the CIBO request, the public hearing is being rescheduled to August 15, 1984 and the public comment period is being extended until October 1, 1984.

**DATES:** *Comments.* Comments must be received on or before October 1, 1984.

*Public Hearing.* A public hearing will be held on August 15, 1984, beginning at 10:00 a.m. Persons wishing to present oral testimony must notify Ms. Shelby Journigan at the address below by August 9, 1984.

**ADDRESSES:** *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), Attention: Docket Number A-79-02, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

*Public Hearing.* A public hearing will be held at the EPA Environmental Research Center (Auditorium), Corner of Highway 54 and Alexander Drive, Research Triangle Park, N.C. Persons wishing to present oral testimony must notify Ms. Shelby Journigan, Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5624.

*Docket.* Docket Number A-79-02, containing supporting information used in developing the proposed standards, is available for public inspection and copying between 8:00 a.m. and 4:30 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460. A reasonable fee may be charged for copying.

**FOR FURTHER INFORMATION CONTACT:** Mr. Fred Porter or Mr. Walter Stevenson, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5624.

Dated: July 23, 1984.

John C. Topping,

*Acting Assistant Administrator for Air and Radiation.*

[FR Doc. 84-19975 Filed 7-27-84; 8:45 am]

BILLING CODE 6560-50-M

### 40 CFR Part 81

[OAR-FRL-2641-4]

### Designation of Areas of Air Quality Planning Purposes; Attainment Status Designations, Michigan

**AGENCY:** United States Environmental Protection Agency (USEPA).

**ACTION:** Proposed rulemaking.

**SUMMARY:** USEPA is proposing approval of a change to the designation status of Calhoun, Genesee, and Saginaw Counties in the State of Michigan, from nonattainment to attainment for the primary total suspended particulate (TSP) National Ambient Air Quality Standard (NAAQS). This revision to the Michigan State Implementation Plan (SIP) is based on eight quarters of the most recent representative monitor data which indicates attainment of the primary TSP NAAQS and evidence of an implemented control strategy that USEPA has approved. Designation of the current secondary TSP nonattainment status for the areas of Calhoun, Genesee, and Saginaw remain unchanged. The State supplied the TSP monitor data and supports this redesignation approval. Under the Clean Air Act (Act), designations can be changed if sufficient data are available to warrant such change.

**DATE:** Comments on this revision and on USEPA's proposed rulemaking action must be received on or before August 29, 1984.

**ADDRESSES:** Copies of these proposed redesignation requests, EPA's Technical Support Document, and supporting technical data submitted by the State are available for review at the following addresses (it is recommended that you telephone Ms. Toni Lesser, at (312) 886-6037, before visiting the Region V office):

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604; or

Michigan Department of Natural Resources, Air Quality Division, State Secondary Government Complex, General Office Building, 7150 Harris Drive, Lansing, Michigan 48910.

Written comments on the proposed rulemaking should be addressed to (please submit an original and five copies if possible): Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Toni Lesser, (312) 886-6037.

**SUPPLEMENTARY INFORMATION:** On July 20, 1983, the Michigan Department of Natural Resources (MDNR) submitted a request to change the total suspended particulate (TSP) section 107 attainment status designation in portions of seven counties. USEPA provided comments on these redesignation requests in a letter dated September 29, 1983. On December 9, 1983, MDNR provided additional information for three of the counties, Calhoun, Genesee and Saginaw. MDNR provided a summary of TSP monitor data collected within the nonattainment areas since 1980, maps of the nonattainment areas and a basis for each redesignation request in their July 20, 1983 submittal.

The redesignation requests for Calhoun, Genesee and Saginaw Counties were reviewed with respect to EPA's redesignation policy as summarized in the memoranda, "Section 107 Designation Policy Summary" (April 21, 1983), and "Section 107 Questions and Answers" (December 23, 1983). A discussion of USEPA's review of each of the redesignation requests is discussed below:

#### Calhoun County

A small area surrounding the American "Colloid" and Hayes-Albion

facilities in the town of Albion is currently designated as nonattainment for the primary TSP NAAQS. MDNR requests that this area be redesignated to nonattainment for the secondary TSP NAAQS. The original designation is based on monitored violations of the primary standard at the 525 Austin Avenue site, the only monitor within the nonattainment area. EPA granted final approval of a Consent Order for Hayes-Albion and permits for American "Colloid" on September 15, 1983 (48 FR 41403). The State stipulated that the sources were in compliance with the requirements of the Consent Order and permits as of December 15, 1981. There has not been an exceedance of the 24-hour or the annual primary TSP NAAQS at the Austin Avenue site in 1981, 1982, or 1983. This site recorded two exceedances of the secondary standard in 1982.

MDNR's requested redesignation of Calhoun County is approvable based on more than eight quarters of the most recent, representative monitor data which shows attainment of the primary TSP NAAQS and evidence of an implemented control strategy that EPA has fully approved.

**Genesee County**

A small portion of Flint surrounding a Buick Division facility is currently designated as nonattainment for the primary and secondary TSP NAAQS. MDNR requests that this area be redesignated to nonattainment for only the secondary TSP NAAQS. The original primary nonattainment designation is based on monitored violations at the 3420 St. John Street and 420 East Boulevard Drive monitor sites. These sites are in close proximity to a Buick Division foundry. The Buick Division foundry operations were shut down permanently on August 15, 1980, and startup would require review under applicable new source review regulations. There have been no monitored violations of the primary TSP NAAQS at either of these sites during 1981, 1982, and 1983. There have been recent violations of the secondary TSP NAAQS at the 420 East Boulevard Drive site.

MDNR's requested redesignation of Genesee County is approvable based on more than eight quarters of the most recent, representative monitor data which show attainment of the primary TSP NAAQS and the permanence of the Buick Division foundry shutdown.

**Saginaw County**

A small area surrounding the Chevrolet Division Nodular Iron and Grey Iron foundries is currently designated as nonattainment for the primary and secondary TSP NAAQS. MDNR requests that this area be redesignated to nonattainment for only the secondary TSP NAAQS. The original designations were based on monitored violations of primary and secondary TSP standards at the Second National Bank monitoring site. This monitor is located close to both the Chevrolet Division Nodular Iron and Grey Iron foundries and is the only monitor within the boundaries of the primary nonattainment area. USEPA took final action approving Consent Orders between MDNR and Chevrolet Division Nodular Iron and Grey Iron on February 10, 1982 (47 FR 6013). The Second National Bank monitoring site recorded secondary standard violations in 1982.

MDNR's requested redesignation of Saginaw County is approvable based on more than eight quarters of the most recent, representative monitor data which show attainment of the primary TSP NAAQS and evidence of an implemented control strategy that EPA has fully approved.

USEPA is proposing approval of changes in the designation status of Calhoun, Genesee, and Saginaw counties in the State of Michigan. This rulemaking action proposes to change the primary TSP NAAQS attainment status designation from nonattainment to attainment for the areas described above in the counties of Calhoun, Genesee, and Saginaw. However, the current section 107 designations of nonattainment for the secondary TSP NAAQS in these areas remain applicable. USEPA has reviewed this redesignation request (see Technical Support Document, April 23, 1984), and has based its proposed approval of changing the primary TSP NAAQS attainment status from nonattainment to attainment for these areas on all available information including eight quarters of the most recent, representative monitor data showing air quality improvement and on the implemented control strategy.

Under section 107(d), the Administrator has promulgated the NAAQS attainment status of each area of every State. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). These area designations may be revised whenever the data warrants.

Under 5 U.S.C. 605(b), the Administrator has certified that actions relating to SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

**List of Subjects in 40 CFR Part 81**

Air pollution control, National parks, Wilderness areas.

(Sec. 107(d) of the Act, as amended (42 U.S.C. 7404))

Dated: June 22, 1984.

**Dale S. Bryson,**

*Acting Regional Administrator.*

[FR Doc. 84-19974 Filed 7-27-84; 8:45 am]

BILLING CODE 6560-50-M

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**40 CFR Part 81**

**[OAR-FRL-2641-3]**

## Designation of Areas for Air Quality Planning Purposes; Attainment Status Designations, Wisconsin

**AGENCY:** U.S Environmental Protection Agency (USEPA).

**ACTION:** Notice of proposed rulemakeing.

**SUMMARY:** USEPA proposes to revise the Total Suspended Particulates (TSP) designation for Pacific Township, located in Columbia County, Wisconsin, from partial primary/partial secondary nonattainment to full attainment. This proposed revision is based on a redesignation request from the Wisconsin Department of Natural Resources (WDNR) and on the supporting technical data submitted by the Department. Under the Clean Air Act, attainment status designations can be changed if warranted by the available data.

**DATE:** Comments on this redesignation and on USEPAs proposed action must be received by August 29, 1984.

**ADDRESSES:** Copies of the redesignation request, the technical support documents and the supporting air quality data are available at the following addresses:

Environmental Protection Agency, Region V, Air Programs Branch, 230 S. Dearborn Street, Chicago, Illinois 60604; or

Wisconsin Department of Natural Resources, Bureau of Air Management, 101 South Webster, Madison, Wisconsin 53707.

Comments on this proposed rule should be addressed to (please submit an original and five copies, if possible): Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), USEPA, Region V, 230 South Dearborn, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Colleen W. Comerford, (312) 886-6034.

**SUPPLEMENTARY INFORMATION:** Under section 107(d) of the Clean Air Act, the Administrator of USEPA has promulgated the National Ambient Air Quality Standards (NAAQS) attainment status for each area of Wisconsin. See 43 FR 8962 (March 3, 1978) and 43 FR 45993 (October 5, 1978). These area designations may be revised if sufficient data are available to justify such changes.

USEPA's criteria for section 107 redesignations are summarized in two policy memoranda: (1) An April 21, 1983, memorandum from Sheldon Meyers, then Director of the Office of Air Quality Planning and Standards, entitled "Section 107 Designation Policy Summary"; and (2) a December 23, 1983, memorandum from G.T. Helms, Chief of the Control Programs Operation Branch, entitled "Section 107 Questions and Answers." In general, all available information relative to the attainment status of the area should be reviewed. The information should include the most recent eight consecutive quarters of quality-assured, representative ambient air quality data, plus evidence of an implemented EPA-approved control strategy. Any available supplemental information, including air quality modeling, emissions data, and any other pertinent information, should be used to determine whether the monitoring data accurately characterize the worst case air quality in the area.

**Background—Pacific Township**

The amended Clean Air Act (August, 1977) required all States to determine their attainment/nonattainment status with respect to the NAAQS. During 1977, Wisconsin recommended to USEPA that small portions of Pacific Township, in Columbia County, be designated as primary and secondary nonattainment areas for TSP. The State's recommendation was based on several 24-hour violations that were measured at two monitors during 1975 and 1976. These violations were caused by emissions from two industrial facilities, Wisconsin Power and Light's (WP&L) Columbia Generating Station and Martin Marietta's (now called UNIMIN) Aggregates Industrial Sand Division Plant. Filter analyses showed that particulate emissions resulting from operation of the Martin Marietta plant and construction of the Columbia Generating Station—Unit 2 were the major cause of the violations. In 1978, USEPA designated two small areas in Pacific Township as nonattainment, as recommended by Wisconsin.

On March 14, 1983, the Wisconsin Department of Natural Resources (WDNR) requested that USEPA revise the air quality attainment status designation for Pacific Township, from partial primary/partial secondary nonattainment to full attainment of the TSP NAAQS. The WDNR also submitted a Technical Support Document (February, 1983) with summaries of the TSP ambient air monitoring data collected from two sites during the period 1980–1982. In addition, operating permits for the two sources located within the nonattainment area were submitted as supplementary information of January 17, 1984. These documents, and the results of USEPA's review of these documents, are available for public inspection at the Region V office listed above.

**Air Quality Data**

According to information supplied by the WDNR, TSP emissions in Pacific Township have been reduced due to control measures that have been implemented at Martin Marietta and at WP&L's Columbia Station. At Martin Marietta, the most significant control measures consisted of conversion from a dry to a wet process, and major improvements to the cokehouse (the particulate control device for most of the plant's process emissions). A number of other measures were taken by Martin Marietta between 1975 and 1980 to reduce process and fugitive emissions from the plant. At WP&L's Columbia Station, the completion of construction of Unit 2 in 1978 resulted in the elimination of construction-related fugitive emissions. Therefore, the improvement in TSP levels is due primarily to sources coming into compliance with the existing SIP limits (i.e., cokehouse at UNIMIN), and to irreversible, permanent measures taken at both sources (i.e., completion of construction at WP&L Columbia, and conversion from a dry to a wet process at UNIMIN).

The ambient air quality data (collected after implementation of most of the control measures) show attainment of both the primary and secondary TSP NAAQS. Eight consecutive quarters of recent data (February 1980–February 1982), showing no violations, are available from two sites in Pacific Township. These two sites are at almost the same locations as those which measured the 1975–1976 violations. The 1980–1982 data, which are representative of current air quality, verify the effectiveness of the implemented control measures.

**Conclusion**

The improvement in ambient TSP levels can be attributed to control strategies that have been implemented at the two industrial sources located within the nonattainment area. In addition, the ambient air monitoring data show no violations of the primary or secondary TSP NAAQS from 1980–1982. Therefore, USEPA is proposing to approve the redesignation of Pacific Township from partial primary/partial secondary nonattainment to full attainment for TSP.

In the federally-approved Part D SIP for TSP that was published on March 9, 1983 (48 FR 9860), USEPA took no action on Wisconsin's SIP to attain and maintain the primary and secondary TSP NAAQS in Columbia County, because Wisconsin did not submit a Part D plan for this county. If USEPA finally approves this redesignation, the requirement for a Part D attainment plan in Columbia County will no longer be applicable along with the industrial growth prohibition imposed by section 110(a)(2)(I) of the Clean Air Act.

All interested persons are invited to submit written comment on the proposed redesignation. Written comments received by the date specified above will be considered in determining whether USEPA will approve the redesignation. After review of all comments submitted, the Administrator of EPA will publish the Agency's final action on the redesignation in the **Federal Register.**

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

**List of Subjects in 40 CFR Part 81**

Air pollution control, National Parks, Wilderness areas.

(Sec. 107(d) of the Act, as amended (42 U.S.C. 7407))

Dated: June 27, 1984.

**Robert Springer,**

*Acting Regional Administrator.*

[FR Doc. 84-19978 Filed 7-27-84; 8:45 am]
BILLING CODE 6560-50-M

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**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**46 CFR Ch. I**

**[GGD 84-051]**

**Lifesaving Equipment; Public Meetings**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of public meetings.

**SUMMARY:** A new Chapter III "Lifesaving Applicance and Arrangements" of the Safety of Life at Sea Convention is expected to come into force July 1, 1986. The United States is a party to the convention, and Coast Guard lifesaving equipment regulations for merchant vessels will have to be revised in order to meet the new requirements. This notice announces that the Coast Guard will meet with the U.S. Lifesaving Manufacturers Association to discuss the implications of the new reqirements on U.S. Coast Guard approved lifeboats, inflatable liferafts, and their launching euipment.

**ADDRESSES:** The revised Chapter III of the Safety of Life at Sea Convention is in Volume I of the "1983 Amendments to the International Convention for the Safety of Life at Sea, 1974," published by the International Maritime Organization, sales number 096 83.10.E. This document is available from the following sources:

1. New York Nautical Instrument Co., 140 W. Broadway, New York, NY 10013, telephone (212)962–4522. The cost is $12.75 plus shipping.

2. Southwest Instrument Co., 235 W. Seventh St., San Pedro, CA 90731, telephone (213)519–7800. The cost is $8.50 plus shipping.

3. International Maritime Organization, Publications Section 4, Albert Embankment, London SE1 7SR, England. Request the publication by its sales number and include payment of £2.50 or the dollar equivalent at current exchange rates. If payment is by check, it must be drawn on a United Kingdom bank. The price includes surface mail delivery. Delivery is available at extra cost.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Markle, Office of Merchant Marine Safety (G–MVI–3/24), Room 2412, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593, (202) 426–1444. Normal office hours are between 7:30 a.m. and 4:00 p.m., Monday through Friday, except holidays.

**SUPPLEMENTARY INFORMATION:** On June 17, 1983, the Maritime Safety Committee of the International Maritime Organization (IMO) approved a new Chapter III (Lifesaving Appliance and Arrangements) for the International Convention for the Safety of Life at Sea, 1974 (SOLAS 1974). The new chapter is part of the 1983 amendments to SOLAS 1974 and is expected to come into force on July 1, 1986. Ships whose keels are laid or at a similar stage of construction on or after that date must comply. SOLAS 1974 applies to self-propelled merchant vessels on international voyages, except for cargo ships (including tankers) under 500 gross tons and fishing vessels.

The Coast Guard will be undertaking a number of rulemaking projects in order to revise the regulations for merchant vessels in accordance with the new SOLAS requirements. Because manufacturers of lifeboats, inflatable liferafts, and launching equipment need to make plans now for new equipment designs in order to meet the July 1, 1986 date, the U.S. Lifesaving Manufacturers Association has requested that the Coast Guard hold a series of meetings with the association to discuss the probable future requirements, and to reach agreement on what deviations from present regulations will be required or permitted in order to comply with the new SOLAS requirements.

The Coast Guard has agreed to these meetings and invites any other interested persons to attend. Those wishing to participate should contact Mr. Markle (see **"FOR FURTHER INFORMATION CONTACT"** setion above) to be notified of the time, place, and subject of each meeting.

The first scheduled meeting concerns lifeboats, and in particular, lifeboats hull construction standards and approval test procedures. This meeting will take place in conjunction with a meeting of Panel 0–25 "Life Support Systems" of The Society of Naval Architects and Marine Engineers (SNAME). The meeting is at SNAME Headquarters, Suite 1369, One World Trade Center, New York, NY, on Thursday, August 16, 1984 at 10:00 a.m. Persons wishing to participate who are not panel members are requested to contact Mr. Markle so that adequate meeting arrangements can be assured.

Dated: July 25, 1984.

**Clyde T. Lusk, Jr.,**

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

[FR Doc. 84–20011 Filed 7–27–84; 8:45 am]

BILLING CODE 4910–14–M

# Notices

Federal Register
Vol. 49, No. 147
Monday, July 30, 1984

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

## DEPARTMENT OF AGRICULTURE

### Soil Conservation Service

### Claunch Pinto RCA Special Study

**AGENCY:** Soil Conservation Service, USDA.

**ACTION:** Notice of a finding of no significant impact.

**SUMMARY:** Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Claunch Pinto RCA Special Study, Torrance and Socorro Counties, New Mexico.

**FOR FURTHER INFORMATION CONTACT:** Ray T. Margo, Jr., State Conservationist, Soil Conservation Service, 517 Gold Avenue SW, Albuquerque, NM 87102, telephone (505) 766–2173.

**SUPPLEMENTARY INFORMATION:** The environmental assessment of this federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Ray T. Margo, Jr., State Conservationist, has determined that the preparation and review of an environment impact statement are not needed for this project.

The project is a study to measure changes which will occur in vegetation composition, rates of erosion, usage by wildlife, and soil moisture after application of the herbicide GRASLAN to control sand sagebrush (Artemesia filifolia) and oneseed juniper (Juniperus monosperma).

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Edwin Swenson.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.904, Resource Conservation and Development. Office of Management and Budget Circular A–95 regarding state and local clearinghouse review of federal and federally-assisted programs and projects is applicable.)

**Ray T. Margo, Jr.,**
*State Conservationist.*

[FR Doc. 84–20036 Filed 7–27–84; 8:45 am]
BILLING CODE 3410–16–M

## CIVIL RIGHTS COMMISSION

### Arizona 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 Arizona Advisory Committee to the Commission will convene at 2:00 p.m. and will end at 6:00 p.m., on August 24, 1984, at the Holiday Inn, Birch Room, 1000 West Highway 66, Flagstaff, Arizona 86001. The purpose of the meeting is to collect information on affirmative action in the University of Arizona.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Western Regional Office at (213) 688–3437.

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

Dated at Washington, D.C., July 25, 1984.

**John I. Binkley,**
*Advisory Committee Management Officer.*

[FR Doc. 84–20042 Filed 7–27–84; 8:45 am]
BILLING CODE 6335–01–M

### Louisiana 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 Louisiana Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 5:00 p.m., on August 23, 1984, at the Hilton, Salon G, 505 N. Lake Shore Drive, Lake Charles, Louisiana 70601. The purpose of the meeting is to discuss the Louisiana School Desegregation Report, voting rights, and other issues in Lake Charles, Louisiana.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Southwestern Regional Office at (512) 229–5570.

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

Dated at Washington, D.C., July 25, 1984.

**John I. Brinkley,**
*Advisory Committee Management Officer.*

[FR Doc. 84–20043 Filed 7–27–84; 8:45 am]
BILLING CODE 6335–01–M

### Oregon 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 Oregon Advisory Committee to the Commission will convene at 8:30 a.m. and will end at 5:00 p.m., on August 24, 1984, at the Federal, Room 223–229, 1220 SW. Third, Portland, Oregon 97204. The purpose of the meeting is to discuss Southeast Asian civil rights issues.

Persons desiring additional information, or planning a presentation to the Committee, should contact the Northwestern Regional Office at (206) 442–1246.

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

Dated at Washington, D.C., July 25, 1984.

**John I. Binkley,**
*Advisory Committee Management Officer.*

[FR Doc. 84–20044 Filed 7–27–84; 8:45 am]
BILLING CODE 6335–01–M

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-122-401]

### Certain Red Raspberries From Canada; Initiation of Antidumping Duty Investigation

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Notice.

**SUMMARY:** On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether certain red raspberries from Canada are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of this product are materially injuring, or are threatening to materially injure, a United States industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before August 17, 1984, and we will make ours on or before December 10, 1984.

**EFFECTIVE DATE:** July 30, 1984.

**FOR FURTHER INFORMATION CONTACT:** William Kane, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1766.

**SUPPLEMENTARY INFORMATION:**

#### The Petition

On July 3, 1984, we received a petition filed by counsel for the Washington Red Raspberry Commission, the Oregon Caneberry Commission, the Red Raspberry Committee of the Northwest Food Processors Association and the American Frozen Food Institute filed on behalf of the domestic red raspberries domestic growers and packing industries. On July 18, 1984, an amendment was received restating the petitioners as the Washington Red Raspberry Commission, the Red Raspberry Committee of the Oregon Caneberry Commission, the Red Raspberry Committee of the Northwest Food Processors Association, the Red Raspberry Member Group of the American Frozen Institute, Rader Farms (a grower/packer of red raspberries), Ron Roberts (a grower of red raspberries) and Shuksan Frozen Foods (an independent packer of red raspberries). In compliance with the filing requirements of § 353.36 of the Commerce regulations (19 CFR 353.36) the petition alleges that imports of the subject merchandise from Canada are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act), and that these imports are materially injuring, or are threatening to materially injure, a United States industry. The allegation of sales at less than fair value is supported by a comparison of the United States price as calculated from import statistics of the Bureau of Census, with a constructed foreign market value based upon official cost of production figures compiled by the British Columbian Ministry of Agriculture under the Farm Income Insurance Program, general expenses based upon U.S. producers' experience, and a profit of 8 percent.

#### Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on certain red raspberries and we have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping investigation to determine whether certain red raspberries from Canada are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by December 10, 1984.

#### Scope of Investigation

The merchandise covered by this investigation is fresh and frozen red raspberries packed in bulk containers and suitable for further processing. Fresh raspberries are classified under item numbers 146.5400 and 146.5600 of the *Tariff Schedules of the United States Annotated* (TSUSA), and frozen raspberries under item number 146.7400 of the TSUSA.

#### Notification to ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

#### Preliminary Determination by ITC

The ITC will determine by August 17, 1984, whether there is a reasonable indication that imports of certain red raspberries from Canada are materially injuring, or are likely to materially injure, a United States industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Dated: July 23, 1984.

**Alan F. Holmer,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. 84-19867 Filed 7-27-84; 8:45 am]

BILLING CODE 3510-DS-M

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[C-791-009]

### Steel Pipes and Tubes From South Africa; Final Results of Administrative Review of Suspension Agreement

**AGENCY:** International Trade Administration/Import Administration, Commerce.

**ACTION:** Notice of Preliminary Results of Administrative Review of Suspension Agreement.

**SUMMARY:** On June 1, 1984, the Department of Commerce published the preliminary results of its administrative review of the agreement suspending the countervailing duty investigation on steel pipes and tubes from South Africa. The review covers the period June 1, 1983, through September 30, 1983.

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results.

**EFFECTIVE DATE:** July 30, 1984.

**FOR FURTHER INFORMATION CONTACT:** Barbara Williams or Philip Otterness, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

**SUPPLEMENTARY INFORMATION:**

#### Background

On June 1, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 22846) the preliminary results of its administrative review of the agreement suspending the countervailing duty investigation on steel pipes and tubes

from South Africa (48 FR 24407, June 1, 1983). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

**Scope of the Review**

Imports covered by the review are shipments of South African carbon steel pipes and tubes. Such merchandise is currently classifiable under items 610.3227, 610.3241, 610.3244, 610.3955, and 610.4975 of the *Tariff Schedules of the United States Annotated*. The review covers the only known exporters of South African carbon steel pipes and tubes to the United States, Tubemakers of South Africa, Ltd. ("TOSA") and Brollo Africa, Ltd., the signatories to the suspension agreement. The review covers the period June 1, 1983, through September 30, 1983.

**Final Results of the Review**

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results. We determine that TOSA and Brollo have complied with the terms of the suspension agreement for the period June 1, 1983, through September 30, 1983. Therefore, the suspension agreement for South African steel pipes and tubes shall remain in effect. The Department intends to begin immediately the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible after the Department's receipt of the requested information.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: July 24, 1984.

**Alan F. Holmer,**

*Deputy Assistant Secretary, Import Administration.*

[FR Doc. 84-20005 Filed 7-27-84; 8:45 am]
BILLING CODE 3510-DS-M

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[C-602-001]

## Sugar Content of Certain Articles From Australia; Final Results of Administrative Review of Countervailing Duty Order

**AGENCY:** International Trade Administration/Import Administration Commerce.

**ACTION:** Notice of Final Results of Administrative Review of Countervailing Duty Order.

**SUMMARY:** On May 16, 1984, the Department of Commerce published in the **Federal Register** the preliminary results of its administrative review of the countervailing duty order on the sugar content of certain articles from Australia. The review covered the period January 1, 1983, through December 31, 1983.

Interested parties were invited to comment on the preliminary results. We received no comments. Based upon our analysis, the final results of the review are the same as the preliminary results.

**EFFECTIVE DATE:** July 30, 1984.

**FOR FURTHER INFORMATION CONTACT:** Victoria Marshall or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

**SUPPLEMENTARY INFORMATION:**

**Background**

On May 16, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 20750) the preliminary results of its administrative review of the countervailing duty order on the sugar content of certain articles from Australia (T.D. 39541, March 24, 1923). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

**Scope of the Review**

Imports covered by the review are "approved fruit products" and "other approved products" produced in Australia. The current list of "approved fruit products" includes the following items: jams, canned fruits, citrus peel, crystallized (or glace) fruits, certain fruit cordials and fruit juices containing not less than 25 percent pure Australian fruit juice. The list of "other approved products" currently includes: alcoholic beverages, biscuits, cakes, puddings, pastries and similar mixtures and ingredients used to make them, chemicals derived from cane sugar by hydrolysis, chemical preparations used as inhibitors or stabilizers, condiments, confectionary, desserts and ingredients used to make them, drink powders and crystals, essences and flavorings, ice block mixtures, leather, icing sugar mixture, maple syrup, medicines and drugs, mixtures used to make icings, fillings, dressings and other foods, processed cereal foods or vegetables, processed egg products, processed milk products, quick frozen fruits, soft drinks, soups, spreads, sweetened fruit pulp and other fruit products which are not "approved fruit products." Exceptions to the above are pure sugar and pure icing sugar (that is, not mixed with other manufacturing ingredients), golden syrup, treacle and molasses. These are regarded as sugar and sugar syrups.

The review covers the period January 1, 1983, through December 31, 1983, and is limited to the program of rebate payments made through the Export Sugar Rebate System.

**Final Results of the Review**

Interested parties were invited to comment on our preliminary results. We received no comments. Based on our analysis, the final results of our review are the same as those presented in the preliminary results of review.

On September 10, 1982, the International Trade Commission ("the ITC") notified the Department that the Australian government had requested and injury determination for this order under section 104(b) of the Trade Agreements Act of 1979. Should the ITC find that there is material injury threat of material injury to an industry in the United States, the Department will instruct the Customs Service to assess countervailing duties in the amount of the estimated duties required to be deposited on all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after September 10, 1982, and on or before the date of the ITC's notification to the Department of its determination.

The Department will instruct the Customs Service to collect cash deposits of estimated countervailing duties, as provided for by section 751(a)(1) of the Tariff Act, of Aus. $71.78 per metric ton of sugar content on approved fruit products and Aus. $82.20 on other approved products on all shipments entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

The Department intends to begin immediately the next administrative review. The suspension of liquidation previously ordered will continue for all entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after September 10, 1982.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt

of the information in the next administrative review.

The administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: July 24, 1984.

**Alan F. Holmer,**

*Deputy Assistant Secretary, Import Administration.*

[FR Doc. 84-20004 Filed 7-27-84; 8:45 am]

BILLING CODE 3510-DS-M

## National Oceanic and Atmospheric Administration

### Marine Mammals; Issuance of Permit; Seattle Aquarium

On June 12, 1984, notice was published in the **Federal Register** (49 FR 24161), that an application had been filed with the National Marine Fisheries Service by The Seattle Aquarium, Pier 59, Waterfront Park, Seattle, Washington 98101, for a Permit to transfer the ownership of five (5) northern fur seals *(Callorhinus ursinus)* from the Northwest and Alaska Fisheries Center for the purpose of public display.

Notice is hereby given that on July 19, 1984, as authorized by the provisions of the Fur Seal Act of 1966 (16 U.S.C. 1151–1187), the National Marine Fisheries Service issued a Permit for the above taking to The Seattle Aquarium subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115.

Dated: July 24, 1984.

**Roland Finch,**

*Director, Office of Fisheries Management, National Marine Fisheries Service.*

[FR Doc. 84-20020 Filed 7-27-84; 8:45 am]

BILLING CODE 3510-22-M

### Marine Mammals; Modification No. 1 to Permit No. 463; University of California

Notice is hereby given that pursuant to the provisions of § 216.33 of the Regulations Governing the Taking and Importing of Marine Mammals, Scientific Research Permit No. 463 issued to the Center for Marine Studies, University of California, Santa Cruz, California 95064, on April 13, 1984 (49 FR 17559) is modified to allow the importation of tissue samples to be collected in Canadian waters where the research will be conducted in 1984.

Accordingly, section A.3. of Permit No 463 is amended by adding:

A.3. Specimen materials collected in Canadian waters may be imported in the 1984 field season. Said specimens shall be taken in accordance with section B-3 of this Permit.

This modification becomes effective upon publication in the **Federal Register.**

The Permit, as modified is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: July 24, 1984.

**Roland Finch,**

*Director, Office of Fisheries Management, National Marine Fisheries Service.*

[FR Doc. 84-20021 Filed 7-27-84; 8:45 am]

BILLING CODE 3510-22-M

## DEPARTMENT OF DEFENSE

## Defense Intelligence Agency

### Membership of the Defense Intelligence Agency (DIA) Performance Review Committee

**AGENCY:** Defense Intelligence Agency, DOD.

**ACTION:** Notice of Amendment of Membership of the Defense Intelligence Agency Performance Review Committee.

**SUMMARY:** This notice amends the appointment of members of the Performance Review Committee (PRC) of the Defense Intelligence Agency, as published in the **Federal Register,** FR Doc 84-15581 (49 FR 24053), June 11, 1984, by deleting the name of Mr. Lewis A. Prombain and adding the name of Mr. Paul LaBar.

**EFFECTIVE DATE:** July 31, 1984.

**FOR FURTHER INFORMATION CONTACT:** Mrs. Alice F. Titus, Chief, Employee Services Branch, Directorate for Human Resources, Defense Intelligence Agency, Washington, D.C. 20301-6111, (202) 373-2670.

Dated: July 24, 1984.

**M.S. Healy,**

*OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 84-19989 Filed 7-27-84; 8:45 am]

BILLING CODE 3810-01-M

## DEPARTMENT OF EDUCATION

## Office of Elementary and Secondary Education

### Indian Education Act, Part A, Formula Grants to Local Educational Agencies (LEAs) and Certain Tribal Schools

**AGENCY:** Department of Education.

**ACTION:** Application notice for new projects for fiscal year 1985.

**SUMMARY:** Applications are invited for new projects under the Indian Education Act Formula Grant Program.

Authority for this program is contained in Section 303 of Part A of the Indian Education Act, as amended.

(20 U.S.C. 241bb)

This program authorizes grants to local education agencies, and to certain Indian Tribes and Indian organizations described in section 1146 of Pub. L. 95-561.

The program provides financial assistance to develop and carry out elementary and secondary school projects that meet the special educational and culturally related academic needs of Indian children.

*Closing Date for Transmittal of Applications:* An application for a new grant must be mailed or hand delivered by November 23, 1984.

*Applications Delivered by Mail:* An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.060A, Washington, D.C. 20202.

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 label, invoice, or receipt from a commercial carrier.

(4) Any other proof 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 will be notified that its application will not be considered.

*Applications Delivered by Hand:* An application that is hand delivered 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.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

*Program Information:* In Fiscal Year 1984, $46,400,000 supported approximately 1,200 projects in schools with a total eligible Indian student enrollment of 310,640. The average grant amount was $38,667.

The amount of each grant is based on a formula that takes into account the Indian student enrollment in the applicant's school and the average per pupil expenditure for public elementary and secondary education in the applicant's State.

*Intergovernmental Review:* On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A–95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The following is the current list of States that have established a process, designated a single point of contact, and have selected this program for review.

State

Arizona
Arkansas
California
Connecticut
Delaware
District of Columbia
Florida
Hawaii
Indiana
Kansas
Louisiana
Maine
Michigan
Missouri
Montana
Nebraska
Nevada
New Jersey
New Mexico
New York
North Dakota
Northern Mariana Islands
Ohio
Oklahoma
Oregon
Pennsylvania
South Carolina
Texas
South Dakota
Utah
Vermont
Virginia
Washington
Wisconsin
Wyoming
Guam

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States not listed above, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State process recommendation and other comments submitted by a State point of contact and any comments from State, areawide, regional, and local entities must be mailed or hand delivered by January 23, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181, (84.060A), 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

**PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT MUST SUBMIT ITS COMPLETED APPLICATION. DO NOT SENT APPLICATIONS TO THE ABOVE ADDRESS.**

*Available Funds:* The President's budget request for fiscal year 1985 was for $46,850,000 for this program. The Congress has not passed the fiscal year 1985 appropriation act covering this program. The fiscal year 1985 budget request estimated that approximately 1,264 projects would be supported and the average grant would be $37,065.

These estimates, however, do not bind the U.S. 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.

Projects supported under this program will be for a period of one year.

*Application Forms:* Application packages are expected to be ready for mailing on August 27, 1984. A copy of the application package may be obtained by writing to Indian Education Programs, U.S. Department of Education, (Room 2177, FOB 6), 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information 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 3 pages in length. The Secretary further urges that applicants not submit information that is not requested.

(Approved by the Office of Management and Budget under control number 1810–0021.)

*Applicable Regulations:* The regulations that apply to this program include the following:

(a) Regulations governing Indian Education Programs (34 CFR Parts 250 and 251.)

(b) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, 78, and 79.

*Further Information:* For further information contact Dr. O. Ray Warner, Indian Education Programs, U.S. Department of Education, Office of Elementary and Secondary Education, Room 2177, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245–8236.

(20 U.S.C. 241aa-241ff)

(Catalog of Federal Domestic Assistance No. 84.060A; Formula Grants to Local Educational Agencies and Certain Tribal Schools)

Dated: July 20, 1984.

**Lawrence F. Davenport,**

*Assistant Secretary for Elementary and Secondary Education.*

[FR Doc. 84-19764 Filed 7-27-84; 8:45 am]

BILLING CODE 4000-01-M

## National Advisory Council on Indian Education; Meeting

**AGENCY:** National Advisory Council on Indian Education.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Annual Report Committee. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

**DATES:** August 15–16, 1984, 9:00 a.m. until conclusion of business each day.

**ADDRESS:** National Advisory Council on Indian Education, 425 13th Street, NW., Suite 326, Washington, D.C. 20004, 202/376–8882.

**FOR FURTHER INFORMATION CONTACT:** Lincoln C. White, Executive Director, National Advisory Council on Indian Education, Pennsylvania Building, Suite 326, 425 13th Street, NW., Washington, D.C. 20004, (202) 376–8882.

**SUPPLEMENTARY INFORMATION:** The National Advisory Council on Indian Education is established under section 442 of the Indian Education Act (2) U.S.C. 1221g). The Council is established to assist the Secretary in carrying out responsibilities under section 441(a) of the Indian Education Act (Title IV of Pub. L. 92–318), through advising Congress, the Secretary of Education, the Under Secretary of Education and the Assistant Secretary of Elementary and Secondary Education with regard to programs benefiting Indian children and adults.

The meeting will be open to the public. This meeting will be held at the office of National Advisory Council on Indian Education, 425 13th Street, NW., Suite 326, Washington, D.C. 20004; 202/376–8882.

The proposed agenda includes:

*(1) Development of the 11th Annual Report*

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the National Advisory Council on Indian Education located at 425 13th Street, NW., Suite 326, Washington, D.C. 20004.

Dated: July 25, 1984.

Signed at Washington, D.C.

**Lincoln C. White,**

*Executive Director, National Advisory Council on Indian Education.*

[FR Doc. 84-20038 Filed 7-27-84; 8:45 am]

BILLING CODE 4000-01-M

## National Advisory Council on Indian Education; Meeting

**AGENCY:** National Advisory Council on Indian Education.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Government Programs Study Committee. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

**DATES:** August 21–22, 1984, 9:00 a.m. until conclusion of business each day.

**ADDRESS:** National Advisory Council on Indian Education, 425 13th Street, NW., Suite 326, Washington, D.C. 20004, 202/376–8882.

**FOR FURTHER INFORMATION CONTACT:** Lincoln C. White, Executive Director, National Advisory Council on Indian Education, Pennsylvania Building, Suite 326, 425 13th Street, NW., Washington, D.C. 20004, (202)/376–8882.

**SUPPLEMENTARY INFORMATION:** The National Advisory Council on Indian Education is established under Section 442 of the Indian Education Act (2) U.S.C. 1221g. The Council is established to assist the Secretary in carrying out responsibilities under Section 441(a) of the Indian Education Act (Title IV of Pub. L. 92–318), through advising Congress, the Secretary of Education, the Under Secretary of Education and the Assistant Secretary of Elementary and Secondary Education with regard to programs benefiting Indian children and adults.

The meeting will be open to the public. This meeting will be held at the office of National Advisory Council on Indian Education, 425 13th Street, NW., Suite 326, Washington, D.C. 20004, 202/376–8882.

The proposed agenda includes:

(1) To coordinate communication between the NACIE Council, Congress, and other agencies that have related activities.

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the National Advisory Council on Indian Education located at 425 13th Street, NW., Suite 326, Washington, D.C. 20004.

Dated: July 25, 1984.

Signed at Washington, D.C.

**Lincoln C. White,**

*Executive Director, National Advisory Council on Indian Education.*

[FR Doc. 84-20041 Filed 7-27-84; 8:45 am]

BILLING CODE 4000-01-M

## DEPARTMENT OF ENERGY

### Bonneville Power Administration

### Near Term Pacific Northwest-Pacific Southwest Intertie Access Policy

**AGENCY:** Bonneville Power Administration (BPA), DOE.

**ACTION:** Proposal for near term intertie access policy, request for public comment and announcement of public information and comment forums.

**SUMMARY:** BPA has proposed a Near Term Intertie Access Policy to provide hour-by-hour allocations of the Pacific Northwest-Pacific Southwest Intertie for the marketing of currently dedicated Pacific Northwest resources. This proposal is envisioned as a means to improve the marketability of the Pacific Northwest firm and nonfirm surpluses by assuring transmission access in a predictable manner. This near term policy is anticipated to be implemented for a period of 2 years, while a long term Intertie Access Policy is being developed. BPA requests public comment on this proposed policy.

**DATES:** BPA will accept comments through August 13, 1984. Written comments should be postmarked by that date. Public Information and Comment Forums are scheduled for July 24 and 25, 1984, 9 a.m. to 4 p.m., Mt. Bachelor and Three Sisters Rooms, Red Lion Inn, Lloyd Center, Portland, Oregon.

**ADDRESSES:** Written comments should be submitted to the Public Involvement

Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

*Responsible official*

The official responsible for development of the Intertie Access Policy is James L. Jones, Deputy Power Manager.

**FOR FURTHER INFORMATION CONTACT:** Ms. Donna L. Geiger, Public Involvement Office, at the address listed above, 503–230–3478. Oregon callers may use 800–452–8429; callers in California, Idaho, Montana, Nevada, Utah, Washington, and Wyoming may use 800–547–6048. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE, Irving Street, Portland, Oregon 97232, 503–230–4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503–687–6952.

Mr. Ronald H. Wilkerson, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509–456–2518.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406–329–3060.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509–662–4377, extension 379.

Mr. Richard D. Casad, Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206–442–4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509–522–6226, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208–523–2706.

Mr. Frederic D. Rettenmund, Boise District Manager, Owyhee Plaza, Suite 245, 1109 Main Street, Boise, Idaho 83707, 208–334–9138.

**SUPPLEMENTARY INFORMATION:**

## I. Discussion

### *A. Reason for Action*

Congress authorized construction of the Pacific Northwest-Pacific Southwest Intertie in order to prevent waste of electric resources, to provide the lowest possible rates to Pacific Northwest consumers of Federal power, and to conserve energy resources in the Pacific Northwest and the Pacific Southwest. The Intertie allows the nation to capture the benefits that would be lost if large amounts of water from the Pacific Northwest Federal hydroelectric projects flowed unused to the sea. Consequently, the Intertie permits the sale by the Bonneville Power Administration (BPA) of power, that is surplus to Pacific Northwest needs, to Southwest markets that otherwise would be served with expensive fossil-fuel fired generation. Sale of this power provides revenue to pay the cost of the Federal investment in the Federal Columbia River Power System (FCRPS). Pacific Northwest consumers benefit by having some costs recovered from sales that otherwise could not be made, and Southwest consumers benefit from the savings that results when lower cost Pacific Northwest energy is substituted for higher cost thermal generation.

When Congress considered the construction of the Intertie, it anticipated that the benefits of the Intertie would be allocated approximately equally between the Pacific Northwest and Southwest. House Report, No. 1822, 88th Cong., 2d Sess. (1964), p. 7. At that time, Pacific Northwest benefits were forecast to be $1 billion in 1964 dollars over the life of the Intertie, while the Southwest benefits were forecast to be only slightly less, $0.869 billion in 1964 dollars. The Intertie currently facilitates transactions between the Pacific Northwest and the Southwest that are annually worth a large part of the original estimate. In FY 1983, BPA's portion of sales to Southwest utilities was worth about $1.0 billion to those utilities (in 1983 dollars). From these sales BPA received only about $0.2 billion of revenues. Thus, Southwest utilities received benefits of about $0.8 billion more than their payments to BPA. Hence, comparative benefits between regions heavily favored the Southwest, by a ratio of about 4 to 1. (*See* Appendix B.)

BPA presently has resources surplus to its existing loads and most Pacific Northwest utilities are in a similar surplus condition. Thus, there is more demand for use of the Intertie than ever before, and much more energy available then Intertie capacity. BPA has not granted firm Intertie transmission since the Exportable Energy Agreement was signed in 1969. All subsequent Intertie transmission contracts provided for displacement by Exportable Energy. Several Pacific Northwest and extraregional utilities recently ahve asked BPA for firm or nonfirm contractual access to BPA's portion of the Intertie.

The Pacific Northwest Electric Power Planning and Conservation Act (Regional Act), section 9(i)(1), authorizes BPA to assist in the disposal of surplus power of its customers. The Intertie Access Policy can provide the means for disposing of firm or nonfirm surplus by assuring transmission access in a predictable manner. In addition, the Intertie Access Policy must be consistent with statutory mandates that such access be fair and nondiscriminatory, and should avoid monopolization by limited groups. BPA is now proposing an Intertie Access Policy that will serve the needs of BPA's own power marketing program and the needs of Pacific Northwest utilities.

### *B. Authority for Action*

BPA is authorized to market surplus Federal power outside of the Pacific Northwest region. (16 U.S.C. 837a-c, 839f(f) and 839f(c).) Surplus Federal power is defined to be that power for which there is no market in the Pacific Northwest at the rates established for such power. (16 U.S.C. 837 and 839(c).) Such power must first be offered within the Pacific Northwest at applicable rates before it can be offered outside of the region. (16 U.S.C. 837a.)

BPA markets such power outside the region in order to generate additional revennes from power that would otherwise be wasted for lack of a market at the offered price. These additional revenues aid in recovering the costs of operating the Federal system in the Pacific Northwest and in repaying the Federal investment in the FCRPS. As a self-financed agency of the United States Government, BPA is required to raise sufficient revenues to pay all of its costs, including the amortization of the large Federal investment in the Federal system. (16 U.S.C. 832f; 838g, and 839e(a)(1).) Revenues from such extraregional sales serve to pay BPA's system costs that would otherwise be borne solely by BPA's Pacific Northwest customers. In this way, BPA implements its statutory directive to provide the lowest possible rates to consumers consistent with sound business priciples. (16 U.S.C. 838g, 839, and 839e(a)(1).)

Congress authorized the construction of the Intertie lines in 1964 at the same time that it established the Northwest's priority to Federal power generated at Pacific Northwest Federal hydroelectric facilities. Congress directed the Administrator to utilize as much of the Federal Intertie capacity as the Administrator determines is needed to transmit Federal energy to the Southwest. (16 U.S.C. 837e.) Federal capacity not needed for this purpose is available for the transmission of other electric energy.

Section 6 of Pub. L. 88–552, 16 U.S.C. 837e, provides:

> Any capacity in Federal transmission lines connecting, either by themselves or with non-Federal lines, a generating plant in the Northwest or Canada with the other area or with any other area outside the Pacific Northwest, which is not required for the transmission of Federal energy or the energy described in section 9, shall be made

available as a carrier for transmission of other electric energy between such areas.

During periods when applications for use of the Intertie do not exceed the capacity of the Intertie, BPA has interpreted this directive as requiring that all requests for use of the Intertie be satisfied. However, during periods in which requests for use of the Intertie exceeded the capacity of the Intertie, Pub. L. 88–552 did not provide express directives regarding the allocation of the limited Intertie capacity among the competing requests. In this circumstance, the Federal requirements were first satisfied fully, pursuant to the statute. Thereafter, the Administrator had broad authority to allocate administratively the remaining capacity among the competing users. The authority of the Administrator in this regard was similar to the authority of the Administrator to allocate power among customers. The Bonneville Project Act required that the Administrator give preference and priority in power sales to public bodies and cooperatives, but the Administrator had the authority to allocate the Federal power among these customers in any reasonable manner. He had the authority to deny power to some and meet the full requirements of others. *City of Santa Clara* v. *Andrus*, 572 F.2d 660 (9th Cir., 1978).

Similarly, the Administrator allocated access to the Intertie when requests for access exceeded the capacity of the Intertie. The Administrator selected the Exportable Agreement (Contract No. 14–03–73155) as a vehicle for this allocation. The Exportable Agreement was executed on January 13, 1969, soon after the energization of the Intertie lines. The Exportable Agreement allocates capacity on the Intertie among the parties to the agreement. Only utilities with service areas in the Pacific Northwest are parties to the Exportable Agreement and, therefore, have an allocation of Intertie capacity. Thus, the Exportable Agreement reflects the Administrator's allocation decision that the benefits of the Intertie should be shared by Pacific Northwest utilities in times when the available Pacific Northwest supply is greater than the potential Southwest market. This excludes utilities outside of the Pacific Northwest. The legislative history of Pub. L. 88–552 referred to the Administrator's discretion to decide whether to transmit power from Canada. (House Report, No 590, 88th Cong., 2d Sess. (1964), p. 9.) The legislative history of the Federal Columbia River Transmission System Act refers to the directives and policies to distribute electric power "in and from the Pacific Northwest" (House Report No. 93–1030, 93rd Cong., 2d Sess. (1974, p. 9) and the directive not to discriminate "among classes of customers." (*id.* at p. 10.)

The Exportable Agreement allocates capacity on the Intertie only for the purpose of transmitting "Exportable Energy." For BPA, this is defined as Federal energy that would be wasted in the Pacific Northwest for lack of a market. For other utilities, it is defined as surplus energy available "on a nonfirm basis." The Administrator's authority to provide transmission for other purposes or types of energy is not limited by the terms of the Exportable Agreement. Allocation of Intertie capacity for Exportable Energy under the terms of the Exportable Agreement can, pursuant to the Administrator's discretion, be subordinate to the allocation of capacity for firm transmission service.

Pub. L. 88–552 required that first priority for use of the Intertie be for the transmission of Federal power. However, the Act also states that contracts for the transmission of non-Federal energy "on a firm basis" shall not "be affected by any increase, subsequent to the execution of such contract, in the requirements for transmission of Federal energy * * *". Therefore, the Administrator was not precluded from executing contracts for firm transmission service.

The Federal Columbia River Transmission System Act (16 U.S.C. 838) restated the Administrator's obligation to make transmission capacity available.

> The Administrator shall make available to all utilities on a fair and nondiscriminatory basis, any capacity in the Federal transmission system which he determines to be in excess of the capacity required to transmit electric power generated or acquired by the United States.

This Act does not affect the Administrator's exercise of discretion to allocate capacity when facilities are not sufficient to meet all requests for transmission service. The Administrator has broad authority to allocate insufficient transmission capacity on a reasonable basis among competing users.

The Regional Act (16 U.S.C. 839 *et seq.*), added a specific directive to provide transmission capacity and a directive to deny transmission service. The directive to allocate capacity on the Intertie is in section 9(i)(3) and requires the Administrator, in making transmission services available, to give priority to power from resources "under construction" on the date of the Regional Act, if the capability from such resources has been offered to BPA and the offer has not been accepted within 1 year. At present, no resources fall within this directive.

The Regional Act's directives to deny transmission service are part of its general admonitions "to furnish services including transmission . . ." Section 9(i)(3) (16 U.S.C. 839(f)(i)(3)) directs the Administrator to furnish transmission services to his customers within the Pacific Northwest "unless he determines such services cannot be furnished without substantial interference with his power marketing program, applicable operating limitations or existing contractual obligations." Section 9(d) (16 U.S.C. 839f(d)) directs the Administrator to provide access to available transmission capacity for his Pacific Northwest customers if such transmission does not interfere with the Administrator's contractual obligations or any other obligations under existing law. Section 9(i)(1)(B) (16 U.S.C. 839f(i)(1)(B)) authorizes the Administrator to aid in the disposition of Pacific Northwest surplus if he determines that "such disposition is not in conflict with the Administrator's other marketing obligations and the policies of this Act and other applicable laws." The Regional Act clearly grants the Administrator broad authority to operate the Federal Intertie capacity in a manner that protects his power marketing program and implements his environmental responsibilities, including fish and wildlife concerns.

*C. Major Provisions*

1. Relationship to the Administrator's power marketing program.

The proposed policy will provide the instrument to insure that Pacific Northwest utilities are provided fair and equitable access to the Intertie without significant adverse impact on BPA's power marketing program.

The allocation of Intertie capacity to Pacific Northwest utilities at times when the Exportable Agreement is not in effect, will insure BPA a continuing pro rata share of the Intertie. This will allow BPA to make sales of economy energy to the Southwest at fair, cost-based rates.

BPA will continue to market surplus firm energy and power to the Southwest at established rates. However, the need for firm energy and power in the Southwest appears to be limited. This proposed policy will insure that BPA has access to a portion of its own Intertie capacity on a continuing basis. BPA then can offer economy energy at reasonable prices without the prospect

of being forced into spill and Spill rate sales.

If BPA can have a reasonable expectation of selling its firm surplus and nonfirm energy for established cost-based rates, its power marketing program will experience minimal interference.

2. Assured delivery for qualifying existing and new firm contracts.

The proposed policy will provide assured delivery for existing and new firm contracts. Section II C below, sets forth criteria for qualifying firm contracts. These criteria are intended to limit the availability of assured delivery to those sales that are not merely advance arrangements to purchase economy energy and that do not adversely impact the Administrator's obligation to operate in a prudent utility manner. Some comments received in response to BPA's February 15, 1984, Discussion Paper, indicated that regional nonfirm energy should receive priority access over firm sales. Other comments urged that firm sales should never be subordinated to nonfirm sales. The proposal balances these concerns by providing assured delivery only for true firm sales of surplus power or energy and providing allocated shares for nonfirm sales not made under a firm contract.

3. Treatment of extraregional resources.

This Near Term Intertie Access Policy provides priority Intertie access to utilities in the Pacific Northwest. Several reasons support this determination.

Pacific Northwest utilities carry legal and moral obligations to plan, construct, and operate the transmission system and resources of the Pacific Northwest as a coordinated system. Those Pacific Northwest utilities that are parties to the Coordination Agreement commit to the coordinated operation of their resources as if they were part of a single utility.

The Coordination Agreement arose out of the fact that operation of the hydroelectric resources located on the Columbia River and its tributaries, regardless of their ownership, may impose detrimental impacts on other hydroelectric resources located on the same river system. It provides for resource operation which minimizes adverse impact on other utilities from operation of such resources. It provides for mutual back-up in emergencies, establishes sound levels of integrated operation, and insures that each utility will obtain an assured capability from its resources.

Extraregional utilities do not participate in the Pacific Northwest Coordination Agreement. Their only interest in the Pacific Northwest power system is as a temporary conduit to markets in the Southwest. With approximately half of the region's loads and 80 percent of the region's transmission, BPA has a substantial and appropriate interest in assuring that the Intertie capacity will not be used by these utilites to operate their systems in a manner that jeopardizes BPA's responsibilities for the efficient and reliable operation of the Pacific Northwest power system.

One of the most significant obligations upon BPA's customers is their ultimate responsibility to pay all costs necessary to produce, transmit, and conserve resources to meet the region's electric power requirements, including amortization on a current basis of the Federal investment in the Federal Columbia River Power System. This is the mechanism employed by Congress to assure that BPA's customers and not the nation's taxpayers underwrite the cost associated with the construction and operation of BPA's ownership in the Pacific Northwest-Pacific Southwest Interties. The benefits of the Federal transmission system in the Pacific Northwest accordingly are intended primarily for utilities in the Pacific Northwest.

Congress called upon BPA to construct Federal transmission facilities in the region if they were needed to serve the region's needs to integrate resources under the "one utility" planning concept, to integrate the Pacific Northwest and Pacific Southwest through diversity and peak/exchange transaction and to transmit the region's surplus power and energy to other regions, particularly the Southwest.

Federal transmission facilities were constructed, on the basis of general Pacific Northwest utrility consensus, in order to avoid the costly facility duplication which would result if all utilities in the region were to construct their own facilities. If extraregional utilities were given access to these facilities it would result in less capacity being available for regional utilities. The original purpose of the Federal facilities would be lost. Consequent detrimental effects would be felt by those regional utilities which might otherwise have originally built their own facilities, but relied upon the cooperative planning and construction approach. Congress therefore authorized, but did not direct, that BPA afford transmission access to extraregional utilities. BPA may use its authority to provide priority access to itself and Pacific Northwest utilities.

For these reasons, during periods when Interties capacity is insufficent to meet all Pacific Northwest requests for capacity, the Intertie will be allocated to the Pacific Northwest utilities. During periods when the capacity of the Intertie is greater than the requests from Pacific Northwest utilities, Intertie capacity in excess of that need to serve Pacific Northwest utilities will be made available to transmit energy from extraregional resources.

4. Fish and wildlife concerns.

The fish and wildlife provisions contained in the Near Term Intertie Access Policy are intended to assure that the Policy will not enable or encourage resource construction or operation that would decrease the effectiveness of or increase the need for additional expenditures or other actions by the Administrator to protect, mitigate and enhance fish and wildlife. In developing this policy, BPA is relying on its fish and wildlife authorities including the Regional Act and its obligation thereunder to exercise its responsibilities taking into account in decisionmaking to the fullest extent parcticable, the Fish and wildlife Program adopted by the Pacific Northwest Power Planning Council, and BPA's obligation not to undertake any major Federal action that might significantly affect the environment without preparing an environmental impact statement.

BPA, pursuant to the Regional Act and to other applicable law, is engaged in a significant and expensive effort to restore an anadromous fishery and otherwise mitigate fish and wildlife losses caused by the construction of the Federal hydroelectric system in the Columbia River and its tributaries. BPA is obligated to repay the United States Treasury over $500 million for capital construction designed to mitigate fish and wildlife losses. Annually, BPA also reimburses the Treasury for operation and maintenance costs associated with fish and wildlife mitigation incurred at these facilities by the Corps of Engineers, Bureau of Reclamation and U.S. Fish and Wildlife Service. BPA has estimated that in 1985 these costs will be approximately $15 million. In addition, under the Regional Act, BPA has assumed a major share of the costs of implementing the Fish and Wildlife Program developed by the Pacific Northwest Power Planning Council, and sustains a revenue loss resulting from implementing a Water Budget at a cost of $58 million annually in an average water year. Implementation costs in addition to the Water Budget will amount to about $35 million in 1985.

In light of this substantial investment, BPA believes it is appropriate, in present and future Intertie Access

Policies, to exercise all its authorities to insure that its actions do not enable other entities to impair the effectiveness of BPA's fish and wildlife efforts, or increase the need for additional expenditures or other actions to protect, mitigate and enhance fish and wildlife. In this Near Term Intertie Access Policy, the provisions of section II C address this concern as follows:

a. Access to the Intertie will not be provided for power from resources not yet licensed or constructed, which would negatively impact BPA's fish and wildlife expenditures and other actions, nor will access be provided for licensed or constructed resources that are not being constructed or operated in a manner consistent with applicable permits, licenses and other provisions of applicable state or Federal law.

b. Access to the Intertie will be provided for existing resources that are operated in a manner consistent with applicable permit, licenses and law, based on the presumption that such operation will not negatively impact BPA's Fish and Wildlife Program. However, if it is demonstrated that operation of a resource may negatively impact BPA's program, the Administrator will determine whether that impact is substantial. If so, in order to gain access, the owner, operator, or scheduling utility of the resource must modify its operation, arrange for a comparable expenditure or take other actions to mitigate what would otherwise result in a decrease in the effectiveness of the Administrator's Fish and Wildlife Program or would require increased expenditures or other actions by the Administrator to protect, mitigate, or enhance fish and wildlife

## II. Near Term Intertie Access Policy

BPA will provide near term Intertie access on a fair and nondiscriminatory basis without incurring substantial interference with BPA's Power Marketing Program. This will be accomplished by providing for assured delivery for qualifying firm sales by BPA or other Pacific Northwest utilities and by allocating access to remaining Intertie capacity among BPA and other Pacific Northwest utilities when regional supply exceeds the Southwest market. Firm power sales contracts for disposition of power generated in the Pacific Northwest, both existing and new, may qualify for assured delivery sufficient to supply the firm obligation. BPA and Pacific Northwest utilities will share remaining available Intertie capacity based on their relative amounts of surplus. Nonfirm Intertie access may be provided for extraregional resources and utilities.

### *A. Definitions*

1. "Existing Pacific Northwest resources" means the resources of Pacific Northwest utilities which are in operation or dedicated to regional load in recognized regional resource planning documents, and which have not been terminated, prior to the effective date of this policy.

2. "Intertie capacity" means capacity on the Pacific Northwest-Pacific Southwest Intertie controlled by BPA through ownership or contract right and increased by the amount of obligation energy deliveries under capacity and capacity/exchange contracts with the Southwest.

3. "Pacific Northwest" means, as defined in the Regional Act, Pub. L. 96–501, section 3(14)(A), "the area consisting of the States of Oregon, Washington, and Idaho, the portion of the State of Montana west of the Continental Divide, and such portion of the States of Nevada, Utah, and Wyoming as are within the Columbia River Drainage Basin."

### *B. Term*

BPA will adopt a Near Term Intertie Access Policy soon after the close of the comment period. Upon notice, or notice and comment, as appropriate, BPA may modify the Near Term Intertie Access Policy. Significant revisions of the Near Term Intertie Policy may be made after BPA has provided an opportunity to comment on proposed changes. The Near Term Intertie Access Policy will be in effect for approximately 2 years. At the end of that time, BPA expects to adopt a Long Term Intertie Access Policy. Additional opportunities for review and comment will be provided before BPA adopts a Long Term Intertie Access Policy.

### *C. Conditions for Intertie Access*

1. The Administrator will allocate available Intertie capacity on a fair and nondiscriminatory basis to Pacific Northwest scheduling utilities pursuant to the procedures for scheduling and allocations set forth in this policy.

2. Access to the Intertie will be provided only for power from existing Pacific Northwest resources that would not:

a. Create substantial interference with:

(1) the Administrator's power marketing program; or

(2) The operating limitations of the Federal system; or

b. Be in conflict with:

(1) The Administrator's existing contractual obligations; or

(2) Any other obligations of the Administrator under existing law; or

c. Substantially decrease the effectiveness of or substantially increase the need for expenditures or other actions by the Administrator to protect, mitigate, or enhance fish and wildlife, or otherwise substantially interfere with the obligations of the Administrator to protect, mitigate, or enhance fish and wildlife as provided in subsection 6b–e, below.

3. For purposes of this policy, elements of the Administrator's power marketing program include:

a. Arrangements to meet the requirements of existing or future customers of the Administrator pursuant to section 5 of the Regional Act (16 U.S.C. 839C), including transmission and acquisition arrangements;

b. Other power sales to meet existing or future contractual obligations of the Administrator to supply energy or power;

c. Sales of nonfirm energy;

d. Acquisition of power pursuant to section 9(i)(1)(A) of the Regional Act (16 U.S.C. 839f(i)(1)(B));

e. Disposition of power pursuant to section 9(i)(1)(B) of the Regional Act (16 U.S.C. 839f(i)(1)(B));

f. Actions taken to acquire conservation and to encourage efficiency and conservation in the use of electric power, to develop renewable resources, and to assure the Pacific Northwest of an adequate, efficient, economical, and reliable power supply;

g. Policies adopted by the Administrator respecting various elements of the BPA's power marketing program; and

h. Sales or exchanges for use outside the Pacific Northwest in conformance with Pub. L. 88–552 and section 9(c) of the Regional Act (16 U.S.C. 839f(c)).

4. For purposes of this policy, operating limitations applicable to the Administrator include:

a. The Administrator's obligation to reserve capacity on the Intertie to transmit Federal energy, including electric power generated or adquired by the United States, or the energy described in section 9 of Pub. L. 88–552;

b. The Administrator's obligation to provide, construct, operate, maintain, and improve electric transmission lines and substations, and associated facilities in a manner to prevent the monopolization thereof by limited groups. The applicable operating limitations include, but are not limited to:

(1) The BPA Reliability Criteria and Standards;

(2) Western System's Coordinating Council (WSCC) minimum Operating Reliability Criteria; and

(3) North American Electric Reliability Council-Operating Committee Minimum Criteria for Operating Reliability.

c. The Administrator's obligations under the National Environmental Policy Act (NEPA) and associated regulations and procedures; and

d. The Administrator's coordination with other Federal agencies regarding river operations.

5. For purposes of this policy the Administrator's existing contractual obligations, other marketing obligations, and the obligations and policies of applicable law, include but are not limited to:

a. Provisions that such service shall not discriminate against any utility or group of utilities on the basis of independent development of an existng resource;

b. Provision that capacity must be available on the Federal transmission system, which shall be determined as set forth in section II C below;

c. The policies of Pub. L. 96–501 and NEPA; and

d. Current contracts numbered 14–03–73155, 14–03–55063, 14–03–56379, 14–03–79101, DE–MS79—81BP0185, DE–MS79–884BP91627, 14–03–54132, 14–03–53290, 14–03–53295, 14–03–50323, 14–03–54134, 14–03–53297, 14–03–58638, 14–03–54126. Section II C below describes how BPA will implement its allocation procedures to avoid conflict with these and future contracts.

6. Special provisions relating to fish and wildlife.

a. In the future, access to the Intertie will not be provided for power resources not licensed or constructed on the initial effective date of this policy, the construction, or operation of which would substantially decrease the effectiveness of or substantially increase the need for expenditures or other actions by the Administrator to protect, mitigate, or enhance fish and wildlife, or otherwise substantially interfere with the obligations of the Administrator to protect, mitigate, and enhance fish and wildlife.

b. The Administrator will provide access to the Intertie for Pacific Northwest resources licensed or constructed on the effective date of this policy, that are operated, or are being constructed and will be operated in a manner consistent with applicable licenses, permits, and other applicable provisions of state and Federal law. This policy presumes, unless it is demonstrated to the Administrator otherwise by an interested person, that the operation of such resources will not substantially decrease the effectiveness of or substantially increase the need for expenditures or other actions by the Administrator to protect, mitigate, or enhance fish and wildlife, or otherwise substantially interfere with his obligation to protect, mitigate, or enhance fish and wildlife, including the Administrator's obligation under the Regional Act to take into account at each relevant stage of decisionmaking processes, to the fullest extent practicable, the fish and wildlife program adopted by the Northwest Power Planning Council.

c. Upon the demonstration provided in paragraph b above, if the Administrator determines that providing access to any resource licensed or constructed on the effective date of this policy will substantially decrease the effectiveness of or substantially increase the need for expenditures or other actions by the Administrator to protect, mitigate,or enhance fish and wildlife, or otherwise substantially interfere with the Administrator's obligation to protect, mitigate or enhance fish and wildlife, such access will not be provided unless:

(1) The owner or operator of the resource agrees in advance to modify the operation of the resource in a manner to assure that the operation of the resource will not have a determined effect; or

(2) The owner or operator of the resource agrees in advance to make expenditures or take other actions to protect, mitigate, or enhance fish and wildlife to fully offset the decrease in effectiveness or the increase in need for expenditures or other actions by the Administrator, caused by the operation of the subject resource.

d. The Administrator will not agree to provide access to the Intertie for resources that are operated, or are being constructed and will be operated, the operation of which will decrease the effectiveness of or increase the need for expenditures or other actions by the Administrator to protect, mitigate, or enhance fish and wildlife or otherwise interfere with the obligations of the Administrator to protect, mitigate, and enhance fish and wildlife and which are not being constructed or operated on compliance with applicable licenses or permits and other applicable state or Federal law.

e. "Substantially decrease, increase, or interfere," as used in section 6, means a change is significant, and measurable or identifiable.

*D. Firm Contracts and Formula Allocation Methods for Intertie Access*

1. Assured Delivery for Firm Contracts.

a. Except as provided in section II, C, 2, above, scheduling utilities in the Pacific Northwest shall be provided capacity each hour for deliveries under existing or new firm sales contracts at the time when, or so long as, such contracts meet certain eligibility criteria described below. Capacity shall not be allocated for transmission of surplus firm energy or surplus firm capacity that is not sold pursuant to a firm sales contract meeting the criteria.

b. New firm sales contracts are contracts that:

(1) Provide for the delivery of power from specified resources for a term of not less than 1 operating year;

(2) Obligate the Pacific Northwest party to deliver power on a particular hour and obligate the Southwest party to take the power or to pay for the power if it is not taken;

(3) Do not make the delivery of power subject to displacement by the purchaser with other power;

(4) Provide, as determined pursuant to the Pacific Northwest Coordination Agreement or pursuant to similar planning criteria, for the sale of firm resources in excess of the Pacific Northwest supplier's other firm obligations; and

(5) Provide, with respect to replacement of firm capacity or deliveries of exchange energy, that replacement or return energy will be delivered to the point of interconnection on BPA's system either at the California-Oregon border or the Nevada-Oregon border.

c. Firm hourly schedules must be established by the Pacific Northwest and Southwest parties, and be made available to BPA prior to allocation of Intertie capacity.

d. When BPA firm deliveries and requests by other utilities for firm deliveries exceed the available Intertie capacity, the Pacific Northwest and Souwthwest parties will establish schedules for such delivery.

e. Existing obligations granted assured Intertie capacity are:

(1) Portland General Electric's Intertie annual priority access rights as described in Contract No. 14–03–55063;

(2) Pacific Power & Light Intertie annual priority access rights as described in Contract No. 14–03–56379;

(3) Washington Water Power's firm transmission to facilitate its sale to San Diego Gas & Electric Company (SDG&E) as described in Contract No. 14.–03–79101;

(4) Washington Water Power's rights to schedule energy to Southern California Edison (SCE) as described in Contract No. DE–MS79–81BP90185;

(5) Western Area Power Administration's purchase of surplus firm power from BPA and transmission of power purchased from the Basin Electric Power Cooperative as described in Contract No. DE–MS79–84B91627;

(6) BPA's sale of seasonal surplus capacity to Pacific Gas & Electric (PG&E) as described in Contract No. 14–03–54132;

(7) BPA's Capacity/Energy Exchange Agreements as listed below and described in the referenced contracts:

| Utility | Contract No. (14–03–) |
|---|---|
| (a) Burbank | 53290 |
| (b) Glendale | 53295 |
| (c) Los Angeles | 50323 |
| (d) Pasadena | 53297 |
| (e) PG&E | 54134 |
| (f) SDG&E | 58639 |
| (g) SCE | 54126 |

2. Formula Sharing Method.

Intertie capacity available in excess of requirements for transmission capacity pursuant to subsection 1, Assured Delivery for Firm Contracts, shall be allocated according to the formula described herein.

a. When Intertie capacity and Southwest market conditions trigger the Exportable Agreement, available Intertie capacity shall be allocated pursuant to that agreement. An example of this allocation formula is described as Condition 1 of Appendix A.

b. During periods when (i) available capacity on the Intertie exceeds the requirements for transmission capacity pursuant to subsection 1, Assured Delivery for Firm Contracts, and (ii) the Intertie capacity and Southwest market conditions have not triggered the Exportable Agreement, then capacity on the Intertie to serve the Southwest market shall be allocated pursuant to the following procedure:

(1) On any day the scheduling utilities observe as a normal workday, each Pacific Northwest supplier shall submit to BPA its hourly declarations of the amount of energy and capacity it has available for sale to the Southwest through the next normal workday at any available rate.

(2) Hourly allocations among Pacific Northwest suppliers will be determined by the ratio of each party's declaration to the sum of all declarations on that hour multiplied by the available capacity of the Intertie.

(3) Because of the variable nature of the obligation deliveries in capacity or capacity/exchange contracts, the potential Intertie capacity may not be scheduled by Southwest utilities on any given hour. Even though a Pacific Northwest party receives an allocation of the potential Intertie capacity, in this condition all offers to sell may not result in transactions. An example of this allocation formula is described as Condition 2 in Appendix A.

c. If the declarations are less than the capacity of the Intertie, each party's allocation will be equal to its declaration. No prorated allocation is necessary in this condition. An example of this market condition is described as Condition 3 in Appendix A.

d. In either Condition 2 or 3, if a Southwest purchaser cannot purchase power because the Pacific Northwest power available to it is priced at a level that would not allow the purchaser to displace the highest cost thermal resources it would otherwise operate, and there are no other Southwest utilities that are able to accept the offer, then if the Pacific Northwest utility is unwilling to lower the price to an economic level, the Pacific Northwest utility would lose the allocated share of the Intertie to other Pacific Northwest suppliers.

*E. Extraregional Access*

BPA seeks comments on the following proposals concerning Intertie access for extraregional resources.

1. Under Condition 1, potential users of Intertie capacity that are not parties to the Exportable Agreement will not receive a formula allocation of Intertie capacity.

2. BPA is willing to consider giving extraregional utilities some limited access to Intertie capacity under Condition 2. This limited access might provide extraregional utilities with sufficient Intertie access to market amounts of nonfirm energy that would approximate their sales over the Intertie in recent years, under BPA's past Intertie practices. Such access, however, would be conditioned on such utilities' participation in the Pacific Northwest's coordinated planning and operation to a greater extent than in the past.

3. Under Conditions 3, extraregional utilities will be able to use Intertie capacity to the extent that capacity is available in excess to the declaration of Pacific Northwest utilities.

4. Extraregional utilities also may be granted access on the Intertie under Condition 2 and 3 as described in section II, C, 2, d, above if Pacific Northwest utilities offer energy at a price which is not economic for any Southwest party.

Issued in Portland, Oregon on July 20, 1984.

**Robert E. Ratcliffe,**

*Acting Administrator.*

## Appendix A—Example of Formula Allocation Under Condition 1

*Assumptions used in this example:*

1. There is sufficient energy to load the potential Intertie capacity at 18.5 mills/kWh or less.

2. Declarations of available energy are hourly.

3. Some utilities have firm contracts.

4. Some utilities have priorities.

5. Potential Intertie capacity equals 5,800 MW.

6. Extraregional utilities are not able to declare or receive an allocation in this condition.

*Example of an hourly declaration and allocation:*

| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) |
|---|---|---|---|---|---|---|---|
| | Firm | NF declaration | NF allocation | Total allocation | Restore | NF allocation | Final allocation |
| BPA | 500 | 3,000 | 2,635 | 3,135 | | 2,635 | 3,135 |
| $IOU_1$ | 200 | 1,000 | 876 | 1,076 | −876×60 | 851 | 1,051 |
| | | | | | 1,985 | | |
| $IOU_2$ | 40 | 960 | 843 | 883 | −843×60 | 818 | 858 |
| | | | | | 1,985 | | |
| $PGE_2$ | | 500 | 440 | 440 | +60 | 500 | 500 |
| $PA_1$ | 0 | 100 | 88 | 88 | −88×60 | 85 | 85 |
| | | | | | 1,985 | | |
| $PA_2$ | 0 | 200 | 176 | 176 | −176×60 | 171 | 171 |
| | | | | | 1,985 | | |
| | 740 | 5,760 | 5,060 | 5,800 | | | 5,800 |

*Description:*

Column 1=Utility that is declaring energy for the allocation procedure.

Column 2=The amount of firm energy each utility will deliver, as specified prior to allocation of nonfirm energy.

Column 3=Each utility's total hourly nonfirm energy declaration.

Column 4=The initial allocation of the potential nonfirm Intertie capacity.

Column 5=The initial total allocation of Intertie capacity (5,800 MW).

Column 6=The reallocation that is required because of Portland General Electric's priority to the Interties. NOTE: BPA does not share in these pro rata reductions necessitated by enactment of priority rights.

Column 7=The final nonfirm allocation of the potential nonfirm Intertie capacity.

Column 8=The final total allocation of the potential Intertie capacity (5,800 MW).

After the final allocation for each hour of the preschedule day or days is determined, Pacific Northwest utilities would be informed of their allocation and would either negotiate sales at other than the 18.5 mills/kWh price or be combined with BPA's allocation at 18.5 mills/kWh and receive a pro rata share of BPA sales.

**Example of Formula Allocation Under Condition 2**

*Assumptions used in this example:*

1. Hourly energy available at 18.5 mills/kWh or less within the region is not sufficient to cover the potential Intertie capacity.

2. The hourly energy available at any price is more than sufficient to cover the potential Intertie capacity.

3. Utah has other transmission paths and, therefore, will not participate.

4. Some utilities have firm contracts.

5. Potential Intertie capacity equals 5,800 NW.

6. No utility has a priority.

*Example of the hourly declaration and allocation:*

| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) |
|---|---|---|---|---|---|---|---|
| | Firm | NF Declaration | NF allocation | Total allocation | Economics | NF revised allocation | Total |
| BPA | 500 | 2,000 | 1,350 | 1,851 | Yes | 1,690 | 2,190 |
| $IOU_1$ | 200 | 1,300 | 877 | 1,077 | No | 0 | 200 |
| $IOU_2$ | 40 | 1,960 | 1,323 | 1,363 | Yes | 1,656 | 1,696 |
| $IOU_3$ | 700 | 0 | 0 | 700 | Yes | 0 | 700 |
| $PA_1$ | 0 | 100 | 67 | 67 | Yes | 85 | 85 |
| $PA_2$ | 0 | 200 | 135 | 135 | Yes | 169 | 169 |
| $IOU^4$ | 0 | 900 | 607 | 607 | Yes | 760 | 760 |
| | 0 | 6,460 | 4,360 | 5,800 | | 5,800 | |

Description:
Column 1=Utility that is declaring energy for the allocation procedure.
Column 2=The amount of firm energy each utility will deliver, as specified prior to allocation of nonfirm energy.
Column 3=Each utility's nonfirm energy declaration.
Column 4=The initial allocation of the potential nonfirm Intertie capacity.
Column 5=Total allocation (nonfirm + firm) of the 5,800 MW potential Intertie capacity.
Column 6=The Southwest utilities have convinced BPA that the energy offered by to utility $IOU_1$ is not economic.
Column 7=The reallocation of the potential nonfirm Intertie capacity necessitated by economics.
Column 8=The final allocation of the 5,800 MW potential Southwest market.
After the final allocation for each hour of the preschedule day or days is determined, the Pacific Northwest utilities would be informed of their allocation and would be free to negotiate sales at any price.

**Example of Formula Allocation Under Condition 3**

*Assumptions used in this example:*

1. Energy available within or without the region at any price is not sufficient to load the potential Intertie capacity.

2. The potential Intertie capacity equals 5,800 MW.

3. Some utilities have firm contracts.

4. No intertie priorities remain.

An example is unnecessary because the allocations of each utility will be equal to the declarations.

## Appendix B—Pacific Southwest Analysis

[Fiscal Year 1983]

| Utility | Purchases from BPA [14] | | | Other purchases | | | Range of rates (m/kWh) | BPA as percent of total purchases | Purchased Pwr benefits ($000) [10] | Average alternate fuel cost (m/kWh) | Fuel cost benefits ($000) [13] | Economy energy sales rate (m/kWh) |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | (MWh) | ($000) | Average rate (m/kWh) [1] | (MWh) | ($000) | Average rate (m/kWh) | | | | | | |
| | A | B | C | D | E | F | G | H | I | J | K | L |
| PG&E | 5,993,795 | 54,727 | 9.13 | 1,683,850 | 42,966 | 25.5 [2] | 9–61 [6] | 78.1 | 98,118 | 55.1 [7] | 275,535 | 33.7 [11] |
| SCE | 5,724,594 | 52,520 | 9.19 | 11,843,200 | 265,200 | 24.1 [3] | 7–52 [9] | 32.6 | 85,354 | 56.9 [8] | 273,120 | 36.0 [2] |
| LADWP, *et al.* | 4,664,201 | 42,629 | 9.14 | 2,218,655 | 52,280 | 23.6 [4] | 8–36 [4] | 67.8 | 67,444 | 49.6 [9] | 166,714 | 33.4 [4] |
| SDG&E | 770,618 | 7,036 | 9.13 | 1,362,677 | 53,151 | 39.0 [5] | 9–57 [5] | 36.1 | 23,018 | 60.1 [10] | 39,278 | 33.5 [5] |
| Total | 17,153,208 | 157,015 | 9.15 | 17,108,382 | 433,597 | 25.3 | 7–61 | 50.1 | 273,934 | | 776,647 | |
| Exportable agreement [1] | −1,651,299 | −14,862 | 9.00 | 1,651,299 | 14,862 | 9.0 | | | | | | |
| Net BPA | 15,501,909 | 142,153 | 9.17 | 18,759,681 | 448,459 | 23.9 | | | | | | |

[1] "Intertie Operatoins, Special Accounts", Division of Power Supply (BPA).
[2] August 15, 1983, PH&E response to BPA Data Request, Exhibit E.
[3] November 2, 1983, SCE response to BPA Data Request. *This data is under protective order.*
[4] November 3, 1983, LADWP et al., response to BPA Data Request. *This data is under protective order.*
[5] November 3, 1983, SDG&E response to BPA Data Request. *This data is under protective order.*
[6] November 9, 1983 PG&E response to BPA Data Request. *This data is under protective order.*
[7] "Reasonableness of Operations" report, dated January 1, 1983, p. 3–12, and FERC Form 1 dated December 1982.
[8] August 5, 1983 response to DIS et al. Data Request, att. B.
[9] August 9, 1983 Data response, att. 2.
[10] November 1, 1982 Reasonableness of Operations Report, p. 38.
[11] November 7, 1983 PG&E response to BPA data request. *This data is under protective order.*
[12] Cost benefits from nonfirm energy purchases from BPA, calculated based on the average rate paid for other purchases. A * (F–C).
[13] Cost benefits from nonfirm energy purchases from BPA, calculated based on the average fuel costs. A * (J–C).
[14] Includes Exportable Agreement purchases and revenues.

[FR Doc. 84–20059 Filed 7–26–84; 8:45 am]
BILLING CODE 6450–01–M

## Economic Regulatory Administration

## Final Consent Order With Mobil Oil Corp.

**AGENCY:** Economic Regulatory Administration, Energy.

**ACTION:** Final Action on Proposed Consent Order.

**SUMMARY:** The Administration of the Economic Regulatory Administration (ERA) has determined that a proposed consent order between the Department of Energy (DOE) and Mobil Oil Corporation (Mobil) shall be made final as proposed. The consent order resolves, with certain exceptions, matters relating to Mobil's compliance with the federal price and allocation regulations for the period Janaury 1, 1973 to Janaury 28, 1981. Mobil will pay to the DOE $27.0 million, plus interest from the date of execution of the proposed consent order. Persons claiming to have been harmed by Mobil's alleged overcharges will be able to present their claims for refunds in an administrative claims proceeding before the Office of Hearings and Appeals (OHA). The decision to make the Mobil consent order final was made after a full review of written comments from the public and oral testimony received in a public hearing.

**FOR FURTHER INFORMATION CONTACT:** Milton C. Lorenz, Special Counsel (RG–20), Economic Regulatory Administration, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–8900.

**SUPPLEMENTARY INFORMATION:**

I. Introduction
II. Comments Received
III. Analysis of Comments
IV. Decision

### I. Introduction

On April 20, 1984, ERA issued a notice announcing a proposed consent order between DOE and Mobil which, with certain exceptions, would resolve matters relating to Mobil's compliance with federal petroleum price and allocation regulations for the period January 1, 1973 to January 28, 1981. 49 FR 17920 (April 25, 1984). The proposed consent order requires Mobil to pay $27.0 million[1] for the settlement of alleged overcharges totaling $40.7 million including interest. The April 20 notice provided in detail the basis for ERA's preliminary view that the settlement was favorable to the government and in the public interest. The notice solicited written comments from the public relating to the adequacy of the terms and conditions of the settlement, and whether the settlement should be made final. The notice also announced a public hearing for the purpose of receiving oral presentations on the settlement. That hearing was held on May 31, 1984 in Washington, D.C.

[1] Mobil deposited $27.0 million in an interest-bearing escrow account on the day the proposed consent order was executed. The $27.0 million, plus interest accrued while in the escrow account, will be disbursed to DOE within 30 days of publication of this notice. The interest accrued on the date of issuance of this notice is approximately $750,000.

### II. Comments Received

ERA received written and oral comments from 17 individuals or firms, with three of the written comments filed after the May 25, 1984 deadline. Four oral presentations were given at the May 31, 1984 hearing. All written and oral comments were considered in making the decision as to whether or not the proposed consent order should be made final.

The written and oral comments can be divided into two subject categories. One category consists of nine comments that addressed the ultimate disposition or distribution of the Mobil settlement funds. The other category includes five comments directed at the adequacy of the settlement amount. In addition to these two categories of comments, four requests were received for copies of the proposed consent order.

Comments were received from the following firms or individuals that expressed views on the ultimate disposition of the funds to be paid by Mobil pursuant to the settlement:

Defense Logistics Agency, Alexandria, Va.
Attorneys General for Arkansas, Delaware, Iowa, Kansas, Louisiana, North Dakota, Rhode Island and West Virginia
Indiana Department of Commerce, Indianapolis, Indiana
Noco Energy Corporation, Tonawanda, N.Y.
WEA (W.E. Allford Inc.), McAlister, Oklahoma
Mr. & Mrs. Charles A. Linder, III, Patterson, California
Mobil Jobbers Group
Ray D. Mynk, Bakersfield, California
The National Council of Farmer Cooperatives, Washington, D.C.

The comments submitted by these parties did not address the basis of the settlement or adequacy of the settlement amount, but only offered suggestions on the distribution of the settlement funds that were different from the consent order provision requiring disbursement through OHA administrative claim proceedings.

The five comments that addressed the basis and adequacy of the proposed settlement were submitted by:

Attorney General of Texas, Austin, Texas
Controller, State of California and Attorneys General of Illinois and Michigan
Air Transport Association, Washington, D.C.
Ashland Oil Company of California, Inc., Oakland, California
Crown Central Petroleum Corporation, Baltimore, Maryland

These commentors raised questions concerning the adequacy of the amount of funds to be paid by Mobil and the method by which Mobil's overcharge liability had been calculated by ERA.

Two individuals and one firm submitted requests for copies of the proposed Mobil consent order or asked to be placed on any mailing list of interested parties in this proceeding. These commentors, listed below, did not address the substance of the proposed settlement or the information in the April 20 notice.

Greg R. Potvin, Esq., Washington, D.C. 20002
Mr. William L. Taylor, Washington, D.C. 20036
A-P-A Transport Corporation North Berger, New Jersey

### III. Analysis of Comments

The April 20 notice solicited written comments and provided for a public hearing to enable the ERA to receive information from the public relevant to the decision whether the proposed consent order should be finalized as proposed, modified or rejected. To ensure greater public understanding of the basis for the proposed settlement, the April 20 notice provided unusually detailed information regarding Mobil's alleged overcharge liability and the considerations that went into the government's preliminary agreement with the proposed terms. This expanded settlement information enabled the public to address more specifically the areas in which questions or concerns may have existed. The value of this approach was reflected in several oral and written comments, which expressed support and enthusiasm for the expanded amount of information included in the April 20 notice.

Some comments, relating to the ultimate distribution of the funds if the Mobil consent order is finalized, were not germane to the basis or adequacy of the settlement. The distribution of the settlement funds will be the subject of a separate administrative proceeding conducted by OSH, to be initiated shortly after publication of this notice. This is consistent with ERA's general policy that the Subpart V procedure is best suited for cases such as Mobil

where ERA could not readily identify the injured parties or their relative amount of economic harm. The Subpart V process also provides an opportunity for public participation in the selection of the manner in which claims are considered and honored. While some commentors urged that ERA undertake a more direct and expeditious distribution of the settlement funds, ERA believes that the advantages of the Subpart V procedure in identifying meritorious claims and the fact that the moneys will continue to earn interest up to the final disbursements strongly support the remedial provision of the proposed settlement. Comments on the actual disbursement of money will not be addressed here, but will be referred to OHA for consideration in the Mobil consent order claims proceeding.

Among the concerns that ERA had in seeking public comment on the proposed settlement was the need to correct a possible misunderstanding over Mobil's real financial liability resolved by this proposed consent order. This misunderstanding centers on the difference between "overcharges" and "cost violations", a distinction which has continued to be a source of confusion, reflected in press accounts, in the evaluation of the settlement. As explained more fully in the April 20 notice, as well as this notice, Mobil's $1.3 billion in cost violations identified and alleged by ERA are *not* the equivalent of overcharges. These cost violations yielded overcharges of only $40.7 million, including interest. It is this cash overcharge amount that is the true maximum value of the Mobil disputes. It should be noted that, while certain commentors expressed some concern over the sufficiency of the information provided by the April 20 notice, all acknowledged their understanding of the distinction between cost violations and overcharges.

Several commentors questioned the settlement analysis and preliminary conclusion set forth in the April 20 notice. These comments were carefully reviewed and are discussed below.

The State of Texas, the states of California, Illinois and Michigan in a joint comment, and the Air Transport Association indicated that, notwithstanding the substantial amount of information provided in the April 20 notice, they still lacked sufficient information upon which to base a judgment as to whether the settlement amount was adequate. Those comments expressed concern that Mobil's total maximum exposure as calculated by DOE and identified in the April 20 notice seemed small in light of the total alleged cost violations of over one billion dollars. However, even in response to specific questions at the public hearing, no commentor identified or provided any additional specific information that contradicted ERA's preliminary conclusions.

In the April 20 notice, ERA sought to provide the maximum amount of information possible. Statutory constraints on the release of proprietary data received from Mobil in the course of the audit and the need to avoid hindering the prosecution of enforcement actions against other firms placed some limitations on the disclosure of information concerning the enforcement actions resolved by the proposed settlement. However, a further review of the scope of disclosure in the April 20 notice has resulted in ERA's continued belief that the April 20 notice provides the most information possible consistent with all of ERA's obligations and needs, but sufficient to assess its adequacy. This conclusion is reinforced by the inability of those who made comments on the point to identify any additional information that might be helpful.

As indicated in the April 20 notice, enforcement actions alleging that Mobil claimed excessive amounts of costs are to be distinguished from allegations that there were overcharges in Mobil's sales of petroleum products. The former seek accounting adjustments necessary to make the calculations of maximum lawful prices accurate. The latter allege the charging of a price in excess of that maximum lawful price. Since Mobil had substantial amounts of cost increases that it could have lawfully recovered but did not ("banks of unrecovered costs" or "banks"), even after the adjustments required by ERA's allegations, the prices charged by Mobil for covered petroleum products during the period of controls were in many instances at or below the maximum lawful price even if ERA prevailed in eliminating certain cost increases claimed by Mobil. This accounts for the sizable differences in the amount of alleged cost violations and the amount of overcharges resulting from those violations.

Ashland Oil of California, the State of Texas, and, jointly the states of California, Michigan and Illinois questioned the appropriateness of considering Mobil's banks in calculating the overcharge liability resulting from the alleged violations. Their comments correctly noted that there is a difference between the DOE's method of assessing Mobil's regulatory compliance and resulting potential overcharge liability as outlined in the April 20 notice and the analysis sometimes used in Subpart V proceedings by OHA for determining whether overcharges were passed on beyond the first purchaser, *i.e.*, the amount of harm incurred by a purchaser who may have paid an excessive price but who subsequently had an opportunity to "pass through" some or all of that excess upon reselling the product. These comments seem to assume that these two analytical processes should be the same. The two approaches are not the same. In fact, the processes must be different because they serve different purposes.

Subpart V proceedings are designed to determine the amount of economic injury which potentially overcharged customers may have absorbed. In these proceedings, refiners making claims particularly have urged OHA to consider their "banks" of unrecouped costs as evidence conclusively demonstrating that they were injured. OHA has consistently maintained that the absence of banks shows that all cost increases by a firm (whether lawful or whether the result of overcharges) were passed on, but that the mere presence of banks means that only some cost increases (whether lawful or whether the result of overcharges) were not recovered as calculated under the regulatory scheme. In a number of cases OHA has found that lawful cost increases and alleged overcharges incurred by a purchaser were commingled and lost their identity. Accordingly, the mere existence of banks does not imply there was overcharge impact.

OHA performs this analysis of banks and cost passthroughs in an effort to assure that first purchasers who are not end-users do not reap the benefits of consent orders at the expense of other persons who were economically injured further along in the distribution chain. In fact, if the mere existence of banks were proof that overcharges had been absorbed, each firm in the distribution chain that had such banks could each assert that they had absorbed the same overcharges.

In contrast, the liability phase of the enforcement process, whether through litigation or settlement, assesses potential overcharge liability in the context of the refiner pricing regulations which were in effect during the period of price controls, 10 CFR Part 212, Subpart E. It considers whether actual overcharges occurred, as opposed to assessing where overcharge impact was felt, as is done in Subpart V. Although the regulations in Subpart E were numerous, complex, and amended many times during the 88-month period of

controls, the general rule as to a refiner's maximum allowable selling prices was fundamentally simple. A refiner could charge in excess of the prices it had charged on May 15, 1973 only to the extent it had incurred cost increases since May 1973. The types of costs which would be considered to justify higher prices, and the manner in which those costs were to be calculated, were defined in the provisions and various formulae principally found in § 212.83 of the regulations. To the extent that a refiner charged prices at a level *below* the maximum allowable, the difference could be "banked" for use in justifying higher prices in later months.

In general terms, the maximum lawful price for a particular class of customers was the sum of the appropriate May 15, 1973 selling price, the correct per unit cost increases incurred since May 1973, and the proportional amount of banked costs which were not recouped in prior months of price controls. Thus, if all elements of the equation are correct, the refiner would not be liable for any overcharges if its actual selling price was below the legal maximum. Conversely, if the sale price was above the correctly calculated legal maximum, the amount in excess of the maximum constituted an overcharge.

If a refiner such as Mobil has included excessive costs in its maximum price calculations and then actually charged the maximum price that resulted from these calculations, the amount of the cost violations would be equal to the overcharge liability. However, this was not the situation in ERA's disputes with Mobil, since Mobil's selling prices in many instances did not rely on costs alleged by ERA to be excessive.

As explained in the April 20 notice, ERA determined what it believed to be Mobil's correct amounts of cost increases and then compared, on a monthly basis, the amount of those costs Mobil recovered through price increases above the May 15, 1973 level. The result was the maximum amount of overcharges attributable to Mobil if the government eventually prevailed on all of the various issues regarding the correct amount of Mobil's cost increases. ERA continues to believe that its method for calculating Mobil's potential overcharge liability is correct.

Finally, one commentor, Crown Central Petroleum Corporation, (Crown) urged that the proposed consent order be modified to specifically exclude from the terms of the settlement the compliance of Superior Oil Company (Superior). According to Crown, Mobil is presently finalizing its acquisition of Superior. Section 203 of the consent order indicates that "Mobil" includes Mobil's affiliates and subsidiaries only for acts that took place during the period when they were subsidiaries or affiliates of Mobil. Superior was not an affiliate or subsidiary of Mobil's during the period covered by the consent order. Therefore, there is no need for any such modification.

The review and analysis of all the written and oral comments did not provide any information that would support the modification or rejection of the proposed consent order with Mobil.[1] Accordingly, ERA concludes that the consent order is in the public interest and should be made final.

## IV. Decision

By this notice, and pusuant to 10 CFR 205.199J, the proposed consent order between Mobil and DOE executed on April 19, 1984 is, with modification, made a final order of the Department of Energy, effective the date of publication of this notice in the **Federal Register.**

Issued in Washington, D.C. on July 25, 1984.

**Rayburn Hanzlik,**

*Administrator, Economic Regulatory Administration.*

[FR Doc. 84-20080 Filed 7-27-84; 8:45 am]

BILLING CODE 6450-01-M

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## Federal Energy Regulatory Commission

**[Docket Nos. RP73-77-025, et al.]**

### Alabama-Tennessee Natural Gas Co. et al.; Filing of Pipeline Refund Reports and Refund Plans

July 24, 1984.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before August 2, 1984. Copies of the respective filings are on file with the Commission and available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

APPENDIX

| Filing date | Company | Docket No. | Type filing |
|---|---|---|---|
| 6/4/84 | Alabama-Tennessee Natural Gas Co. | RP73-77-025 | Report. |
| 6/25/84 | Algonquin Gas Transmission Co. | RP72-110-036 | Do. |
| 6/25/84 | National Fuel Gas Supply Corp. | RP80-135-041 | Do. |
| 6/29/84 | Natural Gas Pipe Line Co. of America. | CP82-355-005 | Do. |
| 7/3/84 | Columbia Gas Transmission Corp. | TA80-1-21-007 | Do. |
| 7/12/84 | National Fuel Gas Supply Corp. | RP83-63-004 | Do. |
| 7/13/84 | National Fuel Gas Supply Corp. | TA84-1-16-005 | Do. |

[FR Doc. 84-19953 Filed 7-27-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. CP84-528-000]**

### National Fuel Gas Supply Corp.; Request Under Blanket Authorization

July 24, 1984.

Take notice that on June 29, 1984, National Fuel Gas Supply Corporation (Supply), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP84-528-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) that Supply proposes to transport natural gas for Special Metals Corporation (Special Metals) under the authorization issued in Docket No. CP83-4-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Supply proposes to transport up to 640 million Btu of gas per day, less retainage, for Special Metals for a term of one year effective the date deliveries of gas commerce hereunder. Supply states that the gas to be transported hereunder would be purchased from ENVIROGAS Inc., and would be used for forging furnaces at Special Metal's New York plant. Supply indicates that the gas to be purchased by Special Metals involves gas supplies released by Supply and that such supplies are subject to the ceiling price provisions of Section 107 of the Natural Gas Policy Act of 1978. It is further stated that Supply would deliver the gas to National Fuel Gas Distribution Corporation (Distribution) which, in

[1] There will be technical modifications to the stipulation of dismissals of certain judicial litigation resolved by this consent order. These technical modifications are required by the fact that one case is now on appeal to the Temporary Emergency Court of Appeals and must be dismissed before that court.

turn, would deliver the gas to Special Metals.

Supply states that it would charge its current transportation rate of 31.72 cents per Mcf, including a 5.0-cent incentive charge. Supply further states that 2 percent of the gas delivered hereunder would be retained for shrinkage. In addition there is a current distribution rate charge of 88.0 cents per Mcf, a surcharge for municipality tax rates plus 2.5 percent of the gas delivered hereunder would be for loss allowance in accordance with Distribution's New York Tariff (P.S.C. No. 7-Gas), it is asserted.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-19854 Filed 7-27-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER84-541-000]**

## Oklahoma Gas & Electric Co.; Filing

July 24, 1984.

Take notice that on July 12, 1984, Oklahoma Gas and Electric Company (OG&E), P.O. Box 321, Oklahoma City, Oklahoma 73101, tendered for filing Revised Sheet Nos. 1, 2, 4 through 12, 17, 17A, 28 and 29 to its FERC Electric Tariff, 1st Revised Volume No. 1, containing revised rates and charges, and a revised Index of Purchasers, applicable to OG&E's 23 municipal and 3 rural electric cooperative sales-for-resale customers. The revised rates are contained in proposed Rate Schedules WM-1, WM-2, and WC-1 applicable to municipalities and cooperatives, respectively. Also proposed is a change in the rates charged for wheeling and transmission service agreements with Southwestern Power Administration (SWPA) and Western Farmers Electric Cooperative, Inc., (WFEC).

OG&E proposes to divide this request for increase in rate level into two phases with two effective dates. For Phase 1 rates, the Company is requesting an effective date of September 10, 1984 with a suspension, if any, of no more than one day. For Phase 2 rates, the Company is requesting an effective date of September 11, 1984 with a suspension, if any, of no more than one day.

The Company asserts that it is continuing to experience cost increases and has recently completed a new 515,000 kW coal fired generating unit. The Company further asserts that the rate of return now being earned on the services "at issue" in this proceeding is less than adequate.

OG&E states that copies of the tariff, rate schedules and the entire filing have been sent to its municipal and cooperative customers, to SWPA and its customers, and to WFEC. A complete set of the filing has also been sent to the Corporation Commission of the State of Oklahoma and the Arkansas Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or to protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protest should be filed on or before August 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-19855 Filed 7-27-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER84-546-000]**

## Pacific Power & Light Co.; Filing

July 25, 1984.

The filing Company submits the following:

Take notice that on July 17, 1984, Pacific Power & Light Company (Pacific) tendered for filing Revised Appendix 1 for the state of Idaho. The Revised Appendix 1 calculates an average system cost for the state of Idaho applicable to the exchange of power between Bonneville Power Administration (Bonneville) and Pacific.

Pacific requests an effective date of January 26, 1984, and therefore requests, waiver of the Commission's notice requirements.

Copies of this filing has been served upon Bonneville, the Idaho Public Utilities Commission and Bonneville's Direct Service Industrial Customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 8, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-19862 Filed 7-27-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket Nos. TA84-2-28-001, TA84-2-28-002 and RP84-103-000]**

## Panhandle Eastern Pipe Line Co.; Change in Tariff

July 23, 1984.

Take notice that on July 17, 1984 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revised sheets to its FERC Gas Tariff, Original Volume No. 1:

Forty-Ninth Revised Sheet No. 3-A
Twenty-Sixth Revised Sheet No. 3-B
Eleventh Revised Sheet No. 3-C.1
Eleventh Revised Sheet No. 3-C.2
Eleventh Revised Sheet No. 3-C.3
Second Revised Sheet No. 43-6

The proposed effective date of these revised tariff sheets is September 1, 1984.

Panhandle states that it is filing concurrently herewith a revision to the PGA rate adjustment which became effective March 1, 1984 in Docket No. TA84-1-28-000. Therefore the proposed revision tariff sheets submitted herewith reflect the PGA rate adjustment provided for in Ordering Paragraph (B) of the Commission's Order dated May 25, 1984 and Ordering Paragraph (C) of the Commission's Order dated July 13, 1984 in Docket Nos. TA84-1-28-000, TA84-1-28-002 and TA84-1-28-004.

These revised tariff sheets reflect a net decrease in the commodity PGA rate adjustment of (22.00¢) per Dt. This adjustment includes: (1) (2.14¢) per Dt. decrease in the projected purchased gas cost; (2) a (16.30¢) per Dt. decrease in the surcharge to recover the current deferred account balance at May 31, 1984 and related carrying charges; and (3) a (3.56¢) per Dt. decrease in the surcharge for the current period amortization of the deferred account balance at May 31, 1983 pursuant to Docket No. TA83-2-28-000.

Additionally, these revised tariff sheets reflect the following tracking adjustment:

(1) Pursuant to section 18.4 of Panhandle's PGA tariff provisions, no change in Panhandle's Pipeline Supplier demand rate is required;

(2) An ANGTS demand rate reduction ($0.10) for D1 and (0.43¢) for D2) pursuant to section 22 of the General Terms and Conditions;

(3) Pricing Incremental Pricing Surcharges in accordance with section 21 of the General Terms and Conditions.

In accordance with its PGA Tariff, Panhandle's filing being submitted herewith is for the six-month period September 1984 through February 1985. Under the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. § 3301–3432) wellhead price controls will be removed on a portion of Panhandle's producer supplies on January 1, 1985. Panhandle has reflected in the instant filing estimated prices for its deregulated gas supplies that are priced under indefinite price escalator clauses pursuant to such contracts. Panhandle believes that the use of historical prices would lead to increased deferrals of gas costs which could adversely affect its future markets and cause recovery problems. Therefore, Panhandle respectfully requests waiver of § 154.38(d)(4)(iv)(a) of the PGA regulations and section 18 of Panhandle's tariff in order to properly and more accurately reflect its current estimated gas cost due to this expanded deregulation during the effective period of this PGA filing.

Panhandle has also included in this filing a continuation of the three-year amortization of the deferred account balance at May 31, 1983 as approved in Docket No. TA83-2-28-000. Panhandle has calculated the associated carrying charges on the amortized deferred account in accordance with the methodology prescribed by the Commission's Order of August 31, 1983 and Opinion No. 223 dated June 1, 1984 which upheld the Initial Decision issued by Administrative Law Judge Murray on February 16, 1984. On July 2, 1984 Panhandle filed a Request for Rehearing of the Commission's Opinion 223 to permit the inclusion of carrying charges for the entire amortization period. This filing is being made without prejudice to Panhandle's claims stated in its Request for Rehearing.

The remaining balance of carrying charges in Sub-Account 191.1304, which is solely related to the carrying charges permitted by the Commission during the first twelve months of the three-year amortization period of the Deferred Purchased Gas Costs, is being transferred to the current Sub-Account 191.1306, which will be recovered during the PGA period.

Also, for the period April 1, 1979 through April 30, 1981 Panhandle maintained a Louisiana First Use Tax (LFUT) Surcharge pursuant to section 20 of its General Terms and Conditions. On August 4, 1981 the Commission issued an order in Docket No. TA81-2-28-000 terminating the tracking of the Louisiana First Use Tax effective May 1, 1981. Subsequently, all Louisiana First Use Taxes were refunded to Panhandle's customers in accordance with Order No. 10-A in Docket No. RM78-28 and § 154.38(h) of the Commission's Regulations. Therefore, there is no longer any need to maintain the tariff sheets applicable to the LFUT Surcharge pursuant to section 20 of the General Terms and Conditions of Panhandle's tariff. Accordingly, Panhandle submits herewith Second Revised Sheet No. 43-6 to provide for the cancellation of Section 20, the Louisiana First Use Tax Surcharge, of its General Terms and Conditions.

To the extent required, if any, Panhandle requests that the Commission grant such other waivers as may be necessary for the acceptance of these tariff sheets to become effective September 1, 1984.

Supporting computation sheets are enclosed and copies of this letter and enclosures are being served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before July 31, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-19558 Filed 7-27-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. TC84–9–000]**

## Panhandle Eastern Pipe Line Co.; Proposed Tariff Change

July 24, 1984.

Take notice that on July 11, 1984, Panhandle Eastern Pipe Line Company (Panhandle), 3000 Bissonnet Avenue, P.O. Box 1642, Houston, Texas 77001, tendered for filing in Docket No. TC84–9–000, pursuant to Part 154 of the Commission's Regulations proposed Eighth Revised Sheet Nos. 2 through 38 to its FERC Gas Tariff, Original Volume No. 1–A, to become effective on September 1, 1984.

Panhandle states that on February 8, 1980, the Commission approved a Stipulation and Agreement (Agreement) in Docket No. RP78–85 (Village of Pawnee, Illinois, *et al.* vs. Panhandle). It is indicated that under the terms of the Agreement, certain Small Customers, as defined in Article II, are permitted to add new Priority 1 requirements up to 10 percent of their original annual base period volumes during the first twelve-month period and up to 8 percent of their original annual base period volumes during each succeeding twelve-month period that the Agreement is in effect. It is explained that Article V of the Agreement requires that the Small Customers report changes in their estimated monthly and annual volumes to Panhandle and that these changes are to be reflected as adjustments to the monthly base period volumes for each Small Customer and are exhibited in proposed Eighth Revised Sheet Nos. 2 through 38. Panhandle states that copies of its filing have been served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to be heard or to make any protest with reference to said tariff sheet filing should on or before August 6, 1984, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission

will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 84-19957 Filed 7-27-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. ER84-542-000]

## Pennsylvania Power & Light Co.; Filing

July 25, 1984.

The Company submits the following:

Take notice that Pennsylvania Power & Light Company (PP&L) tendered for filing on July 12, 1984 an executed Power Supply Agreement dated as of April 5, 1982 between PP&L and the Borough of Olyphant, Pennsylvania (Olyphant). This agreement is being filed to reflect accurately the point of delivery at which PP&L provides wholesale electric service to Olyphant.

PP&L requests an effective date of July 12, 1984, and therefore requests waiver of the Commission's notice requirements of section 205 of the Federal Power Act, 16 U.S.C. 824d, and § 35.3 of the Commission's regulations, 18 CFR 35.3.

Copies of this filing have been served upon Olyphant and the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest said application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.212). All such motions or protests should be filed on or before August 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 84-19943 Filed 7-27-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. CP84-529-000]

## Southern Natural Gas Co.; Request Under Blanket Authorization

July 25, 1984.

Take notice that on June 29, 1984, Southern Natural Gas Company (Southern) filed in Docket No. CP84-529-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Southern proposes to abandon and remove Southern's Dallas No. 1 Meter Station and to reassign volumes of gas to a different delivery point, under the authorization issued in Docket No. CP84-406-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Southern states that it and Atlanta Gas Light Company (Atlanta) have agreed that the Dallas No. 1 Meter Station would no longer be used by Southern in rendering services to Atlanta, and therefore Southern proposes to abandon these facilities. Southern further stated that the removal of these facilities would reduce its operating costs. The facility includes approximately 75 feet of tap line and the related appurtenant facilities known as the Dallas No. 1 Meter Station. They are located at milepost 432.810 on Southern's 20-inch North Main Line in Douglas County, Georgia.

It is explained that in conjunction with the abandonment of the Dallas No. 1 Meter Station, Atlanta has requested that its contract demand for its Dallas delivery point be reassigned to the Newnan-Yates delivery point and that these two delivery points be consolidated. Southern has determined that the requested reassignment of gas volumes can be accomplished without the construction of any additional facilities, and accordingly, proposes to consolidate the Dallas delivery point and the Newnan-Yates delivery point and to shift 2,180 Mcf of contract demand gas from the Dallas delivery point to the Newnan-Yates delivery point pursuant to § 157.212 of the Commission's Regulations.

Southern further states that (1) the abandonment and reassignment of gas volumes proposed herein would not result in any termination of service to Atlanta; (2) that it would have no impact on Southern's peak day and annual deliveries; (3) that the total volumes to be delivered to Atlanta after the abandonment and reassignment of gas volumes would not exceed the total volumes authorized prior to the proposed actions; (4) that the change is not prohibited by any existing tariff of Southern; and (5) that Southern has sufficient capacity to accomplish the deliveries proposed without detriment or disadvantage to Southern's other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 84-19944 Filed 7-27-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. ER84-543-000]

## Southwestern Public Service Co.; Initial Rate Filing

July 24, 1984.

Take notice that Southwestern Public Service Company (Southwestern) on July 12, 1984, tendered for filing an interconnection agreement and rates for electric power service to Texas-New Mexico Power Company (TNP). The service is to be rendered through the Eddy County D.C. Terminal located nine and one-half miles east-south-east of Artesia, New Mexico. Service under this interconnection agreement is expected to commence January 1, 1985.

Southwestern states that TNP is a Partial Requirements customer and the interconnection agreement provides for Firm Power Service, Emergency Service and Economy Energy under rate levels currently filed and allowed by this Commission for such service.

Southwestern and TNP can realize substantial benefits for their customers by the maintenance of such an interconnection and the interchange of power through the interconnection. Some of the benefits include a reduction in the aggregate generating capacity and transmission equipment of the two systems because they will be able to alternate or defer the installation of generating and transmission facilities

with consequent savings in investment capital charges and operating expenses. This interconnection will help reduce and partially eliminate local and system service interruptions and increase savings in operating expense.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before august 6, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 84-19958 Filed 7-27-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. RE84-14-000]

## Tennessee Valley Authority; Application for Exemption

July 25, 1984.

Take notice that Tennessee Valley Authority (TVA) filed an application on its behalf and on behalf of Chattanooga Electric Power Board, Knoxville Utilities Board, Nashville Electric Service, Memphis Light Gas and Water Division, and Huntsville Utilities, on June 18, 1984 for exemption from certain requirements of Part 290 of the Federal Energy Regulatory Commission's (FERC) regulations concerning collection and reporting of cost of service information under section 133 of the Public Utility Regulatory Policies Act (PURPA), Order No. 48 (44 FR 58687, Oct. 11, 1979). All applicants shall be known as TVA. Exemption is sought from the requirement to file on or prior to June 30, 1984 and biennially thereafter, information on the costs of providing electric service as specified in Subparts B, C, D, and E of Part 290. In addition, TVA requests a waiver of the requirement that an application for exemption shall be filed "no less than 18 months prior to the time the information would otherwise be required" (§ 290.601(a)).

In its application for exemption TVA states, in part, that it should not be required to file the specified data for the following reason:

The gathering of the information is not likely to carry out the purposes of Section 133 of PURPA.

Copies of the application for exemption are on file with FERC and are available for public inspection. FERC's regulations require that said utility also apply to any state regulatory authority having jurisdiction over it to have the application published in any official state publication in which electric rate change applications are usually noticed, and that the utility publish a summary of the application in newspapers of general circulation in the affected jurisdiction.

Any person desiring to present written views, arguments, or other comments on the application for exemption should file such information with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before 45 days following the date this notice is published in the **Federal Register**. Within that 45 day period, such person must also serve a copy of such comments on: Mr. Robert C. Steffey, Jr., Tennessee Valley Authority, 535 Chesnut Street Tower II, Chattanooga, Tennessee 37401.

Kenneth F. Plumb,

*Secretary.*

[FR Doc. 84-19945 Filed 7-27-84; 8:45 am]

BILLING CODE 6717-01-M

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[Docket Nos. TA84-2-30-000,TA84-2-30-001 and RP84-104-000]

## Trunkline Gas Co.; Change in Tariff

July 23, 1984.

Take notice that on July 17, 1984 Trunkline Gas Company (Trunkline) tendered for filing Forty-Sixth Revised Sheet No. 3-A, Eleventh Revised Sheet No. 3-B and Second Revised Sheet No. 21-M to its FERC Gas Tariff, Original Volume No. 1.

The proposed effective date of these revised tariff sheets is September 1, 1984.

Trunkline states that these revised tariff sheets reflect a Commodity rate increase of 18.11¢ per Dt.

The PGA rate adjustment amounting to a 17.47¢ per Dt rate increase is composed of the following:

(1) A 0.46¢ per Dt decrease resulting from Trunkline's projected annual gas purchase costs; and

(2) A 0.86¢ per Dt increase in the surcharge for the current period amortization of the Deferred Account Balance at May 31, 1983 pursuant to Docket No. TA83-2-30-000 and related carrying charges; and

(3) A 16.05¢ per Dt increase in the surcharge to recover the current Deferred Account Balance at May 31, 1984 and related carrying charges; and

(4) A 7.00¢ per Dt decrease related to the negative surcharge to reflect the absorption by Trunkline of approximately one-half of the balance of the current Deferred Account Balance at May 31, 1984.

Additionally, these revised tariff sheets reflect the following tracking adjustment of 0.64¢ per Dt increase in the Commodity rates.

(1) A Gas Purchase Prepayments tracking adjustment of 0.64¢ per Dt increase pursuant to Article III of the Stipulation and Agreement dated March 25, 1983 in Docket Nos. RP81-103 and RP82-130 which was approved by the Commission's Order issued July 8, 1983, which includes a 0.57¢ per Dt increase related to the inclusion of the amortized portion of interest equivalent payments, as further explained below; and

(2) Projected Incremental Pricing Surcharges in accordance with Section 21 of the General Terms and Conditions.

Trunkline has included in this filing a continuation of the three-year amortization of the deferred account balance at May 31, 1983 as proposed in Docket No. TA83-2-30-000, which proceeding is currently pending Commission action. The three-year amortization of these deferred purchased gas costs was approved by Commission Order dated August 31, 1983 in Docket No. TA83-2-30-000, subject to certain conditions and the outcome of that proceeding. Trunkline has calculated the associated carrying charges on the amortized deferred account in accordance with the interim methodology prescribed by the Commission's Order of August 31, 1983, subject to Trunkline's right to present its claim for a different basis of computing carrying charges in Docket No. TA83-2-30-000.

Trunkline has also included in this filing the refunds and current monthly deferred account revenues provided for in Article II, Section 1 and Section 2 of the *Stipulation and Agreement as to Liquids and Liquefiables* dated August 23, 1982 in Docket No. RP80-106.

In accordance with the provisions of its PGA Tariff, Trunkline's filing being submitted herewith is for the twelve-month period September 1984 through August 1985. Pursuant to the Natural Gas Policy Act of 1978 (NGPA) (15 U.S.C. 3301-3432) wellhead price controls will be removed on a portion of Trunkline's producer supplies on January 1, 1985. Trunkline has reflected in the instant filing estimated prices for its deregulated gas supplies that are priced under indefinite price escalator

clauses pursuant to such contracts. Trunkline believes that the use of historical prices would lead to increased deferrals of gas costs which could adversely affect its future markets and cause recovery problems. Therefore, Trunkline respectfully requests waiver of § 154.38(d)(iv)(a) of the PGA regulations and Section 18 of Trunkline's tariff in order to properly and more accurately reflect its current estimated gas cost due to this expanded deregulation during the effective period of this PGA filing.

In accordance with Article III of the Stipulation and Agreement dated March 25, 1983 in Docket Nos. RP81–103 and RP82–130 Trunkline has included in this filing a Gas Purchase Prepayments tracking adjustment. Included with this prepayment tracking adjustment is the amortizated portion of certain interest equivalent deficiency payments made by Trunkline. These deficiency payments, which amounted to $12,887,942 as of May 31, 1984, reflect settlement of several producer take-or-pay obligations, including forgiveness of some take-or-pay obligations, and are in lieu of take-or-pay payments of approximately $87 million, exclusive of amount forgiven. These interest equivalent deficiency payments are equal to the present value of the interest which the producer would have received if Trunkline had made payment of the take-or-pay obligation, exclusive of amounts forgiven, and the producer had earned interest ovr a five-year period on the quarterly outstanding balance. Trunkline is proposing to amortize these amounts over a five-year period to correspond to the equivalent gas production make up period and has included in the instant filing $1,288,794, to be amortized over the six-month period from September 1, 1984 to March 1, 1985.

Trunkline states that it believes it is in the best interest of its customers, and of Trunkline, to make these interest equivalent deficiency payments in settlement of its take-or-pay obligations, and that recovery of these costs over a five-year period will have less of an impact on its rate than payment of the contractually obligated take-or-payments, with associated carrying charges. As shown on page 2 of the Gas Purchase Prepayments section of the filing, the rate impact of these interest equivalent deficiency payments in this PGA filing is an increase of 0.57¢ per Dt. However, if Trunkline had not entered into these settlement agreements, and had made the $87 million payment to these producers for its take-or-pay obligations, Trunkline would have had a greater rate increase based on the carrying charges associated with the outstanding balance of unrecovered gas purchase prepayments. As shown on page 5 of the Gas Purchase Prepayments section, the commodity rate charge absent these settlements would have been 2.28¢, as contrasted to the 0.57¢ included in the filing. Thus, during the six-month period from September 1, 1984 forward, Trunkline's customers are benefited by a lower commodity rate of 1.71¢ per Dt, based on a savings in carrying charges of $3,861,606 ($5,150,400–$1,288,794), compared to the amount of interest equivalent deficiency to be amortized during this period. Therefore, Trunkline respectfully requests waiver, to the extent required in order to permit recovery of these costs.

Trunkline has also included in the instant filing a negative surcharge of (7.00¢) per Dt, which has the effect of reducing the gas cost component of Trunkline's commodity rates by 7.00¢, per Dt, to reflect Trunkline's decision to voluntarily absorb these amounts and thus not collect from its on-system customers approximately one-half of the May 31, 1984 balance in its Deferred Purchased Gas Cost Sub-Account No. 191.1006. This sub-account reflects the "current" deferrals that have accumulated since June 1983. As the Commission is aware, Trunkline has proposed in its September 1983 PGA filing in Docket No. TA83–2–30–000 to amortize over a three-year period, the Deferred Purchased Gas Cost Balance (Sub-Account No. 191.1005), which had accumulated prior to that time.

Trunkline has voluntarily taken the action of implementing the negative surcharge of (7.00¢) with the effective date of this PGA filing, and proposes to continue the effectiveness of the negative surcharge during the PGA period. The normal operation of the PGA accounting mechanism, including the applicability of the 13.61¢ surcharge rate related to the recovery of the current amounts included in Subaccount No. 191.1006 will be unaffected by this proposal. Therefore, Trunkline requests Commission approval of this negative surcharge, effective September 1, 1984, as previously described.

Further, for the period April 1, 1979 through April 30, 1981 Trunkline maintained a Louisiana First Use Tax Surcharge pursuant to Section 20 of its General Terms and Conditions. On August 4, 1981 the Commission issued an order in Docket No. TA81–2–30–000 terminating the tracking of the Louisiana First Use Tax effective May 1, 1981. Subsequently, all Louisiana First Use Taxes were refunded to Trunkline's customers in accordance with Order No. 10–D in Docket No. RM78–23 and § 154.38(h) of the Commission's Regulations. Therefore, there is no longer any need to maintain the tariff sheets applicable to the LFUT Surcharge pursuant to Section 20 of the General Terms and Conditions of Trunkline's tariff. Accordingly, Trunkline submits herewith Second Revised Sheet No. 21–M to provide for the cancellation of Section 20, the Louisiana First Use Tax Surcharge, of its General Terms and Conditions.

To the extent required, if any, Trunkline requests that the Commission grant such other waivers as may be necessary for the acceptance of these tariff sheets to become effective September 1, 1984.

Supporting computation sheets are enclosed and copies of this letter and enclosures are being served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such petitions or protests should be filed on or before July 31, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84–14050 Filed 7–27–84; 8:45 am]
BILLING CODE 6717–01–M

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**[Docket No. TC84–10–000]**

## Trunkline Gas Co.; Proposed Tariff Change

July 24, 1984.

Take notice that on July 11, 1984, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251–1642, tendered for filing in Docket No. TC84–10–000 pursuant to Part 154 of the Commission's Regulations proposed Eighth Revised Sheet No. 21–C.8 to its FERC Gas Tariff, Original Volume No. 1 to become effective on September 1, 1984.

Trunkline states that on February 8, 1980, the Commission approved a Stipulation and Agreement (Agreement)

in Docket No. RP78–86 (Kaskaskia Gas Company, *et al.* vs. Trunkline). It is indicated that under the terms of the Agreement, certain small customers, as defined in Article II, are permitted to add new Priority 1 requirements up to 10 percent of their original annual base period volumes during the first twelve-month period and up to 8 percent of their original annual base period volumes during each succeeding twelve month period that the Agreement is in effect. It is explained that Article V of the Agreement requires that the small customers report changes in their estimated monthly and annual volumes to Trunkline and that these changes are to be reflected as adjustments to the monthly base period volumes for each small customer and are exhibited in proposed Eighth Revised Sheet No. 21–C.8. Trunkline states that copies of its filing have been served on all customers subject to the tariff sheets and applicable state regulatory agencies.

Any person desiring to be heard or to make any protest with reference to said tariff sheet filing should on or before August 6, 1984, file with the Federal Energy Regulatory Commission, Washington D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84–19960 Filed 7–27–84; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. ER84–544–000]**

## Union Electric Co.; Filing

July 25, 1984.

The filing Company submits the following:

Take notice that Union Electric Company (Union), tendered for filing on July 16, 1984, the Third Amendment dated May 22, 1984, to the Interconnection Contract of September 18, 1979 between City of Columbia, Missouri, and Union.

Union states that the purpose of the Amendment is to provide for revised reservation charges for Short Term Non-firm Power transactions, to revise Service Schedule E, Transmission Service Transaction 1, and to comply with FERC Order No. 84.

Union requests an effective date of June 1, 1984.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 8, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84–19946 Filed 7–27–84; 8:45 am]

BILLING CODE 6717–01–M

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**[Docket No. CP84–532–000]**

## United Gas Pipe Line Co.; Request Under Blanket Authorization

July 23, 1984.

Take notice that on July 2, 1984, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77701, filed in Docket No. CP84–532–000 a request as supplemented July 20, 1984, pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that United proposes to add new delivery points and to reassign volumes among delivery points in connection with deliveries of natural gas to Gulf States Utilities Company (Gulf States), a direct industrial sales customer of United, under the authorization issued in Docket No. CP82–430–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request of file with the Commission and open to public inspection.

United states that it presently serves Gulf States, an electric utility, at its Roy S. Nelson plant located at Westlake, Louisiana, and at its Willow Glen power plant located south of Baton Rouge, Louisiana. It is further stated that in March 1983, United and Gulf States amended their contract to provide for the delivery of gas to Gulf States' Sabine plant located in Orange County, Texas, its Neches plant located in Jefferson County, Texas, and its Lewis Creek plant located in Montgomery County, Texas, and to provide for a reassignment of gas among delivery points.

United explains that in order to effect deliveries to the Texas plants it has entered into a transportation agreement with United Texas Transmission Company (UTTCO) to transport gas to the plants on United's behalf pursuant to section 311(a) of the Natural Gas Policy Act of 1978. It is stated that under the transportation agreement United would deliver gas to UTTCO at existing interconnections at or near Goodrich in Polk County, Texas, at or near Edna in Jackson County, Texas, at or near Needville in Fort Bend County, Texas, and at such other mutually agreeable points as may be required. It is further stated that UTTCO would redeliver the gas at the outlet side of its metering stations located at the Sabine, Neches and Lewis Creek plants. United states that the maximum volumes to be transported by UTTCO are 150,000 Mcf of gas per day among all the Texas delivery points. It is estimated that the gas requirements at the Texas plants would be as follows:

| | Average Day (million Btu) | | | Peak Day (million Btu) | | |
|---|---|---|---|---|---|---|
| | 1985 | 1986 | 1987 | 1985 | 1986 | 1987 |
| Sabine | 50,000 | 40,000 | 40,000 | 75,000 | 60,000 | 60,000 |
| Neches | 0 | 0 | 0 | 0 | 0 | 0 |
| Lewis Creek | 25,000 | 20,000 | 20,000 | 40,000 | 30,000 | 30,000 |

It is stated that all gas delivered by United to the Texas or Louisiana plants would be used by Gulf States as boiler fuel.

United states that it would deliver up to 150,000 Mcf of gas per day in the aggregate to Gulf States' Texas plants by means of the United-UTTCO transportation agreement or such other volumes as may be requested by Gulf States. United further states that in no event would the total volumes to be delivered to Gulf States by United subsequent to this authorization exceed the total volumes authorized prior to this request. Further United asserts that it has sufficient capacity to accomplish the deliveries contemplated herein without any detriment or disadvantage to its other customers.

In order to effect the deliveries to Gulf States in Texas proposed herein, United states that it intends to install minor facilities at its interconnections with UTTCO to assist in the measurement, dispatch and flow control of deliveries.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-19061 Filed 7-27-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. ER84-545-000]**

## Washington Water Power Co.; Filing

July 25, 1984.

The filing Company submits the following:

Take notice that on July 16, 1984, Washington Water Power Company (Washington) tendered for filing a report issued by Bonneville Power Administration (BPA) containing their final determination of average system cost for the Washington Water Power Company's Idaho jurisdiction, based on a 1982 test period, for the exchange period beginning February 9, 1984.

As a result of BPA's review, the following adjustment has been made:

| Jurisdiction | Filed rate | Adjusted rate |
|---|---|---|
| Idaho | 21.44 (mills/kWh) | 21.26 (mills/kWh) |

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 8, 1984. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-19046 Filed 7-27-84; 8:45 am]

BILLING CODE 6717-01-M

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**[Docket No. QF84-398-000]**

## Valley Power Associates Application for Commission Certification of Qualifying Status of a Small Power Production Facility

July 25, 1984.

On July 2, 1984, Valley Power Associates, (Applicant) of 6415 Katella Avenue, Cypress, California 90630-5207 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be located in Merced County, Atwater, California. The primary energy source will be biomass in the form of orchard and vineyard prunings, almond shells and wood waste. The electric power production capacity will be 49.9 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 84-19047 Filed 7-27-84; 8:45 am]

BILLING CODE 6717-01-M

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## ENVIRONMENTAL PROTECTION AGENCY

**[OPTS-59160B; FRL-2641-2]**

## Certain Chemicals; Approval of Test Marketing Exemption

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** This notice announces EPA's approval of an application for a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME-84-60. The test marketing conditions are described below.

**EFFECTIVE DATE:** July 18, 1984.

**FOR FURTHER INFORMATION CONTACT:** Wendy Cleland-Hamnett, Acting Chief, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-202, 401 M St., SW., Washington, DC 20460, (202-382-3725).

**SUPPLEMENTARY INFORMATION:** Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for testing marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME-84-60. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, number of workers exposed to the new chemical, and the level and duration of exposure must not exceed those specified in the application. All other conditions and restrictions described in the application and this notice must be met.

**TME 84-60**

*Date of Receipt:* June 6, 1984

*Notice of Receipt:* June 15, 1984 (49 FR 24784)
*Applicant:* Confidential
*Chemical:* (G) Functional polymer of mixed acrylate and methacrylate based monomers
*Use:* (G) Industrial coating with an open use
*Production Volume:* 8,200 kg
*Number of Customers:* 1
*Worker Exposure:* Manufacture: Dermal, up to 4 grams per day, total of 10 workers, up to 7 days
*Processing:* Two sites, dermal, up to 6 grams per day, total of 8 workers per site, up to 9 days
*Use:* Two sites, dermal, up to 4 grams per day, up to 10 workers per site, up to 8 hours per day for 60 days
*Test Marketing Period:* 2 months
*Commencing on:* July 18, 1984
*Risk Assessment:* No significant health or environmental concerns were identified. The chemical is non-volatile and is not expected to be absorbed by any route. Estimated environmental release of the test market substance is expected to be low. The test market substance will not pose any unreasonable risk of injury to health or the environment
*Public Comments:* None

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: July 18, 1984.

**Don R. Clay,**

*Director, Office of Toxic Substances.*

[FR Doc. 84-19982 Filed 7-27-84; 8:45 am]

BILLING CODE 6560-50-M

## FEDERAL COMMUNICATIONS COMMISSION

**[MM Docket No. 84-692 et al.; File No. BPH-810730AA]**

## Gold Coast Broadcasting Corp. et al.; Hearing Designation Order

### Hearing Designation Order

In re applications of Gold Coast Broadcasting Corporation, Homestead, Florida (MM Docket No. 84-692, File No. BPH-810730AA) Req: 95.7 MHz, Channel 239C, 100kW (H&V), 525 feet; Juarez Communications Corporation, Florida City, Florida (MM Docket No. 84-693, File No. BPH-810821AK) Req: 95.7 MHz, Channel 239C, 100kW (H&V), 521 feet; Latin American Broadcasting Corporation, Homestead, Florida (MM Docket No. 84-694, File No. BPH-811026AB) Req: 95.7 MHz, Channel 239C, 100kW (H&V), 472 feet; Minority Broadcasting Company of the Midwest, Incorporated, Homestead, Florida (MM Docket No. 84-695, File No. BPH-820125AH) Req: 95.7 MHz, Channel 239C, 100kW (H&V), 472 feet; Homestead Minority Broadcasters, Inc., Homestead, Florida (MM Docket No. 84-696, File No. BPH-820127AL) Req: 95.7 MHz, Channel 239C, 100kW (H&V), 500 feet; Placido A. Rodriguez et al., d/b/a Rodriguez-Menendez Partnership, Florida City, Florida (MM Docket No. 84-697, File No. BPH-820128AP) Req: 95.7 MHz, Channel 239C, 100kW (H&V), 500 feet; Radio South Dade, Inc., Homestead, Florida (MM Docket No. 84-698, File No. BPH-820129AB) Req: 95.7 MHz, Channel 239C, 100kW (H&V), 500 feet; Kenneth Cameron et al., d/b/a Homestead Community Broadcasters, Homestead Florida (MM Docket No. 84-699, File No. BPH-820129AP) Req: 95.7 MHz, Channel 239C, 100kW (H&V), 500 feet; Dario Gonzalez, Florida City, Florida (MM Docket No. 84-700, File No. BPH-820129BE) Req: 95.7 MHz, Channel 239C, 100kW (H&V), 516 feet; Leisure Broadcasting, Inc., Florida City, Florida (MM Docket No. 84-701, File No. BPH-820129BJ) Req: 95.7 MHz, Channel 239C, 100kW (H&V), 500 feet; Radio Intermart Corporation, Florida City, Florida (MM Docket No. 84-702, File No. BPH-820129BK) Req: 95.7 MHz, Channel 239C, 100kW (H&V), 457 feet; Homestead Hispanic, Inc., Florida City, Florida (MM Docket No. 84-703, File No. BPH-820129BM) Req: 95.7 MHz, Channel 239C, 100kW (H&V), 710 feet; Mary L. Smith et al., d/b/a Radio Leisure City, Leisure City, Florida (MM Docket No. 84-704, File No. BPH-820730AP) Req: 95.7 MHz, Channel 239C, 100kW (H&V), 500 feet; for construction permit for a new FM station.

Adopted: July 12, 1984.
Released: July 25, 1984.

By the Commission: Commissioner Rivera absent.

1. The Commission has before it the above-captioned mutually exclusive applications of Gold Coast Broadcasting Corporation (GCB); Juarez Communications Corporation (JCC); Latin American Broadcasting Corporation (LABC); Minority Broadcasting Company of the Midwest, Incorporated (MBC); Homestead Minority Broadcaster, Inc. (HMB); Placido A. Rodriquez et al., d/b/a Rodriquez Menendez Partnership (Rodriquez); Radio South Dade, Inc. (RSD); Kenneth Cameron et al., d/b/a Homestead Community Broadcasters (HCB); Dario Gonzalez (Gonzalez); Leisure Broadcasting, Inc. (LBI); Radio Intermart Corporation (RIC); Homestead Hispanic, Inc. (HHI); and Mary L. Smith et al., d/b/a Radio Leisure City (Radio) for a new FM Station to operate on Channel 239C. Also under consideration are: (i) Petitions to deny the applications of JJC, Rodriquez, Gonzales, LBI, RIC, HHI and Radio filed by GCB; (ii) oppositions to the petitions to deny filed by JJC, Rodriquez, Gonzales, LBI, RIC, HHI and Radio; (iii) petition for reconsideration and reinstatement *nunc pro tunc*, filed by Radio; (iv) a motion for clarification filed by LBI; and (v) other related pleadings.

2. *Preliminary Matters.* Before the Commission are timely filed petitions to deny the applications of JJC, Rodriquez, Gonzalez, LBI, RIC, HHI and Radio (hereinafter the applicants) filed by GCB.[1] Ordinarily, the merits of a petition to deny, being in most cases equivalent to a petition to specify issues, are not considered in the context of a hearing designation order. Rather, the petitioner is advised that the merits of the petition may be raised with the presiding Administrative Law Judge via a motion to enlarge issues. However, if the merits of the petition relate to the acceptability of the application it is filed against, then it is more in the nature of a motion to dismiss rather than a petition to specify issues. GCB avers that all competitive applications which specify a principal community of license other than Homestead, Florida should not be accepted for filing pursuant to section 73.203(b) of the Commission's Rules.[2]

3. GCB alleges that the above-captioned mutually exclusive applications for Florida City and Leisure City should be dismissed because Homestead, a listed community in the FM Table of Assignments, already has lost one channel to an unlisted community, and that § 73.203(b) of the Rules prohibits the removal of a second channel to another unlisted community. GCB interprets § 73.203(b) to prohibit the removal of second channel unless accomplished by a rulemaking proceeding, as opposed to an adjudicatory proceeding such as a comparative hearing. GCB points out

[1] GCB's petitions were filed July 30, 1982. The "B" cut-off date which allows the filing of petitions and amendments against and/or by the "B" applicants was also July 30, 1982. Therefore, the petitions are timely filed.

[2] We note that the 10- and 15-mile rules, §§ 73.203(b) and 73.607(b) of the rules, were eliminated pursuant to the *Report and Order* IN BC Docket 82-320, 48 FR 2094, 53 RR 2d 661 (1983). However, the *Report and Order* provided that applications presently on file, as of the date of adoption (February 17, 1983), that utilized § 73.203(b) will be processed under the rule. The applications for Florida City and Leisure City were filed before or no later than January 29, 1982, thereby making the provisions of former § 73.203(b) applicable. Section 73.203(b) states: "[a] channel assigned to a community listed in the Table of Assignments is available upon application in any unlisted community which is located within 10 miles of the listed community if the channel requested is a Class A channel and 15 miles if the channel is a Class B/C channel, provided no other channel in the listed community has been similarly assigned to another community and provided further that the unlisted community has not already removed a channel from any other listed community* * *."

that the city of Homestead received its first channel assignment for Channel 252A, but pursuant to § 73.203(b) of the Rules that channel was assigned for use in Goulds, Florida. Consequently, GCB concludes that since Homestead has lost one FM assignment to Goulds, an unlisted community, § 73.203(b) prohibits the removal of Homestead's presently assigned Channel, 239C.

4. The applicants oppose the merits of the GCB petitions stating that § 73.203(b) is inapplicable, because Channel 252A was removed by rulemaking not by adjudication and that application of the removal prohibition of § 73.203(b) would be inconsistent with Section 307(b) of the Communications Act of 1934, as amended. Applicants contend the intent of § 73.203(b) was to prevent the removal of a channel without a public interest determination of the impact of such removal, but that intent was satisfied through the channel reassignment process. Morever, it is argued that the public interest would be ill-served by limiting the applicants for Channel 239C.

5. In the FM Table of Assignments, § 73.202(b) of the Rules (March, 1980 edition), Channel 252A was assigned to the community of Homestead.[3] However, after a comparative proceeding, the unlisted community of Goulds obtained the use of the channel on February 6, 1974, pursuant to § 73.203(b) of the rules. Subsequent to this proceeding and pursuant to its findings, the Commission on July 1, 1980, amended the FM Table of Assignments by reassigning Channel 252A from Homestead to Goulds, to reflect the channel's use there, and assigned Channel 239C to Homestead.[4] Each of the seven mutually exclusive applications for the unlisted communities of Florida City and Leisure City for Channel 239C have filed their applications pursuant to § 73.203(b).[5]

6. Former § 73.203(b) states that "[a] channel assigned to a community listed in the Table of Assignments is available upon application in any unlisted community which is located within * * * 15 miles if the channel is a Class B/C Channel, provided no other channel in the listed community has been similarly assigned to another community * * *." Thus, pursuant to the rule, if a listed community loses one channel to an unlisted community as a result of the application of the rule, the community should not lose a second channel as a result of the rule. In 1974, pursuant to § 73.203(b), the listed community of Homestead lost Channel 252A to the unlisted community of Goulds. Now, the same rule is being invoked by the applicants of the unlisted communities of Florida City and Leisure City in applying for the use of the Homestead Channel 239 in their respective communities. Since Homestead previously had one channel removed pursuant to § 73.203(b) by application, its second channel is not available for removal by application. Accordingly, the provisions of § 73.203(b) prevent the applicants from using Channel 239C in the communities of Florida City and Leisure City.

7. Unfortunately, the Commission's action assigning Channel 239C to Homestead and reassigning Channel 252A to Goulds made no mention of the provisions of § 73.203(b) with respect to applications that might be filed to use Channel 239C at communities other than Homestead. In these circumstances, we believe the seven Florida City and Leisure City applicants could have been misled or confused as to the applicability of the rule to the new Homestead channel, particularly where Channel 252A was first applied for and used at Goulds, and later reassigned from Homestead by rulemaking. Accordingly, we believe it would be unfair, contrary to the public interest and unduly harsh to dismiss or deny the respective applications for Florida City and Leisure City solely on the basis of former § 73.203(b) of the Rules. Therefore, we will allow the applicants for Florida City and Leisure City to amend their respective proposals so as to specify Homestead as the community of license. Since such an amendment would be a major amendment, pursuant to § 73.3573(b) of the Commission's Rules, this rule and § 73.3522(a) will be waived as to the specification of Homestead as the community of license for the applicants for Florida City and Leisure City. Since it would be unfair to the remaining Homestead applicants to permit technical major change amendments by the Florida City and Leisure City applicants, this limited opportunity to file technical major amendments will be similarly extended to the Homestead applicants. Additionally, as with any major amendment the amending applicants will be required to re-publish local notice pursuant to § 73.3580 of the Rules. Accordingly, the GCB petition is granted to the extent indicated herein, and denied in all other respects.

8. *GCB.* The material submitted in the application of GCB does not demonstrate the applicant's financial qualifications. GCB plans to finance construction and operation with a bank loan and corporate assets; however, the bank loan letter lacks specificity, and the corporation has no liquid assets available for construction and operation. Additionally, GCB fails to provide the requested financial data regarding the cost of the building and land it plans to construct upon. Accordingly, an issue will be specified.

9. *LABC.* The applicant initially stated that its secretary/treasure. Berna Murrell, and its vice president, Elizabeth Ramos, were not citizens of the United States. Both officers were listed as 10 percent shareholders and directors on the board. Section 310(b)(3) of the Communications Act of 1934, as amended, states that "[n]o broadcast * * * radio station license shall be granted to or held by * * * any corporation of which any officer or director is an alien or of which more than one-fifth of the capital stock is owned of record * * * by aliens * * *." The two shareholders combined owned 20 percent, or one-fifth of the stock of LABC, and both shareholders served as officers and directors of the corporation. However, by a pre-"B" cut-off date amendment dated, April 12, 1982, LABC stated that "Berna Murrell, Secretary, Treasurer, Director, and Shareholder of Latin American Broadcasting Corporation, had resigned. Her duties have been assumed by Elizabeth Eden." In a motion for leave to amend filed on September 7, 1983, LABC stated that Elizabeth Eden acquired Berna Murrell's stock and is a 20 percent shareholder in the corporation. The applicant failed to provide any information regarding the legal qualifications of Elizabeth Eden, as required by Section II, Form 301. Moreover, that applicant has not explained Elizabeth Ramos' withdrawal and how her 10% interest was transferred to Elizabeth Eden. Accordingly, the applicant will be required to provide the presiding Administrative Law Judge with this information within 30 days of the release of this Order. In view of the discussion above, there may be a question as to the legal qualifications of LABC. Therefore, upon receipt of such information, the presiding Administrative Law Judge may specify an appropriate issue, if necessary.

10. *MBC.* The material submitted in the application does not demonstrate

[3] The March 1980 edition of the Rules has been amended, and now list Goulds as the community for 252A, effective August 7, 1980.

[4] *Amendment of Section 73.202(b), Table of Assignments, FM Broadcast Stations,* 47 RR 2d 1280 (1980).

[5] Since Channel 239 is a class C station each community would have to be located within 15 miles from the community of Homestead.

the applicant's financial qualifications. MBC plans to lease its equipment and finance construction and operation with a bank loan. Neither a leasing agreement nor a commitment letter from a bank, however, is included with the application. Accordingly, an issue will be specified.

11. MBC also fails to provide us with information relating to its proposed programming, as required by Section IV of FCC Form 301. Accordingly, it will be required to provide the presiding Administrative Law Judge with such information within 30 days from the release of this Order.

12. Section VI of FCC Form 301 and § 73.2080 of the Commission's Rules both require an applicant for a new facility proposing to employ five or more full-time employees, to file an equal employment opportunities (EEO) program with its application. MBC proposes to employ 10 employees, however it does not state how many are full-time. Accordingly, MBC will be required to provide the Administrative Law Judge with information relative to the number of full-time and part-time employees it plans to employ within 30 days from the release of the Order, and if necessary file the required EEO program.

13. Applicants for new broadcast stations are required by Section 73.3580(f) of the Commission's Rules to give local notice of the filing of their application. We have no evidence that MBC published the required notice. To remedy this deficiency, MBC must publish local notice of its application, if it has not already done so, and so inform the presiding Administrative Law Judge within 30 days of the release of this Order.

14. *HMB.* We also have no evidence that HMB gave local notice of the filing of its application. Therefore, HMB must also publish local notice, if it has not already done so, and so inform the presiding Administrative Law Judge 30 days of the release of this Order.

15. *RSD.* The material submitted in the application does not demonstrate the applicant's financial qualifications. RSD plans to finance construction and operation with corporate liquid assets; however, the amount is insufficent to meet the proposed construction and operation costs. Accordingly, an issue will be specified.

16. RSD states in its application that it is the licensee of WQDI(AM), Homestead, Florida, and it will divest itself of the station as a condition to the grant of its application. Accordingly, an appropriate condition will be included in this Order.

17. *LBI.* The material submitted in the application of LBI does not demonstrate the applicant's financial qualifications. LBI plans to lease its equipment, and finance construction and operation with a bank loan. However, the application does not contain either a bank commitment letter or a lease agreement. Accordingly, an issue will be specified.

18. *Radio.* The material submitted in the application of Radio does not demonstrate the applicant's financial qualifications. Radio fails to provide a financial proposal that will meet its proposed construction and operation costs. Accordingly, an issue will be specified.

19. *Other Matters.* A motion for clarification has been filed by LBI and a request for clarification concerning financial amendment has been filed by JCC, essentially requesting clarification of the Commission's financial qualifications for new stations in light of the decision in *South Florida Broadcasting Company, Inc.*, 53 RR 2d 1683 (1983). The pleadings request that we clarify the applicability of *South Florida, supra* to the applicants at hand. By our action herein the financial showing required by the 1977 version of Form 301 has been analyzed and the appropriate issues have been specified. Since the applicants affected have an opportunity, pursuant to § 73.3522 of the Commission's Rules,[6] to file amendments which would cure any deficiencies specified in the Hearing Designation Order, there will be no prejudice to any applicant by our action herein. Accordingly, LBI's motion for clarification will be granted to the extent indicated herein and denied in all other respects.

20. The applicants below have petitioned for leave to amend their applications on the dates shown. The accompanying amendments were filed after July 30, 1982, "B" cut-off date, the last day for filing minor amendments as of right. Under § 1.65 of the Commission's Rules, the amendments are accepted for filing. However, an applicant may not improve its comparative position after the time for amendments as of right has passed. Therefore, any comparative advantage resulting from the amendments will be disallowed.

[6] This section outlines the procedures for filing post designation amendments to applications designated for hearing.

| *Applicant(s) and date amendments filed* | |
|---|---|
| LABC | 9/7/82; 5/5/83; 7/27/83 |
| Rodriquez | 11/12/82; 12/30/82 |
| HCB | 4/19/83 |
| RIC | 8/2/82; 10/29/82; [7] 2/23/83; 3/17/83; 4/29/83 |

[7] An opposition to this amendment has been filed by Rodriquez. However, the opposition is a predesignation issue pleading, and the matters raised therein will not be reviewed in the context of this Order. The applicant will have the opportunity to raise these matters with the presiding Administrative Law Judge during the hearing proceeding. *Report and Order* in re *Revised procedures for the Processing of Contested Broadcasting Applications: Amendment of Part 1 of the Commission's Rules*, 72 FCC 2d 202 (1979).

21. Since no determination has been received from the Federal Aviation Administration as to whether the antennas proposed by JCC, MBC; Rodriquez; RSD; and HCB would constitute a hazard to air navigation, an issue with respect thereto will be included and the F.A.A. made a party to the proceeding.

22. The Commission also has before it a petition for reconsideration and reinstatement *nunc pro tunc* filed by Radio on July 30, 1982. The petition was filed as a result of the Commission letter of July 1, 1982, dismissing and returning the Radio application due to its failure to comply with § 73.207 of the Commission' Rules, which prescribes the minimum distance separations between FM stations.[8] The petition was filed within thirty days of the release of the Commission letter dismissing the application; therefore the petition was filed in compliance with Section 1.106(f) of the Commission's Rules and is timely.

23. Accompanying Radio's petition is an amended application specifying a new transmitter location, which brings its proposal into compliance with the minimum mileage separation requirements of § 73.207 of the Rules. Additionally, Radio indicates that the amendment does not constitute a major change as defined by § 73.3573 of the Commission's Rules.[9]

24. GCB has filed a response to the petition for reconsideration against the Radio petition. GCB alleges that Radio's amendment presents a question of whether the amendment is major, thereby requiring a new file number and

[8] Specifically, the Commission found in a preliminary engineering study that Radio's proposal did not meet the 150-mile spacing requirement for the first adjacent channel station, WOVV(FM), Fort Pierce, Flordia.

[9] Section 73.3573(a)(1) of the Commission's Rules indicates in part that "[a] major change for FM stations * * * is any change in frequency, station location or class of station, or any change in power, antenna location or height above average terrain (or combination thereof) which would result in a change of 50% or more in the area within the stations predicted 1 mV/m field strength contour."

preventing the amendment from being accepted since the "A" cut-off date of January 29, 1983 has passed.

25. The Commission will generally grant a petition for reconsideration and reinstate an application *nunc pro tunc* when the petition is timely filed, and if the accompanying amendment does not constitute a major amendment under § 73.3573, which would require a new file number. *James River Broadcasting Corp.* v. *FCC*, 399 F. 2d 581 (D.C. Cir. 1968); *Earl Lamar Clark*, 36 RR 2d 1666 (1976). We have reviewed the amendment to the Radio proposal, and find that the amendment constitutes less than a 50 percent change in the area within the proposal's predicted 1 mV/m field strength contour. Therefore, pursuant to § 73.3573, the amendment is a minor amendment and would allow the application to retain its original file number. Accordingly, the Radio petition will be granted. Its application will be accepted for filing *nunc pro tunc* and consolidated in the comparative proceeding with other mutually exclusive applications for Homestead, Flordia.

26. Pursuant to the *Second Report and Order* in Docket No. 21239, 47 RR 2d 1280, released July 1, 1980, the successful applicant for the Channel 239C assignment to Homestead will be required to provide reimbursement of reasonable technical, legal and incidental expenses incurred by: (1) Key West Broadcasting, Inc. in shifting WVFK(FM) from Channel 238 to Channel 258 at Key West, Florida; and (2) U.S. Three Broadcasting Corporation in shifting WCEZ(FM) from Channel 244A to Channel 296A at Jupiter, Flordia. Accordingly, such condition for reimbursement will be placed on the grant of the successful application.

27. Data submitted by the applicants indicates that there would be significant difference in the size of the areas and populations which would receive service from the proposals. Consequently, 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.

28. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, however, they must be designated for hearing in a consolidated proceeding.

29. 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 processing, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to GCB, MBC, RSD, LBI and Radio, whether in light of the evidence adduced concerning the deficiencies set forth above, the applicants are financially qualified.

2. To determine whether there is a reasonable possibility that the tower height and location proposed by JCC, MBC, Rodriquez, RSD, and HCB would constitute a hazard to air navigation.

3. To determine which of the proposals would, on a comparative basis, best serve the public interest.

4. To determine, in the light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

30. It is further ordered, That the petitions to deny filed by GCB against the applications of JJC, Rodriquez, Gonzales, LBI, RIC, HHI and Radio are granted to the extent indicated herein and are denied in all other respects.

31. It is further ordered, That §§ 73.3573(b) and 73.3522(a) are waived to the extent indicated herein, and that JJC, Rodriguez, Gonzalez, LBI, RIC, HHI and Radio will be required to amend their respective technical proposals, specifying Homestead as the community of license, within 30 days after the release of this Order.

32. It is further ordered, that §§ 73.3573(b) and 73.3522(a) are waived to the extent indicated herein, and that GBC, LABC, MBC, HMB, RSD, HCB will be given an opportunity to file technical major amendments within 30 days after the release of this Order.

33. It is further ordered, that MBC and HMB shall inform the presiding Administrative Law Judge as to whether they have complied with the public notice requirements of § 73.3580(f) of the Commission's Rules within 30 days of the release of this Order.

34. It is further ordered, that LABC shall submit information as required by Section II, Form 301 within 30 days of the release of this Order, and that the presiding Administrative Law Judge may specify an appropriate issue, if necessary.

35. It is further ordered, that MBC shall file information relative to the number of full and part-time employees it plans to employ, and if necessary, also file a model EEO program pursuant to Section VI of FCC Form 301 and Section 73.2080 of the Commission's Rules within 30 days of the release of this Order.

36. It is further ordered, that MBC shall file a proposed programming service statement with the presiding Administrative Law Judge showing its compliance with Section IV of FCC Form 301 within 30 days of the release of this Order.

37. It is further ordered, that the petitions for leave to amend filed by LABC, Rodriguez, HCB, and RIC are granted, and the corresponding amendments, are accepted, but that no improvement in the applicants' comparative standing will be allowed.

38. It is further ordered, that the Federal Aviation Administration is made a part to this proceeding with respect to the air hazard issue only.

39. It is further ordered, that, in the event of a grant of the application of RSD, the construction permit shall contain a condition that program test will not be authorized until the permittees has shown that Southland Radio, Inc. has divested itself of all interest in, and severed all connections with, station WQDI (AM), Homestead, Florida.

40. It is further ordered, that the motion for clarification filed by LBI and the request for clarification concerning financial amendment filed by JJC are granted to the extent herein and are denied in all other respects.

41. It is further ordered, that, Radio's petition for reconsideration and reinstatement is granted, and its amended application is accepted for filing *nunc pro tunc*.

42. It is further ordered, that pursuant to Docket No. 21239, 47 RR 2d 1280 (1980), the following condition will be placed on a grant of the successful application:

> The successful applicant for Channel 239 will be required to provide reimbursement for reasonable technical, legal and incident expenses incurred in connection with Key West Broadcasting Inc.'s shift of WVFK(FM) from Channel 238 to Channel 258 at Key West, Florida, and U.S. Three Broadcasting Corporation's shift of WCEZ(FM) from Channel 244A to Channel 296A at Jupiter, Florida.

43. 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.

44. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications

Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing (either individually or, if feasible and consistent with the Rules, jointly) within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the Rules.

Federal Communications Commission.

**William J. Tricarico,**

*Secretary.*

[FR Doc. 84-20014 Filed 7-27-84; 8:45 am]

BILLING CODE 6712-01-M

### Telecommunications Industry Advisory Group Separations and Costing Subcommittee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group Separations and Costing Subcommittee scheduled to meet on Tuesday and Wednesday, August 14 and 15, 1984. The meeting will be held at the offices of Bell Communications Research, Inc., 2101 L Street, NW., Washington, D.C., and will be open to the public. The meeting for the first day will begin at 10:00 a.m.

The agenda is as follows:

I. Review Minutes of Previous Meeting
II. General Administrative Matters
III. Enhancements
IV. Other Business
V. Presentation of Oral Statements
VI. Adjournment

With prior approval of Chairman Eric Leighton, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of the Subcommittee's objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Leighton at (518) 462-2030 at least five days prior to the meeting.

**William J. Tricarico,**

*Secretary, Federal Communications Commission.*

[FR Doc. 84-20012 Filed 7-27-84; 8:45 am]

BILLING CODE 6712-01-M

## FEDERAL MARITIME COMMISSION

### Filing of Petition for Amended Statement of Policy re Shipper Associations

Notice is hereby given that American Institute for Shippers Associations, Inc. (Institute), has filed a petition to amend the Federal Maritime Commission's Notice concerning the status of shippers' associations under the Shipping Act of 1984 which appeared in the **Federal Register** of May 23, 1984 (49 FR 21799). Specifically, the Institute would have the Commission declare that membership and participation in the activities of shippers' associations under the Shipping Act of 1984 will be limited to the beneficial owners of the goods shipped through the associations.

In order for the Commission to make a thorough evaluation of the petition, interested persons are requested to submit views, arguments or data on the petition no later than September 14, 1984. Responses shall be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, in an original and 15 copies. Responses shall also be served on counsel for petitioners: Ronald N. Cobert, Esq., Grove, Jaskiewicz, Gilliam and Cobert, Suite 501, 1730 M Street, NW., Washington, D.C. 20036.

Copies of the petition are available for examination at the Washington, D.C. office of the Commission, 1100 L Street, NW., Room 11101.

**Francis C. Hurney,**

*Secretary.*

[FR Doc. 84-20000 Filed 7-27-84; 8:45 am]

BILLING CODE 6730-01-M

### Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No. 221-001989-001.

Title: Baltimore Marine Terminal Agreement.

Parties:

The Chesapeake Operating Company
Ceres Corporation
The Maryland Port Administration

Synopsis: This amendment provides that the basic agreement will be modified by requiring Ceres Corporation to assume full operational control and responsibility for leased premises at the Locust Point Marine Terminal, Baltimore, Maryland, replacing the Chesapeake Operating Company as the operator. Proponents have requested the Commission for a 14 day review period of the agreement.

Agreement No. 202-005600-050.

Title: Philippines North America Conference.

Parties:

American President Lines, Ltd.
Hapag Lloyd AG
Lykes Bros. Steamship Co., Inc.
A.P. Moller (Maersk Line)
Sea-Land Service, Inc.
United States Lines, Inc.

Synopsis: The proposed amendment would establish independent action procedures for the conference membership.

Agreement No. 217-010457-001.

Title: Nippon Yusen Kaisha—Korea Marine Transport Co. Space Charter Agreement.

Parties:

Nippon Yusen Kaisha
Korea Marine Transport Co., Ltd.

Synopsis: The proposed amendment would establish August 18, 1984 as the termination date of the agreement. The parties have requested a shortened review period.

Agreement No. 217-010500-001.

Title: Nippon Yusen Kaisha—Showa Line Space Charter Agreement.

Parties:

Nippon Yusen Kaisha
Showa Line, Ltd.

Synopsis: The proposed agreement would create an exception to a restriction on vessels operated outside the agreement, but in the agreement trade, allowing completion of voyages begun prior to August 18, 1984, which will then become the effective date of the agreement. The parties have requested a shortened review period.

Agreement No. 223-010617.

Title: The Ports of Long Beach and Oakland Terminal Service Agreement.

Parties:

Sea-Land Service, Inc. (Sea-Land)
Hanjin Container Lines, Limited (HJCL)

Synopsis: The agreement permits HJCL to obtain, and Sea-Land to provide, terminal services at the ports of Long Beach and Oakland, California. The agreement would expire December 31, 1988. The agreement supersedes Agreement No. T-3691.

By Order of the Federal Maritime Commission.

Francis C. Hurney,

*Secretary.*

[FR Doc. 84-19936 Filed 7-27-84; 8:45 am]

BILLING CODE 6730-01-M

## FEDERAL RESERVE SYSTEM

### Agency Forms Under Review

July 24, 1984.

### Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following forms, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

**DATE:** Comments must be received on or before August 9, 1984.

**ADDRESS:** Comments, which should refer to the OMB Docket number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, D.C. 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m. except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Judith McIntosh, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

**FOR FURTHER INFORMATION CONTACT:** A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below. Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202-452-3829).

### Request for Extension With Revisions

1. *Report title:* Monthly Survey of Eligible Bankers Acceptances
*Agency form number:* FR 2006
*OMB Docket number:* 7100-0055
*Frequency:* Monthly
*Reporters:* U.S.-chartered commercial banks, U.S. branches and agencies of foreign banks, Edge and Agreement Corporations, and Bank Holding Companies, small businesses are not affected
*General description of report:* Respondent's obligation to reply is voluntary [12 U.S.C. 248(a), 625, and 3105(b)]; a pledge of confidentiality is promised [5 U.S.C. 552 (b)(4) and (b)(8)]

This survey, which is submitted by commercial banks in the U.S., provides the only source of information eligible dollar bankers acceptances that are legally payable in the United States. The data are used in constructing measures of monetary and credit aggregates. Two memoranda items have been added to collect data: (1) On participations in acceptances; and (2) on the amount of acceptances reported that are refinanced by the creation of an acceptance at another bank in the U.S.

### Request for New Collection

1. *Report title:* Annual and Quarterly Reports of Repurchase Agreements on U.S. Government and Federal Agency Securities
*Agency form number:* FR 2090a and FR 2090q
*OMB Docket number:* To be assigned
*Frequency:* Annually; Quarterly
*Reporters:* Depository institutions, small businesses are affected
*General description of report:* Respondent's obligation to reply is voluntary [12 U.S.C. 248(a) and 3105(b)]; a pledge of confidentiality is promised [5 U.S.C. 552(b)(4)]

These reports provide information on repurchase agreement transactions involving U.S. government and federal agency securities with certain specified holders. The information will be used by the Federal Reserve System in computing the RP component of the monetary aggregates.

2. *Report title:* Survey of Federal Funds Sold and Securities Purchased Under Agreement to Resell
*Agency form number:* FR 3032
*OMB Docket number:* To be assigned
*Frequency:* One-time
*Reporters:* Commercial banks, small businesses are affected
*General description of report:* Respondent's obligation to reply is voluntary [12 U.S.C. 225(a) and 263(c)]; a pledge of confidentiality is not promised

This survey provides a breakdown of federal funds sold and resale agreements into three components. These data will be used by the Federal Reserve System to compute customer breakdowns used in the estimation of bank credit. These data would also be used in constructing an aggregate bank balance sheet. In addition, data from this survey would aid in the reconciliation of bank credit and deposits in the broader money stock measures.

Board of Governors of the Federal Reserve System, July 24, 1984.

James McAfee,

*Associate Secretary of the Board.*

[FR Doc. 84-19966 Filed 7-27-84; 8:45 am]

BILLING CODE 6210-01-M

## Chippewa Valley Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (49 FR 794) to become a bank holding company or to acquire a bank or bank holding company. 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 is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. 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.

Unless otherwise noted, comments regarding each of these applications must be received not later than August 17, 1984.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Chippewa Valley Bancshares, Inc.*, Rittman, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of Chippewa Valley Bank, Rittman, Ohio.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Midwest Financial Group, Inc.*, Peoria, Illinois; to merge with The DeKalb Bancorp, Inc., DeKalb, Illinois, thereby acquiring the voting shares of The DeKalb Bank, DeKalb, Illinois.

2. *Stillman BancCorp, Inc.*, Stillman Valley, Illinois; to become a bank holding company by acquiring 80 percent or more of the voting shares of Stillman Valley National Bank, Stillman Valley, Illinois.

Board of Governors of the Federal Reserve System, July 24, 1984.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 84-19982 Filed 7-27-84; 8:45 am]

BILLING CODE 6210-01-M

### The Chase Manhattan Corp.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (49 FR 794) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (49 FR 794) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 21, 1984.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Chase Manhattan Corporation*, New York, New York; to engage *de novo* through its subsidiary, Chase Manhattan Futures Corporation, New York, New York in futures commission merchant activities for non-affiliated persons, including the execution and clearance on major commodity exchanges of futures contracts and options on futures contracts for bullion, foreign exchange, government securities, certificates of deposit and other money market instruments that a bank may buy or sell in the cash market for its account. These activities are to be conducted worldwide.

Board of Governors of the Federal Reserve System, July 24, 1984.

**James McAfee,**

*Associate Secretary of the Board.*

[FR Doc. 84-19988 Filed 7-27-84; 8:45 am]

BILLING CODE 6210-01-M

## GENERAL SERVICES ADMINISTRATION

### Agency Information Collections Under Review by the Office of Management and Budget

**AGENCY:** Office of Policy and Management Systems, GSA.

**ACTION:** Notice.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) plans to request the Office of Management and Budget (OMB) to review and approve the reinstatement of an information collection.

**ADDRESSES:** Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to William W. Hiebert, GSA Clearance Officer, General Services Administration (ATRAI), Washington, DC 20405.

**FOR FURTHER INFORMATION CONTACT:** Shirley Ann Patterson, Public Buildings Service (202–523–5572).

**SUPPLEMENTARY INFORMATION:**

a. *Purpose.* These collections (Standard Forms 262–267) are used to determine if individuals are eligible for benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

b. *Annual reporting burden.* This is estimated as follows: Respondents and responses 150, hours 450.

c. *Obtaining copies of proposal.* Requestors may obtain copies of the proposal from the Directives and Reports Management Branch (ATRAI), Room 3007, GS Building, Washington, DC 20405, telephone (202–566–0666).

Dated: July 19, 1984.

**Frank J. Sabatini,**

*Director, Information Management Division.*

[FR Doc. 84-19952 Filed 7-27-84; 8:45 am]

BILLING CODE 6820-34-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 84F-0211]**

### Ciba-Geigy Corp.; Filing of Food Additive Petition

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that the Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to expand the use of hexamethylenebis[3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate] as an antioxidant/stabilizer in polyoxymethylene copolymers that contact foods containing more than 8 percent alcohol.

**FOR FURTHER INFORMATION CONTACT:** Julia L. Ho, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

**SUPPLEMENTARY INFORMATION:** Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 4B3805) has been filed by

the Ciba-Geigy Corp., Hawthorne, NY 10532, proposing that § 177.2470 *Polyoxymethylene copolymer* (21 CFR 177.2470) be amended to expand the use of hexamethylenebis(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate) as an antioxidant/stabilizer in polyoxymethylene copolymers that contact foods containing more than 8 percent alcohol.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: July 20, 1984.

**Sanford A. Miller,**

*Director, Center for Food Safety and Applied Nutrition.*

[FR Doc. 84-19902 Filed 7-27-84; 8:45 am]

BILLING CODE 4160-01-M

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[Docket No. 84M-0244]

## Coherent® Medical Group, Coherent, Inc.; Premarket Approval of Coherent System 9900 Nd:YAG Ophthalmic Laser

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of the Coherent System 9900 Nd:YAG [neodymium:yttrium-aluminum-garnet] Ophthalmic Laser sponsored by Coherent® Medical Group, Coherent, Inc., Palo Alto, CA. After reviewing the recommendation of the Ophthalmic Devices Panel (formerly the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel), FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

**DATE:** Petitions for administrative review by August 29, 1984.

**ADDRESS:** Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Charles H. Kyper, Center for Devices and Radiological Health (HFZ-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

**SUPPLEMENTARY INFORMATION:** On March 8, 1984, Coherent® Medical Group, Coherent, Inc., Palo Alto, CA 94303, submitted to FDA an application for premarket approval of the Coherent System 9900 Nd:YAG Ophthalmic Laser. The Coherent System 9900 Nd:YAG Ophthalmic Laser is indicated for discission of the posterior capsule of the eye (posterior capsulotomy). The application was reviewed by the Ophthalmic Devices Panel, an FDA advisory committee, which recommended approval of the application. On July 2, 1984, FDA approved the application by letter to the sponsor from the Director, Office of Device Evaluation of the Center for Devices and Radiological Health.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Center for Devices and Radiological Health—contact Charles H. Kyper (HFZ-402), address above. Requests should be identified with the name of the device and the docket number in brackets in the heading of this document.

### Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA's action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before August 29, 1984, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: July 24, 1984.

**William F. Randolph,**

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 84-19903 Filed 7-25-84; 10:48 am]

BILLING CODE 4160-01-M

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## Small Business Participation; Open Meeting

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA), in concert with the Offices of Congressman Stephen J. Solarz, Edolphus Towns, and Major Owens, announces a forthcoming small business exchange meeting to be chaired by Caesar A. Roy, Director, FDA Region II.

**DATE:** Thursday, August 16, 1984, 1 p.m.

**ADDRESS:** The meeting will be held at Long Island University, Brooklyn Center, One University Plaza, Brooklyn, NY.

**FOR FURTHER INFORMATION CONTACT:** George R. Walden, Small Business Representative, Food and Drug Administration, 20 Evergreen Place, East Orange, NJ 07018, 201-645-6466.

**SUPPLEMENTARY INFORMATION:** The purpose of this meeting is to encourage dialogue between small businesses and FDA officials. The meeting will provide a forum for the owners and managers of small businesses to express their concerns about FDA, encourage discussion about the effects of regulation and regulatory alternatives, convey knowledge about the agency's operations and procedures, and increase participation by small business persons in FDA's decisionmaking process.

Dated: July 24, 1984.

**William F. Randolph,**

*Acting Associate Commissioner for Regulatory Affairs.*

[FR Doc. 84-19994 Filed 7-27-84; 8:45 am]

BILLING CODE 4160-01-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Administration

**[Docket No. N-84-1423]**

### Submission of Proposed Information Collection to OMB

**AGENCY:** Office of Administration, HUD.

**ACTION:** Notice.

**SUMMARY:** The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

**ADDRESS:** Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

**FOR FURTHER INFORMATION CONTACT:** David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755-6374. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

**Notice of Submission of Proposed Information Collection to OMB**

Proposal: Project Self-Sufficiency Demonstration
Office: Policy Development and Research
Form Number: None
Frequency of submission: Single-Time
Affected public: State or Local Governments
Estimated burden hours: 26,750
Status: New
Contact: Hartley Fitts, HUD, (202) 755-4370 and Robert Neal, OMB, (202) 395-7316

**Authority:** Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: July 19, 1984.

**Dennis F. Geer,**

*Director, Office of Information Policies and Systems.*

[FR Doc. 84-19985 Filed 7-27-84; 8:45 am]

BILLING CODE 4210-01-M

### Office of Environment and Energy

**[Docket No. I-84-124]**

### Intended Environmental Impact Statements

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for the following project under HUD programs as described in the appendix: City of Flatrock, Michigan. This Notice is required by the Council of Environmental Quality under its rules (40 CFR Part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning the project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, issues and data which the EIS should consider, recommended mitigating measures and alternatives, and major issues associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Each Notice shall be effective for one year. If one year after the publication of a Notice in the **Federal Register**, a Draft EIS has not been filed on a project, then the Notice for that project shall be cancelled. If a Draft EIS is expected more than one year after the publication of the Notice in the **Federal Register**, then a new and updated Notice of Intent will be published.

Issued At Washington, D.C., July 23, 1984.

**Francis G. Haas,**

*Deputy Director, Office of Environment and Energy.*

**Environmental Impact Statement for the Ford Michigan Casting Center, City of Flatrock, Wayne County, Michigan**

The Michigan Department of Commerce and the Downriver Community Conference intend to prepare an Environmental Impact Statement (EIS) on the project described below and solicits comments and information for consideration in the EIS.

*Description:* The proposed Ford Michigan Casting Center will consist of the removal of the abandoned grey iron foundry facilities within the existing structure and replacement with an automotive final assembly and paint shop. The existing structure has a total of 3,000,000 square feet sitting on 242 acres located at Gibraltar Road and Interstate 75 in the City of Flatrock, Michigan. The approximate cost of the project is in excess of $800,000,000. Federal funding for the project is expected to be from the United States Department of Housing and Urban Development (HUD), UDAG and Community Development Block Grant. Other funding sources may include the Federal Highway Administration, Economic Development Administration or other federal agencies.

*Need:* A decision to prepare an EIS has been based upon effects on water quality, sewage disposal, air quality, noise, traffic, and hazardous and toxic wastes.

*Alternatives:* Alternatives being considered at this time include: (1) Removal of the abandoned grey iron foundry facilities within the existing structure and replacement with an automotive final assembly and paint shop, (2) re-use of the abandoned grey iron foundry facilities and (3) no action.

*The HUD alternative are:* (1) Accept the project as proposed; (2) accept the project with conditions or modifications; (3) reject the proposed development.

A No Project Alternative would mean that the project would not be developed in the City of Flatrock, Michigan and the possible relocation to another community or state.

*Scoping:* This notice is part of the process of scoping the EIS. Responses will be used to: (1) Make a determination of the need to prepare a full EIS; (2) help determine significant environmental issues; (3) identify data that will be used in the EIS; and (4) identify agencies, groups and individuals that will participate in the EIS process.

A public scoping meeting will be held as follows: Fifteen (15) days after publication in the Federal Register at 1:00 p.m.–3:00 p.m. and 7:00 p.m.–9:00 p.m. at the Downriver Community Conference, 15100 Northline Road, Southgate, Michigan. Contact Dennis Oakes at (313) 281–0700 for correct date of public scoping meeting.

*Comment:* Submission of comments and information prior to the public meeting either in writing or by telephone should be directed to: Dennis Oakes, Industrial Development Manager, Downriver Community Conference 15100 Northline Road, Southgate, Michigan 48195, (313) 281–0700.

[FR Doc. 84-19984 Filed 7-27-84; 8:45 am]
BILLING CODE 4210-29-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[AA-6661-C]

### Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d) (1983) (Amended 1984), notice is hereby given that a decision to issue conveyance (DIC) under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976)) (ANCSA), will be issued to Eklutna, Inc., for approximately 40 acres. The lands involved are within the T. 16 N., R. 1 E., Seward Meridian, Alaska:

Upon issuance, the DIC will be published once a week, for four (4) consecutive weeks, in the Anchorage Times. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest which is adversely affected by the decision shall have until August 29, 1984, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file and appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR Part 4, Subpart E (1983) (amended 1984) shall be deemed to have waived their rights.

Olivia Short,

*Acting Section Chief, Branch of ANCSA Adjudication.*

[FR Doc. 84-19985 Filed 7-27-84; 8:45 am]
BILLING CODE 4310-JA-M

[F-19155-7]

### Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611, (1976)) (ANCSA), will be issued to Doyon, Limited, for approximately 136,786 acres. The lands involved are:

Kateel River Meridian, Alaska

T. 13 N., R. 27 E.

Fairbanks Meridian, Alaska

T. 18 N., R. 22 W.
T. 22 N., R. 22 W.
T. 19 N., R. 23 W.
T. 21 N., R. 23 W.
T. 18 N., R. 24 W.
T. 22 N., R. 24 W.
T. 19 N., R. 25 W.
T. 21 N., R. 25 W.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner upon issuance of the decision. For information on how to obtain copies, contract the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by the decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in 43 CFR Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to located, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until August 29, 1984, to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: Doyon, Limited, Resource Department, Doyon Building, 201 First Avenue, Fairbanks, Alaska 99701.

Helen Burleson,

*Section Chief, Branch of ANCSA Adjudication.*

[FR Doc. 84-19999 Filed 7-27-84; 8:45 am]
BILLING CODE 4310-JA-M

### Livestock Grazing Environmental Impact Statements; Fiscal Year 1985

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** As requested by the Court Order in *Natural Resources Defense Council, Inc., et al.,* v. *Morton, et al.,* Civil Action No. 1983–73, this notice identifies 13 Resource Management Plans (RMP) and associated environmental inpact statements (EIS's) covering the effects of livestock grazing which are scheduled for completion by

the Bureau of Land Management during Fiscal year 1985.

**FOR FURTHER INFORMATION CONTACT:** Billy Templeton, Chief, Division of Rangeland Resources, Bureau of Land Management, 1725 I Street, NW., Washington, D.C. 20006 (202/653–9193).

**SUPPLEMENTARY INFORMATION:** In accordance with the Court Order in *Natural Resources Defense Council, Inc., et al.*, v. *Morton, et al.*, Civil Action No. 1983–73, the following described EIS's, involving 12,207,000 acres of public land, are scheduled for completion during Fiscal Year 1985. The acres of public land shown for each RMP include only those lands not previously discussed in a grazing EIS.

RESOURCE MANAGEMENT PLANS

[Public land in thousands of acres]

| EIS Name | Acres | Description |
|---|---|---|
| Lower Gila | 2,079 | An area in southwest Arizona within the Phoenix District and the Lower Gila Resource Area. |
| Yuma | 1,192 | An area in southwest Arizona within the Yuma District and the Yuma and Havasu Resource Areas. |
| Medicine Lodge | 603 | An area in southeastern Idaho within the Idaho Falls District and the Medicine Lodge Resource Area. |
| Monument | 1,179 | An area in south central Idaho within the Shoshone District and the Monument and Bennett Hills Resource Areas. |
| Jarbidge | 1,691 | An area south central Idaho within the Boise District and the Jarbidge Resource Area. |
| Garnet | 151 | An area in western Montana within the Butte District and Garnet Resource Area. |
| Rio Puerco | 97 | An area in north central New Mexico within the Albuquerque District and the Rio Puerco Resource Area. |
| White Sands | 948 | An area in south central New Mexico within the Las Cruces District and the White Sands Resource Area. |
| Spokane | 308 | An area including all public lands administered by the BLM in the State of Washington. |
| Two Rivers | 294 | An area in north central Oregon within the Prineville District and the Central Oregon and Deschutes Resource Areas. |
| Box Elder | 1,006 | An area in northwestern Utah within the Salt Lake District and the Bear River Resource Area. |
| Kemmerer | 1,633 | An area in southwestern Wyoming within the Rock Springs District and the Kemmerer Resource Area. |
| Lander | 1,026 | An area in central Wyoming within the Rawlins District and the Lander Resource Area. |

Dated: July 23, 1984.

**Neil Morck,**

*Deputy Director, Lands and Renewable Resources.*

[FR Doc. 84–20001 Filed 7–27–84; 8:45 am]

BILLING CODE 4310–84–M

## Revision of Established Occupancy and Camping Stay Limit; Yuma District, Arizona, and California Desert District, California

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Revision of established occupancy and camping stay limit for campgrounds and undeveloped public lands in the Yuma District, Arizona and California, and the California Desert District, California.

**SUMMARY:** Persons may camp or occupy any specific location within designated campgrounds or on public lands within the Yuma District, Arizona and California and the California Desert District, California for a period of not more than 14 days within any period of 28 consecutive days. Exceptions would include Long Term Visitor Areas, areas closed to camping and areas with specially designated camping stay limits. The 28-day period will begin when a camper initially occupies a specific location on public land. The 14-day limit may be reached either through a number of separate visits or through 14 days of continuous occupation during the 28-day period. After the 14th day of occupation campers must move outside of a 25 mile radius of the previous location. Camping means the erection and use of a tent or shelter of natural or synthetic material, preparing a sleeping bag or other bedding material for use, or mooring of a vessel for the apparent purpose of overnight occupancy. Occupancy is defined as the taking or holding possession of a camp or residence on public land.

**EFFECTIVE DATE:** July 30, 1984.

**FOR FURTHER INFORMATION CONTACT:** David Mensing, Outdoor Recreation Planner, California Desert District, Bureau of Land Management at (714) 351–6402 or Hal Hallett, Outdoor Recreation Planner, Yuma District, Bureau of Land Management at (602) 726–6300.

**SUPPLEMENTARY INFORMATION:** This occupancy and camping stay limit is being established in order to assist the Bureau in reducing the incidence of unauthorized long-term occupancy being conducted under the guise of camping, both within campgrounds and on undeveloped public lands. Long Term Visitor Areas have been established within the Yuma District and California Desert District to provide for long-term occupancy.

Authority for this stay limit is contained in CFR Title 43, Chapter II, Part 8365.1–2.

Dated: July 19, 1984.

**H. W. Riecken,**

*Acting District Manager, California Desert District.*

Dated: July 24, 1984.

**J. Darwin Snell,**

*District Manager, Yuma.*

[FR Doc. 84–20002 Filed 7–27–84; 8:45 am]

BILLING CODE 4310–40–M

## Bureau Forms Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Copies of the proposed information collections requirement and related forms and explanatory material may be obtained by contacting the Bureau of Land Management's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made directly to the Bureau Clearance Officer and the Office of Management and Budget Reviewing Official at 202–395–7340.

*Title:* 43 CFR Part 2740 "APPLICATION FOR LAND FOR RECREATION OR PUBLIC PURPOSES"

*Bureau Form Number: 2740–1*

*Frequency:* Once

*Description of Respondents:* State and local governments and nonprofit organizations may apply to purchase or lease public lands for public or recreational purposes.

*Annual Responses:* 170

*Annual Burden Hours:* 8,500

*Bureau Clearance Officer (alternate):* Linda Gibbs at 202–653–8853

Dated: July 2, 1984.

**James M. Parker,**

*Acting Director.*

[FR Doc. 84–20033 Filed 7–27–84; 8:45 am]

BILLING CODE 4310–84–M

## National Park Service

## Bureau Forms Submitted to OMB for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comment and suggestions on the

requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official at 202–395–7340.

*Title:* Volunteers in Park Application Form
*Bureau Form Number:* None
*Frequency:* On Occasion
*Description of Respondents:* Individuals or Households
*Annual Responses:* 20,000
*Annual Burden Hours:* 5,000
*Bureau clearance officer:* Russell K. Olsen, 202–523–5133

Dated: July 24, 1984.

Russell K. Olsen,

*Information Collection Clearance Officer.*

[FR Doc. 84-20027 Filed 7-27-84; 8:45 am]

BILLING CODE 4310-70-M

## INTERNATIONAL TRADE COMMISSION

**[Investigations Nos. 701–TA–220 (Preliminary) and 731–TA–197 and 198 (Preliminary)]**

### Certain Welded Carbon Steel Pipes and Tubes From Brazil and Spain

**AGENCY:** United States International Trade Commission.

**ACTION:** Institution of preliminary countervailing duty and antidumping investigations and scheduling of a conference to be held in connection with the investigations.

**SUMMARY:** The United States International Trade Commission hereby gives notice of the institution of investigation No. 701–TA–220 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Spain of certain welded carbon steel pipes and tubes,[1] which are allegedly subsidized.

The Commission also gives notice of the institution of investigations Nos. 731–TA–197 and 198 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil and Spain of certain welded carbon steel pipes and tubes,[2] which are alleged to be sold in the United States at less than fair value.

**EFFECTIVE DATE:** July 17, 1984.

**FOR FURTHER INFORMATION CONTACT:** Ms. Abigail Eltzroth, Office of Investigations, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202–523–0289.

**SUPPLEMENTARY INFORMATION:**

#### Background

These investigations are being instituted in response to petitions filed on July 17, 1984, by the Committee on Pipe and Tube Imports, an association of domestic manufacturers of welded carbon steel pipes and tubes.[3] The Commission must make its determinations in these investigations within 45 days after the date of the filing of the petitions, or by August 31, 1984 (19 CFR § 207.17).

#### Participation

Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than seven (7) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairwoman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

#### Service of documents

The Secretary will compile a service list from the entries of appearance filed in these investigations. Any party submitting a document in connection with the investigations shall, in addition to complying with § 201.8 of the Commission's rules (19 CFR 201.8), serve a copy of each such document on all other parties to the investigations. Such service shall conform with the requirements set forth in section 201.16(b) of the rules (19 CFR 201.16(b)).

In addition to the foregoing, each document filed with the Commission in the course of these investigations must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

#### Written submissions

Any person may submit to the Commission on or before August 10, 1984, a written statement of information pertinent to the subject matter of these investigations (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

#### Conference

The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m. on August 8, 1984, at the U.S. International Trade Commission Building, 701 E Street, NW, Washington, D.C. Parties wishing to participate in the conference should contact Abigail Eltzroth (202–523–0289), not later than August 6, 1984, to arrange for their appearance. Parties in support of the imposition of antidumping and countervailing duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

[1] For purposes of this investigation, the term "certain welded carbon steel pipes and tubes" covers welded carbon steel pipes and tubes of circular cross section, with walls not thinner than 0.065 inch, 0.375 inch or more but not over 4.5 inches in outside diameter, provided for in items 610.3231, 610.3234, 610.3241, 610.3243, and 610.3243 of the Tariff Schedules of the United States Annotated (1984) (TSUSA), and welded carbon steel pipes and tubes of rectangular (including square) cross section, having a wall thickness of less than 0.156 inch, provided for in TSUSA item 610.4926. Prior to April 1, 1984, the circular pipes and tubes were provided for in TSUSA items 610.3231, 610.3232, 610.3241, and 610.3244, and the rectangular pipes and tubes were provided for in TSUSA item 610.4975.

[2] With respect to the investigations involving imports from Spain, the term "certain welded carbon steel pipes and tubes" covers welded carbon steel pipes and tubes of circular and rectangular cross sections as specified above. With respect to the investigation involving imports from Brazil, the term "certain welded carbon steel pipes and tubes" covers welded carbon steel pipes and tubes of circular cross section, as specified above.

[3] The 11 member producers of the CPTI are Allied Tube & Conduit Corp., American Tube Co., Inc., Bull Moose Tube Co., Century Tube Corp., Copperweld Tubing Group, Kaiser Steel Corp., Merchants Metals, Inc., Pittsburgh-International, Southwestern Pipe, Inc., Western Tube & Conduit, and Wheatland Tube Co.

**Public inspection**

A copy of the petitions and all written submissions, except for confidential business data, will be available for public inspection during regular hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

"This notice is published pursuant to section 207.12 of the Commission's rules (19 CFR 207.12).

Issued: July 25, 1984.

**Kenneth R. Mason,**

*Secretary.*

[FR Doc. 84-20039 Filed 7-27-84; 8:45 am]

BILLING CODE 7020-02-M

## INTERSTATE COMMERCE COMMISSION

**[Ex Parte No. 438]**

### Acquisition of Motor Carriers by Railroads

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Policy statement.

**SUMMARY:** The Commission is eliminating the requirement that in applications by railroads and rail affiliates pursuant to 49 U.S.C. 11344(c) to acquire motor carriers whose operations are beyond those auxiliary or supplemental to the rail operations the railroad must demonstrate "special circumstances." Assessment of such acquisition will be on a case-by-case basis. Changes in the transportation industry and recent revisions to the Interstate Commerce Act encouraging intermodal transportation and competition warrant this change.

**EFFECTIVE DATE:** August 29, 1984.

**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 to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

We certify that this policy statement will not have a significant economic impact on a substantial number of small entities because small entities involved in transactions under 49 U.S.C. 11344(c) will no longer be subject to a presumption, but will have each proposal decided on its merits.

This action will also not significantly affect the quality of the human environment or energy conservation.

**Authority:** 49 U.S.C. 10101, 10101a, 10321, 10326 and 11344, and 5 U.S.C. 553.

Decided: July 20, 1984.

By the Commissioner, Chairman Taylor, Vice Chairman Andre, Commissioners Sterrett and Gradison.

**James H. Bayne,**

*Secretary.*

[FR Doc. 84-19988 Filed 7-27-84; 8:45 am]

BILLING CODE 7035-01-M

**[Docket No. AB-3 (Sub-44X)]**

### Missouri Pacific Railroad Co., Abandonment Between Natchez, MS and Vidalia, LA; Exemption

Missouri Pacific Railroad Company (MP) has filed a notice of exemption under 49 CFR Part 1152, Subpart F—*Exempt Abandonments.* The line to be abandoned extends from Natchex, MS, over the Mississippi River to Vidalia, LA. At Vidalia the track extends between mileposts 651.6 and 652.1, and between mileposts 0.0 and 0.6, a total distance of 1.1 miles. The car ferry operation is over about 1 mile of the Mississippi River. At Natchez the track extends between mileposts 0.0 and 2.1 and between mileposts 0.4 and 1.3, and between mileposts 0.0 and 0.4, a total distance of 3.4 miles.[1]

MP has certified (1) that no local traffic has moved over the line for at least 2 years, and that any overhead traffic on the line can be rerouted over other lines, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user regarding cessation of service on the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period.[2] The Public Service Commissions (or equivalent agencies) in Mississippi and Louisiana have been notified in writing at least 10 days prior to the filing of this notice. *See: Exemption of Out of Service Rail Lines,* 366 I.C.C. 885 (1983).

As a condition to use of this exemption, any employees affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen,* 360 I.C.C. 91 (1979).

The exemption will be effective on August 29, 1984 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by August 9, 1984, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by August 20, 1984, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Joseph D. Anthofer, 1416 Dodge Street, Room 830, Omaha, NE 78179.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ad initio.*

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: July 19, 1984.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

**James H. Bayne,**

*Secretary.*

[FR Doc. 84-20004 Filed 7-27-84; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF JUSTICE

### Lodging of Consent Decree Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, Notice is hereby given that on June 29, 1984 a proposed consent decree in *United States* v. *Ayers Auto Air & Muffler City of Tampa, Inc.* was lodged with the United States District Court for the Middle District of Florida. The proposed consent decree concerns the replacement of catalytic converters. The United States sought imposition of a $35,000 civil penalty and imposition of injunctive relief to enjoin future violations. The consent decree provides that the defendant will send notices to the owners of 14 identified vehicles that it will replace at no cost to the owner the catalytic converters, that the Defendant consents to issuance of an injunction restraining future

[1] "Railroad" includes a ferry used by or in connection with a railroad. 49 U.S.C. 10102(20). A ferry line that constitutes a connecting link in a carrier's system is a line of railroad within the meaning of the Interstate Commerce Act. *See: Delaware River Ferry Co. of New Jersey Abandonment,* 212 I.C.C. 580 at 583 (1936).

[2] A formal complaint regarding the involved line is pending in Finance Docket No. 30481 (Sub-No. 1). However, the compalint does not bar this notice because it fails to raise the narrow issue of a demand for rail service that has been unanswered. *See:* Ex Parte No. 274 (Sub-No. 8), *Exemption of Out of Service Rail Lines* (not printed), served January 3, 1984.

violations and that it will pay an additional $20,500 civil penalty in 24 monthly installments.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *U.S.* v. *Ayers Auto, Inc.*, DOJ Ref. 90–5–2–1–687.

The proposed consent decree may be examined at the office of the U.S. Attorney, 410 Robert Timber Lake Building, 500 Zack Street, Tampa, Florida 33602 and at the Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, 9th Street & Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section.

**F. Henry Habicht II,**

*Assistant Attorney General, Land and Natural Resources Division.*

[FR Doc. 84-20032 Filed 7-27-84; 8:45 am]

BILLING CODE 4410-01-M

## Immigration and Naturalization Service

### Wage Determination System for Territory of Guam

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Notice of temporary worker wage rates for Territory of Guam.

**SUMMARY:** The Governor of Guam is authorized to use the 1980 Adverse Effect Wage Rate (AEWR) commencing on July 30, 1984, until a prevailing wage rate system is approved by the Commissioner or for 90 days, whichever comes first.

The Service published a final rule on April 18, 1984 (49FR 15182) which transfers the authority to make determination on certifications for temporary labor in the Territory of Guam from the Secretary of Labor to the Governor of Guam. The rule requires that the Governor develop a system for determining the prevailing wage rates for any occupation in the Territory of Guam for which a prospective employer is seeking to hire a temporary alien worker (H–2).

The Governor has indicated that additional time is needed to finalize the system, which must be submitted to the Commissioner of Immigration and Naturalization for approval prior to its utilization. In order to allow the Governor additional time, the Service, after consultation with the Secretary of Labor, has agreed to allow the Governor to utilize the 1980 Adverse Effect Wage Rate as established by the Secretary of Labor for use in determining the threshold of adverse effect on the wages of United States resident workers. The AEWR is part of the certification process performed by the Secretary of Labor under the authority granted to the Secretary by 8 CFR 214.2(h)(3)(i).

(Sec. 214 of the Immigration and Nationality Act, as amended; (8 U.S.C. 1184))

Dated: July 9, 1984.

**Alan C. Nelson,**

*Commissioner, Immigration and Naturalization.*

[FR Doc. 84-20021 Filed 7-27-84; 8:45 am]

BILLING CODE 4410-10-M

## NATIONAL SCIENCE FOUNDATION

### Permit Applications Received Under the Antarctic Conservation Act of 1978

**AGENCY:** National Science Foundation.

**ACTION:** Notice of permit applications received under the Antarctic Conservation Act of 1978, Pub. L. 95–541.

**SUMMARY:** The National Science Foundation (NSF) is required to publish notice of applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of 1978 at Title 45, Part 670 of the Code of Federal Regulations.

**DATES:** Interested parties are invited to submit written data, comments, or views with respect to these permit applications by August 30, 1984. Permit applications may be inspected by interested parties at the Permit Office, address below.

**ADDRESS:** Comments should be addressed to Permit Office, Room 627, Division of Polar Programs, National Science Foundation, Washington, D.C. 20550.

**FOR FURTHER INFORMATION CONTACT:** Charles E. Myers at the above address or (202) 357–7934.

**SUPPLEMENTARY INFORMATION:** The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the "Agreed Measures for the Conservation of Antarctic Fauna and Flora" for all United States citizens. The Agreed Measures, developed in 1964 by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain mammals and certain geographic areas as requiring special protection. The regulations establish such a permit system and designate Specially Protected Areas and Sites of Special Scientific Interest. The regulations may be found at Title 45, Part 670 of the Code of Federal Regulations. Copies are available from the National Science Foundation.

The purpose of the regulations is to conserve and protect the mammals, birds, and plants of Antarctica and the ecosystem upon which they depend. To that end, unless the following activities are specifically authorized by permit, it is unlawful:

- To take any mammal or bird native to Antarctica (note that "take" means "to remove, harass, molest, harm, pursue, hunt, shoot, wound, kill, trap, capture, restrain, or tag" any native mammal or bird or to attempt to engage in such conduct)
- To collect any plant native to Antarctica in specially protected areas
- To enter any Specially Protected Area or certain Sites of Special Scientific Interest
- To import into or export from the United States any mammal or bird native to Antarctica or any plant collected in a Specially Protected Area
- To introduce to Antarctica any nonindigenous plant or animal.

The Antarctic Conservation Act of 1978 mandates civil and criminal penalties for noncompliance with the regulations.

All mammals and birds normally found in Antarctica, excluding whales regulated by the International Whaling Commission, are designated as native mammals or native birds. Activities involving these mammals or birds require a permit. Areas of outstanding ecological interest are designated as Specially Protected Areas. No one may enter these areas or collect any native plants in these areas without a permit. Areas of unique scientific value that need protection from interference are designated as Sites of Special Scientific Interest. Entry into certain of these areas without a permit is prohibited.

The permit system is described in the regulations. To obtain a permit, each applicant must provide the scientific names and numbers of native mammals or birds to be taken, including age, size, sex, and condition (e.g., pregnant or

nursing) or the scientific names and numbers of native plants to be collected in a Specially Protected Area. Each applicant must include a complete description of the location, the time period, and the manner of taking or collecting specimens. If the specimens are to be imported into the United States, the applicant must also indicate the ultimate disposition of the materials.

Permits for taking or collecting mammals, birds, or plants will be issued by the Director of the National Science Foundation or his designated representative. Each permit will be evaluated in terms of the objectives of the Antarctic Conservation Act, that is, the conservation and protection of Antarctic flora and fauna and the antarctic ecosystem. Permits issued under these regulations (or copies of them) must be held in the possession of those authorized to engage in a permitted action. The permits must be displayed upon request to any person responsible for enforcing the regulations.

Anyone who knowingly commits an act prohibited by the Antarctic Conservation Act of 1978 is liable to a civil penalty of up to $10,000 for each violation. If the violation was committed without knowledge of the regulations, the fine will not exceed $5,000. Criminal penalties for willful violation of the regulations may involve a fine of up to $10,000 and/or imprisonment for not more than 1 year.

The Antarctic Conservation Act of 1978 does not supersede the Marine Mammal Protection Act, the Endangered Species Act, or the Migratory Bird Treaty Act. Permit applications involving native mammals or native birds covered by these acts will be forwarded by NSF to the agencies that administer them. If a proposed activity involves approval under more than one law, then the activity must satisfy the conditions of all applicable laws or a permit cannot be granted. Even if a permit is approved by other appropriate agencies, the Director of the National Science Foundation still must decide whether to issue a permit according to the requirements of the Antarctic Conservation Act of 1978.

The regulations amend Title 45 of the code of Federal Regulations by adding Part 670.

The applications received by the National Science Foundation are as follows:

1. *Applicant:* Wayne Z. Trivelpiece, Point Reyes Bird Observatory, 4990 Shoreline Highway, Stinson Beach, California 94970.

A. *Activities for Which Permit Requested:* Taking, Enter Site of Special Scientific Interest.

The applicant is conducting a study of the population biology of the pygoscelid penguins. The applicant proposes to band and release the following specimens:

| Species | Number |
|---|---|
| Adelie Penguins | 1,500 |
| Gentoo Penguins | 1,500 |
| Chinstrap Penguins | 1,000 |

The applicant also proposes to band and release any specimens of the following species found in the Point Thomas rookery:

Brown Skua
South Polar Skua
Southern Giant Fulmar
Sheathbill
Southern Black-backed Gull

B. *Location:* Site of Special Scientific Interest No. 8, Western Shore of Admiralty Bay; King George Island, South Shetland Islands.

C. *Dates:* October 1, 1984 to October 1, 1985.

2. *Applicant:* David F. Parmelee, Bell Museum of Natural History, University of Minnesota, Minneapolis, Minnesota 55455.

A. *Activities for Which Permit Requested:* Taking, Import into U.S.A., Enter Specially Protected Area.

The applicant is conducting a study of the population biology of Antarctic birds. The applicant proposes to capture, identify, and release previously banded birds and capture, band and release nonbanded birds. Some birds are proposed to be taken for molt, plummage, and taxonomic studies. Some eggs will be taken to determine incubation times. Radio transmitters will be attached to skuas and giant petrels to study the feasibility of tracking long distance migratory species. The maximum number of specimens of each species proposed to be taken is as follows:

| Species | Number |
|---|---|
| S. Fulmar | 6 |
| Cape Pigeon | 6 |
| Snow Petrel | 6 |
| Wilson's Storm Petrel | 12 |
| Black-bellied Storm Petrel | 6 |
| Blue-eyed Shag | 4 |
| American Sheathbill | 12 |
| South Polar Skua | 5 |
| Brown Skua | 6 |
| S. Blacked-backed Gull | 6 |
| Arctic Tern | 4 |
| Antarctic Tern | 12 |
| Penguin (sp.) | 2 |
| Duck (sp.) | 2 |

B. *Location:* Litchfield Island Specially Protected Area, Anvers Island, South Shetland Islands, Antarctic Peninsula area.

C. *Dates:* December 1, 1984 to April 30, 1985.

3. *Applicant:* Donald B. Siniff, Department of Ecology and Behavioral Biology, University of Minnesota, Minneapolis, Minnesota 55455.

A. *Activities for Which Permit Requested:* The applicant requests permission to take seals in the McMurdo Sound region in support of continuing research on the ecology and behavior of Weddell seals. Up to 1000 Weddell seals may be tagged with plastic numbered tags in both rear flippers. Up to 2000 seals may be approached up to 10 times each for the purpose of identifying age-sex category and reading tags. Blood samples (less than 10cc) may be collected from up to 100 females and their pups and 25 males from among the tagged population.

Permission is also requested to enter the Specially Protected Area at Cape Crozier on Ross Island in order to have access to seals at the ice shelf—sea ice interface just offshore.

Permission is also requested to sacrifice up to 5 adult seals if unique scientific return exists and to salvage and import material from natural mortalities and from seals sacrificed by the New Zealand Antarctic Research Program.

During the survey and tagging operations, directed toward seals, other antarctic seal species may be encountered. Permission to approach and tag these species is requested on a contingency basis due to the rarity but scientific importance of sightings in the McMurdo Sound area.

| Species | Number | Age |
|---|---|---|
| *Leptonychotes weddelli* | 500 | Pups. |
| | 300 | Adult.[1] |
| | 200 | Adult.[2] |
| | 5 | Do. |
| *Lobodon carcinophagus* | 30 | Do. |
| *Ommatophoca rossi* | 30 | Do. |
| Leptonyx hydrurga | 30 | Do. |
| Mirounga leonina | 30 | Do. |

[1] Female.
[2] Male.

B. *Location:* McMurdo Station vicinity, west side of McMurdo Sound, and Cape Crozier Specially Protected Area.

C. *Dates:* October 1, 1984 to October 1, 1985.

4. *Applicant:* Arthur L. DeVries, University of Illinois, Urbana, Illinois 61801.

A. *Activity for Which Permit Requested:* Introduction of non-indigenous species into Antarctica.

Specimens of the fish *Notothenia angustata* are proposed to be used in experiments on the role of blood

glycopeptide antifreeze in prevention of freezing of the various body fluids of Antarctic notothenid fishes. The applicant proposes to collect specimens of this fish at the Porto Bello Marine Laboratory, New Zealand and transport them to McMurdo Station, Antarctica where they will be maintained in a closed sea water aquarium. Upon completion of the experiments the *Notothenia angustata* will be sacrificed and their carcasses preserved in formalin.

B. *Location:* McMurdo Station, Antarctica.

C. *Dates:* October 1, 1984 to March 1, 1985.

5. *Applicant:* William M. Hamner, Department of Biology, University of California, Los Angeles, California 90024.

A. *Activity for Which Permit Requested:* Taking (by photography), Enter Specially Protected Area.

The applicant is conducting a field investigation of both krill and its predators. Occurrences of predation will be documented photographically in order to analyze behavioral patterns used by krill predators to catch their prey. The use of krill to feed young will also be photographed in bird rookeries. No species will be handled or collected. Long lens photography will minimize disturbance of the animals.

The applicant also requests permission to enter Litchfield Island to continue observations of penguin groups at sea which were begun in early 1983.

The species to be photographed are:

*Birds*

black-browed albatross
giant petrel
blue petrel
southern fulmar
cape petrel
prion
So. black-backed bull
antarctic petrel
white-chinned petrel
white-headed petrel
Peal's petrel
snow petrel
Wilson's petrel
brown skua
south polar skua
antarctic tern
arctic tern
blue-eyed shag
american sheathbill
Adelie penguin
chinstrap penguin
gentoo penguin

*Mammals*

antarctic fur seal
crabeater seal
elephant seal
leopard seal
Ross seal
Weddell seal

B. *Location:* Drake Passage, Bransfield Strait, Gerlache Strait, Arthur Harbor and waters adjacent to Anvers Island; Litchfield Island Specially Protected Area.

C. *Dates:* December 1, 1984 to April 1, 1985.

Authority to take action under the Antarctic Conservation Act of 1978 including publication of this notice, has been delegated by the Director, NSF, to the Director, Division of Polar Programs.

A. N. Fowler,

*Acting Director, Division of Polar Programs.*

[FR Doc. 84-20014 Filed 7-27-84; 8:45 am]
BILLING CODE 7555-01-M

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-320]

### General Public Utilities Nuclear Corp. (Three Mile Island Nuclear Station, Unit 2); Exemption

I

GPU Nuclear Corporation, Metropolitan Edison Company, Jersey Central Power and Light Company and Pennsylvania Electric Company (collectively, the licensee are the holders of Facility Operating License No. DPR-73, which had authorized operation of the Three Mile Island Nuclear Station, Unit 2 (TMI-2) at power levels up to 2772 megawatts thermal. The facility, which is located in Londonderry Township, Dauphin County, Pennsylvania, is a pressurized water reactor previously used for the commercial generation of electricity.

By Order for Modification of License, dated July 20, 1979, the licensee's authority to operate the facility was suspended and the licensee's authority was limited to maintenance of the facility in the present shutdown cooling mode (44 FR 45271). By further Order of the Director, Office of Nuclear Reactor Regulation, dated February 11, 1980, a new set of formal license requirements was imposed to reflect the post-accident condition of the facility and to assure the continued maintenance of the current safe, stable, long-term cooling condition of the facility (45 FR 11292). The operating license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

By letter dated April 24, 1984, the licensee requested exemption from 10 CFR Part 50, Appendix A, Criteria 2, 50, 51 and 56 regarding the design of containment penetrations after the removal of the reactor vessel head. Based on subsequent conversations with the licensee, the staff also concluded that an exemption from the requirements of 10 CFR Part 50, Appendix A, Criterion 57 is also warranted. This criterion states the requirements for closed system isolation valves.

III

Following the TMI accident thousands of curies of fission gases and radioactive particulates were released to the containment atmosphere. Because of the unique condition of the TMI-2 core and the amount of contamination resulting from the accident, the NRC imposed the requirement to maintain containment integrity to ensure that radionuclides inside the containment would not be released to the environment.

In October 1979, the first of several containment penetrations were modified to probe the containment interior to evaluate the extent of damage and gather data for the cleanup. The penetrations were modified in accordance with NRC approved procedures. The TMI-2 Proposed Technical Specifications also required that penetrations and operations that could affect containment integrity could be modified only by NRC approved procedures.

Since the 1979 accident, fission gases that were released to containment have either decayed or have been purged from the containment. Decontamination activities have also reduced ambient airborne particulate contamination to levels below maximum permissible concentrations listed in 10 CFR Part 20, Appendix B, Table 1.

In an evaluation associated with a Modification of Order dated April 9, 1982, the staff concluded that the maximum credible containment building pressure was approximately 2 psig. Calculated offsite doses resulting from a failed penetration in conjunction with a 2 psig driving head and the associated reactor building airborne contamination were well below the limits of 10 CFR 20 and within the scope of impacts assessed in the "Final Programmatic Environmental Impact Statement" dated March 1981.

Criterion 57 requires that each line penetrating the primary containment that is neither a part of the reactor coolant pressure boundary not directly connected to the containment atmosphere have at least one containment isolation valve which shall

be either automatic, or locked closed or capable of remote manual operation. This valve shall be outside containment and located as close to the containment as is practical. A simple check valve may not be used as an automatic isolation valve. Criterion 57 was written for operating plant conditions and is generally applicable whenever the plant is operating, is startup, hot standby, or during core alteration. Presently, the conditions at Unit 2 most closely resemble the standard criteria for cold shutdown ($K_{eff}<0.99$, $T_{ave}\leq 200$ °F).

During the normal cold shutdown mode for typical plants, containment integrity is normally not required and criterion 57 is not normally applicable.

As previously stated, the staff correlated the shutdown condition of TMI–2 to that of a normal reactor in "cold shutdown." The staff also approved on this basis various penetration designs on the premise that if the plant were to enter a mode that when compared to a normal plant, would require containment isolation, either an alternate design or an exemption to penetration criteria would have to be approved by the NRC.

The licensee proposed several alternate penetration designs to the NRC staff to support specific recovery operations. The isolation feature common to all the alternate designs includes two isolation valves outside of containment. In most cases, isolation valves are manual. Manual valves were found acceptable for isolation in lieu of the Criterion 57 requirements since all conceivable accident scenarios still permit access to the isolation valves. Therefore, it is the staff's opinion that penetration modifications of the type described above will be acceptable for all future recovery operations.

The staff has determined that the post-accident status of the TMI-2 facility presents exceptional circumstances relative to the applicability of the Commission's regulations. Because of the suspension of the licensee's authority to operate the facility in other than the present recovery mode as defined in the proposed technical specifications, certain of the regulations, which are intended to apply to normal operating plants, are simply inappropriate and, more significantly, are unnecessary to protect the public health and safety. Indeed, given the unique status of the plant in terms of primary system temperature and pressure, available fission product inventory, the ability to cool the reactor without forced circulation (loss-to-ambient), and the low decay heat rate, maintenance of the facility with the exemptions granted and the alternate design approved hereby will provide an equivalent level of safety. Furthermore, because of the condition of the plant and the need to proceed with cleanup activities, literal compliance with the regulations from which relief is sought would present an unwarranted impediment.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. The Commission hereby grants an exemption to the requirements of 10 CFR Part 50, Appendix A, Criterion 57.

It is further determined that this exemption does not authorize a change in effluent types or total amounts nor an increase in power level and will not otherwise result in any significant environmental impact. In light of this determination and as reflected in the Environmental Assessment and Notice of Finding of No Significant Environmental Impact prepared pursuant to 10 CFR 51.21 and 51.30 through 51.32, issued concurrently herewith, it was concluded that the instant action is insignificant from the standpoint of environmental impact and that an environmental impact statement need not be prepared.

*Effective Date:* July 17, 1984.
Dated at Bethesda, Maryland.
*Issuance Date:* July 17, 1984.

For the Nuclear Regulatory Commission.

**Edson G. Case,**

*Deputy Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 84-20050 Filed 7-27-84; 8:45 am]
BILLING CODE 7590-01-M

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[Docket No. 50-320]

## General Public Utilities Nuclear Corp. (Three Mile Island Nuclear Station, Unit 2); Amendment of Order

I

GPU Nuclear Corporation, Metropolitan Edison Company, Jersey Central Power and Light Company and Pennsylvania Electric Company (collectively, the licensee) are the holders of Facility Operating License No. DPR–73, which had authorized operation of the Three Mile Island Nuclear Station, Unit 2 (TMI–2) at power levels up to 2772 megawatts thermal. The facility, which is located in Londonderry Township, Dauphin County, Pennsylvania, is a pressurized water reactor previously used for the commercial generation of electricity.

By Order for Modification of License, dated July 20, 1979, the licensee's authority to operate the facility was suspended and the licensee's authority was limited to maintenance of the facility in the present shutdown cooling mode (44 FR 45271). By further Order of the Director, Office of Nuclear Reactor Regulation, dated February 11, 1980, a new set of formal license requirements was imposed to reflect the post-accident condition of the facility and to assure the continued maintenance of the current safe, stable, long-term cooling condition of the facility (45 FR 11292).

Although these requirements were imposed on the licensee by an Order of the Director of Nuclear Reactor Regulation, dated February 11, 1980, the TMI–2 license has not been formally amended. The requirements are reflected in the Proposed Technical Specifications presently pending before the Atomic Safety and Licensing Board. Hereafter in this amendment of Order, the requirements in question are identified by the applicable Proposed Technical Specification.

II

By letters dated January 12, 1983, September 12, 1983, and September 30, 1983, GPU Nuclear Corporation (GPUNC) proposed changes to the Proposed Technical Specifications (PTS) for Three Mile Island Unit 2 (TMI–2).

The licensee has requested various changes to the PTS to support anticipated activities until, but not including, defueling and to more properly reflect the facility's post accident mode of operation. As previously stated, changes that are in the interest of the health and safety of the public are being issued immediately effective pursuant to the provisions of 10 CFR 2.204.

Changes herein include, (1) the modification of the definition for Containment Integrity, Section 1.7, to clarify when containment integrity does and does not exist; (2) the addition of a boron concentration limit for water in the RCS and the refueling canal after head lift, Section 3.1.1.2; (3) a modification to Section 3.1.3 on control rod drive assemblies to properly reflect that they are disconnected from the control rods; (4) a modification to the action statement of Section 3.3.1 on Neutron Monitoring Instrumentation to add new reporting requirements because of their inaccessibility while the refueling canal is flooded; (5) the addition of a requirement in Section 3.4.2 for reactor vessel water level monitoring instrumentation; (6) the addition of Section 3.5 on

Communications which reflects requirements during core alterations; (7) a modification of Section 3.6.1.1 on containment integrity to clarify what constitutes containment integrity; (8) the insertion of Section 3.6.3 on the Containment Purge Exhaust System which will be used to minimize airborne contamination in the containment building while the RV head is off the vessel; and (9) the addition of Section 3.10.1 which limits areas of travel for the reactor building polar crane during all heavy load movements when the RV head is off of the vessel.

Associated surveillance requirements of the Recovery Operations Plan and associated bases for the PTS have also been modified accordingly.

Also, the staff has issued in support of the above changes, an Approval of Alternate Design relative to 10 CFR Part 50, Appendix A, Criteria 55 and 56, an Exemption from 10 CFR Part 50, Appendix A, Criterion 57 and an Exemption from the Seismic Design requirements of Criteria 2, 50, and 51 of 10 CFR Part 50, Appendix A. these approvals are required in support of some of the modifications that have been made to the PTS.

The staff's safety assessment of this matter, as discussed above, is set forth in the concurrently issued Safety Evaluation. Since the February 11, 1980 Order imposing the Proposed Technical Specifications is currently pending before the Atomic Safety and Licensing Board, the staff will be advising the Licensing Board of this Amendment of Order through a Notice of Issuance of Amendment of Order and a Motion to Conform Proposed Technical Specifications in Accordance Therewith.

It is further determined that the Amendment of Order does not authorize a change in effluent types or total amounts nor an increase in power level and will not otherwise result in any significant environmental impact. In light of this determination and as reflected in the Environmental Assessment prepared pursuant to CFR 51.2 and 51.30 through 51.32 issued concurrently herewith, it was concluded that the instant action is insignificant from the standpoint of environmental impact and that an environmental impact statement need not be prepared.

The Nuclear Regulatory Commission has determined that the public health, safety and interest require the enclosed immediately effective modifications to the Proposed Technical Specification (PTS) for Facility Operating License No. DPR–73 issued to Metropolitan Edison Company, et al. for operation of the Three Mile Island Nuclear station Unit No. 2, located in Londonderry Township, Dauphin County, Pennsylvania. This action would modify the PTS by incorporating or modifiying specifications that are required to be in place before the reactor vessel head can be removed. The removal of the reactor vessel head is required to gain access to the reactor core for defueling. The staff has stated in various documents and in congressional testimony that there will be a risk to the health and safety of the public until the fuel is removed from the vessel. Although the facility is well-monitored and is presently safe, no one can be certain what potential long delays in cleanup portend for the future. Basically our concern is that, in contrast to a normal nuclear facility, we and GPU cannot ascertain what safety margins exist at TMI–2. Delays in cleanup milestones such as head lift increase the risks to the occupational workforce and offsite public due to the increased probability of some unforeseen occurence. It is, therefore, necessary to promptly commence activities associated with the removal of fuel in the vessel, head lift being the first major activity.

III

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, the Director's Order of February 11, 1980, is hereby revised effective immediately to incorprate the deletions, additions, and modifications set forth in Enclosures 6 and 7 hereto. For further details with respect to this action, see (1) Letter to B. J. Snyder, USNRC, from R. C. Arnold, GPUNC, Technical Specification Change Request No. 39, dated January 12, 1983, (2) Letter to B. J. Snyder, USNRC, from R. C. Arnold, GPUNC, Technical Specification Change Request No. 41, dated September 12, 1983, (3) Letter to B. J. Snyder, USNRC, from R. C. Arnold, GPUNC, Technical Specification Change Request No. 43, dated September 30, 1983, (4) Letter to L. H. Barrett, USNRC, from B. K. Kanga, GPUNC, Recovery Operations Plan Change Request No. 19, dated January 12, 1983, (5) Letter to L. H. Barrett, USNRC, from B. K. Kanga, GPUNC, Recovery Operations Plan Change Request No. 20, dated September 12, 1983, (6) Letter to L. H. Barrett, USNRC, from B. K. Kanga, GPUNC, Recovery Operations Plan Change Request No. 22, dated September 30, 1983, (7) Letter to B. J. Snyder, USNRC, from E. E. Kintner, GPUNC, Request for an Exemption to Certain Design Criteria for Containment Penetrations, dated April 24, 1984, (8) Letter to B. J. Snyder, USNRC, from E. E. Kintner, GPUNC, Exemption Request from 10 CFR 50, Appendix A, Criteria 2, 50 and 51, (9) the Director's Order of February 11, 1980.

All of the above documents are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Commission's Local Public Document Room at the State Library of Pennsylvania, Government Publications Section, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

*Effective Date:* July 17, 1984.
Dated at Bethesda, Maryland.
*Issuance Date:* July 17, 1984.

For the Nuclear Regulatory Commission.

**Edson G. Case,**

*Deputy Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 84–20061 Filed 7–27–84; 8:45 am]
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**[Docket No. 50–320]**

## General Public Utilities Nuclear Corp.; Issuance of Environmental Assessment and Notice of Finding of No Significant Environmental Impact

The U.S Nuclear Regulatory Commission (the Commission) has issued an Amendment of Order, two Exemptions and an Approval of Alternate Design to Facility Operating License No. DPR–73, issued to General Public Utilities Nuclear Corporation (the licensee), for operation of the Three Mile Island Nuclear Station, Unit 2 (TMI–2), located in Londonderry Township, Dauphin County, Pennsylvania.

### Environmental Assessment

*Identification of Proposed Action*

There are three types of action that have been approved by the Commission. These actions include an Amendment of Order, two Exemptions from penetration design criteria, and an Approval of Alternate Design for penetrations. The Amendment of Order was issued to modify the Proposed Technical Specifications (PTS) for TMI–2 in preparation for the removal of the reactor vessel head.

One of the Exemptions granted by the Commission relates to the seismic requirements of 10 CFR Part 50, Appendix A, Criterion 2, *Design bases for protecting against natural phenomena;* Criterion 50, *Containment design basis;* and Criterion 51, *Fracture preventions of containment pressure boundary.* The other Exemption relates to 10 CFR Part 50, Appendix A, Criterion 57, *Closed system isolation valves.*

The third type of action is the Approval of Alternate Design relative to

10 CFR Part 50, Appendix A, Criterion 55, *Reactor coolant boundary penetrating containment* and Criterion 56, *Primary containment isolation.*

The Amendment of Order is in accordance with General Public Utilities Nuclear Corporation's (GPUNC) letters dated January 12, 1983, September 12, 1983, and September 30, 1983, and subsequent discussions with the licensee. The Exemptions and Approval of Alternate Designs are in accordance with GPUNC letter dated April 24, 1984 and subsequent discussions with the licensee.

*The Need for the Action*

The Amendment of Order is warranted because of the need to modify the PTS in preparation for the removal of the reactor vessel head. The removal of the vessel head is required to gain access to the reactor core for defueling. The staff has previously stated in various documents and in Congressional testimony that there will be risk to the health and safety of the public until the fuel is removed from the vessel.

The Exemption to Criteria 2, 50, 51 and 57 and Approval of Alternate Design relative to Criteria 55 and 56 are warranted, based on the benign state of the TMI–2 reactor, the lack of a driving force for the release of radioactivity at TMI–2 and the fact that the reactor is at a low temperature and pressure and is subcritical. The requirements stated in the subject criteria are normally not required in a plant with pressure, temperature and criticality parameters as low as those at Three Mile Island, Unit 2. Since TMI–2 will be in this condition for a prolonged period of time and may also undergo operations that would normally require containment integrity (e.g., defueling), it is necessary to grant the subject Exemptions and Approval of Design.

*Environmental Impacts of the Proposed Actions*

The staff has evaluated the activities associated with head removal and concluded that these tasks will not result in significant increases in airborne radioactivity inside the reactor building or in corresponding releases to the environment. See the staff's Reactor Vessel Head Lift Safety Evaluation dated July 17, 1984, for a detailed discussion of systems and precautions that will be used to minimize the environmental effects of removing the reactor vessel head.

The staff's final Programmatic Environmental Impact Statement (PEIS) related to the TMI–2 cleanup, issued in March 1981, estimates the occupational exposure to be incurred by cleanup workers to be 2,000 to 8,000 Person-Rem. Actual occupational exposure for cleanup activities to date (1,993 Person-Rem as of May 11, 1984) plus that projected to occur during head removal fall well within the estimated range of the PEIS.

The staff, in support of the issuance of the Criteria 2, 50, and 51 Exemptions, evaluated potential offsite dose consequences from four worst case scenarios as follows: (1) A fire in a radioactive materials storage area, (2) a reactor coolant leak, (3) a water processing or fuel canister drop, and (4) a pyrophoric event. All of these scenarios assumed the concurrent failure of a reactor building penetration.

The conclusions of this evaluation are as follows:

| Scenario | Dose, rems total body | Highest dose to any organ |
|---|---|---|
| I—Fire in Storage Area | 2.E–3 | 2.0E–2 (Bone). |
| II—Reactor Coolant Leak | 2.E–3 | 3.2E–2 (Bone). |
| IIIA—Water Processing | 4.4E–2 | 6.9E–1 (Bone). |
| IIIB—Fuel Canister Drop | 3.3E–2 | 1.5 (Bone). |
| IV—Pyrophoric Event | 7.4E–2 | 3.5 (Bone). |

Based on the above results, which are within the guidelines of 10 CFR Part 20, the staff concludes that there is no significant impact to the environment resulting from containment penetrations being exempted from seismic design requirements.

The staff has also granted an Exemption to 10 CFR Part 50, Appendix A, Criterion 57 and Approval of Alternate Design for 10 CFR Part 50, Appendix A, Criteria 55 and 56. Based on the Alternate Design utilizing two manual modes of isolation which will be used in lieu of the various design stated in the subject regulation, it is the staff's opinion that the intent of Criteria 55, 56 and 57 is still met and therefore there is no significant impact on the environment resulting from the staff's actions.

*Alternative to this Action*

Since we have concluded that there is no significant environmental impact associated with the subject Amendment of Order, Exemptions, and Approval of Alternate Design, any alternatives to these changes will have either no significant environmental impact or greater environmental impact. The principal alternative would be to deny the requested acitons. This would not reduce significant environmental impacts of plant operations and would result in the applicability of overly restrictive regulatory requirements when considering the unique conditions of TMI–2.

*Agencies and Persons Consulted*

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

*Alternate Use of Resources*

This action does not involve the use of resources not previously considered in connection with the Final Programmatic Impact Statement for TMI–2 dated March 1981.

*Finding of No Significant Impact*

The Commission has determined not to prepare an environmental impact statement for the subject exemptions.

Based upon the foregoing environmental assessment, we conclude that this action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the licensee's Technical Specification Change Request Numbers 39, 41 and 43, dated January 12, 1983, September 12, 1983, and September 30, 1983, respectively; the licensee's Recovery Operations Plan Change Request Numbers 19, 20 and 22, dated January 12, 1983, September 12, 1983, and September 30, 1983, respectively; and Requests for Exemption dated April 24, 1983, and July 17, 1984. These items are available for public inspection at the Commission's Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Government Publications Section, State Library of Pennsylvania 17126. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Program Director, TMI Program Office, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland this 17th day of July 1984.

For the Nuclear Regulatory Commission.

**Bernard J. Snyder,**

*Program Director, Three Mile Island Program Office, Office of Nuclear Reactor Regulation.*

[FR Doc. 84–20053 Filed 7–27–84; 8:45 am]

BILLING CODE 7590–01–M

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[Docket No. 50–482 OL]

## Kansas Gas and Electric Co., et al. (Wolf Creek Generating Station, Unit 1); Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and License Appeal Board for this operating licensing proceeding. As

reconstituted, the Appeal Board for this proceeding will consist of the following members:

Alan S. Rosenthal, Chairman
Thomas S. Moore
Dr. Reginald L. Gotchy

Dated: July 24, 1984.

[FR Doc. 84-20055 Filed 7-27-84; 8:45 am]
BILLING CODE 7590-01-M

## Three Mile Island Program Office; Issuance of Approval of Alternate Design for 10 CFR 50, Appendix A, Criteria 55 and 56

### Introduction

In a letter dated April 24, 1984, GPUNC requested an exception to certain design criteria for containment penetrations. These criteria are stated in 10 CFR Part 50, Appendix A, Criterion 56. During staff discussions on this request, GPUNC stated that what they actually were seeking was an appproval of an alternate penetration design which differs from those suggested in Criterion 56. The staff also had numerous discussions with the licensee relative to the penetration design requirements of Criteria 55 and 57 concluded that the approval of alternate design should be applicable to Criterion 55 and an exemption should be issued to Criterion 57 (see Exemption to 10 CFR 50, Appendix A, Criterion 57 issued concurrently herewith. In their letter, the licensee also requested an exemption from the seismic design requirements of Criteria 2, 50, and 51. That request is discussed in an Exemption to 10 CFR Part 50, Appendix A, Criteria 2, 50 and 51 also issued concurrently herewith.

Following the TMI accident, thousands of curies of fission gases and radioactive particulates were released from the fuel to the containment atmosphere. Because of the unique condition of the TMI–2 core and the amount of contamination resulting from the accident, the NRC imposed the requirement to maintain containment integrity to ensure that radionuclides inside the containment would not be released to the environment.

In October 1979, the first of several containment penetrations was modified to probe the containment interior to evaluate the extent of damage and to gather data to begin the cleanup. The penetrations were modified in accordance with NRC approved procedures. The TMI–2 Proposed Technical Specifications also required that penetrations and operations that could affect containment integrity could be modified only by NRC approved procedures.

Since the 1979 accident, fission gases that were released to containment have either decayed or have been purged from the containment. Decontamination activities have also reduced airborne particulate contamination to below maximum permissible concentrations listed in 10 CFR 20, Appendix B, Table 1.

In an evaluation associated with a Modification of Order dated April 9, 1982, the staff concluded that the maximum credible containment building pressure was approximately 2 psig. Calculated offsite doses resulting from a failed penetration in conjunction with a 2 psig driving head and the associated reactor building airborne contamination were well below the limits of 10 CFR Part 20 and within the scope of impacts assessed in the "Final Programmatic Environmental Impact Statement" dated March 1981.

### Discussion and Evaluation

Criterion 56 provides guidelines for isolation valve configurations for piping that penetrates containment. Criterion 55 provides guidelines for a reactor coolant pressure boundary that penetrates containment. These guidelines also state that the licensee can propose other containment isolation provisions that may be acceptable on another defined basis. Paragraphs (1) through (4) of Criteria 55 and 56 describe configurations that are preferred by the staff for a normal nuclear plant. They are as follows: (1) One locked closed isolation valve inside and one locked closed isolation valve outside containment; or (2) one automatic isolation valve inside and one locked closed isolation valve outside containment; or (3) one locked closed isolation valve inside and one automatic isolation valve outside containment (a simple check valve may not be used as the automatic isolation valve outside containment); or (4) one automatic isolation valve inside and one automatic isolation valve outside containment (a simple check valve may not be used as the automatic isolation valve outside containment). Criteria 55 and 56 were written for operating plant conditions and are generally applicable whenever the plant is operating, in startup, hot standby, or during core alteration. Presently, the conditions at Unit 2 most closely resemble the standard criteria for cold shutdown ($K_{eff} < 0.99$, $T_{avg} < 200°F$). During the normal cold shutdown mode for typical plants, containment integrity is normally not required and Criteria 55 and 56 are not normally applicable.

As previously stated, the staff correlated the shutdown condition of TMI–2 to that of a normal reactor in "cold shutdown." The staff also approved on this basis various penetration designs on the premise that if the plant were to enter a mode that when compared to a normal plant would require containment isolation, either an alternate design or an exemption to Criteria 55 and 56 would have to be approved by the NRC.

The licensee proposed several alternate penetration designs to the NRC staff to support specific recovery operations. The isolation feature common to all of the alternate designs includes two isolation valves outside of containment.

In most cases, isolation valves are manual. Manual valves were found acceptable for isolation since all conceivable accident scenarios still permit access to the isolation valves. Isolation valves in containment as stated in Criteria 55 and 56 have not been required because of difficulties (e.g., high dose rate areas) associated with accessibility for repairs or testing. It is the staff's opinion that the benign status of the reactor did not warrant the increased worker dose which would be incurred during the installation and testing of interior isolation valves. Therefore penetration modifications containing two manual valves outside containment will be acceptable in satisfying Criteria 55 and 56 for all future recovery operations.

### Envionmental Considerations

We have determined that the alternate design approvals do not authorize a change in effluent types or total amounts nor an increase in power level and will not otherwise result in any significant environmental impact. Having made this determination, and, as reflected in the Environmental Assessment and Notice of Finding of No Significant Environmental Impact prepared pursuant to 10 CFR 51.21 and 51.30 through 51.32, issued concurrently herewith, we have further concluded that the change involves an action which is insignificant from the standpoint of environmental impact and that an environmental impact statement need not be prepared in connection with the issuance of this action.

### Conclusion

The staff has therefore concluded that the licensee's proposed penetration configuration is acceptable when considering the present condition and anticipated recovery activities at TMI–2.

We have also concluded, based on the considerations discussed above, that:

(1) There is reasonable assurance that the health and safety of the public will

not be endangered by operation in the proposed manner, and

(2) Such activities will be conducted in compliance with the Comission's regulations and the implementation of this change will not be inimical to the common defense and security or to the health and safety of the public.

For further details with respect to this action, see the licensee's exemption request dated April 24, 1984. This item is available for public inspection at the Commission's Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Government Publications Section, State Library of Pennsylvania 17126. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Program Director, TMI Program Office, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland this 17th day of July 1984.

For the Nuclear Regulatory Commission.

**Bernard J. Snyder,**

*Program Director, Three Mile Island Program Office, Office of Nuclear Reactor Regulation.*

[FR Doc. 84-20054 Filed 7-27-84; 8:45 am]
BILLING CODE 7590-01-M

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## Three Mile Island Program Office; Issuance of an Exemption to 10 CFR Part 50, Appendix A, Criteria 2, 50, and 51

GPU Nuclear Corporation, Metropolitan Edison Company, Jersey Central Power and Light Company and Pennsylvania Electric Company (collectively, the licensee) are the holders of Facility Operating License No. DPR–73, which had authorized operation of the Three Mile Island Nuclear Station, Unit 2 (TMI–2) at power levels up to 2772 megawatts thermal. The facility, which is located in Londonderry Township, Dauphin County, Pennsylvania, is a pressurized water reactor previously used for the commercial generation of electricity.

By Order for Modification of License, dated July 20, 1979, the licensee's authority to operate the facility was suspended and the licensee's authority was limited to maintenance of the facility in the present shutdown cooling mode (44 FR 45271). By further Order of the Director, Office of Nuclear Reactor Regulation, dated February 11, 1980, a new set of formal license requirements was imposed to reflect the post-accident condition of the facility and to assure the continued maintenance of the current safe, stable, long-term cooling condition of the facility (45 FR 11292). The operating license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

By letter dated April 24, 1984, the licensee requested exemptions from 10 CFR Part 50, Appendix A, Criteria 2, 50, 51, and 56 regarding the design of containment penetrations after the removal of the reactor vessel head. Criterion 2 deals with design bases for protection against natural phenomena (i.e., earthquakes, tornados). Criterion 50 relates to designing to withstand pressure and temperature transients associated with loss of coolant accidents. Criterion 51 pertains to fractures of the containment boundary. Criterion 56 is concerned with containment isolation valves and is discussed in the NRC's Approval of Alternate Design issued concurrently herewith

With respect to Criterion 2 the staff has evaluated the petential offsite dose consequences of a containment isolation valve failure when challenged by natural phenomena. The failure of the penetration by itself does not present a potential hazard unless accompanied by a simultaneous event in the containment building which would cause the release of radioactive material. The staff has evaluated the potential offsit dose consequences of the failure of one or more penetrations coupled with a broad range of accidents in the containment building. Calculations were performed to estimate the offsite dose consequences of various accident scenarios involving breach of non-seismic containment penetrations. The scenarios were selected to be representative of the types and conditions which could occur at TMI–2 during defueling activities. The scenarios were chosen to be at the severe end of the spectrum, i.e., minor reactor building fires or small cracks in the penetrations were not considered. A representative source term for the offsite dose calculations was developed by the TMIPO and the dose consequences were evaluated by the staff's Radiological Assessment Branch.

With regard to Criterion 50, mechanisms and conditions which could produce temperature and pressure transients during a loss of coolant accident are essentially absent and will remain so during defueling. This is due to the fact that the reactor coolant system will be at atmospheric pressure and temperatures less than 110 °F during defueling vs. design temperatures in excess of 600 °F and design pressures in excess of 2300 psig for an operating reactor. The staff also has evaluated other potential temperature and pressure producing mechanisms in coincidence with containment penetration failure. These include fires, failure of systems containing pressurized gases (i.e., nitrogen, air), and natural phenomena which cause pressure transients (i.e., tornadoes, hurricanes, storm fronts).

Potential penetration failures associated with the brittle fracture requirements of Criterion 51 are enveloped by the evaluations performed for Criterion 2 and Criterion 50. The analyses performed for Criterion 2 and Criterion 50 included instantaneous total penetration failure in coincidence with various accident scenarios inside the reactor building. Brittle fracture phenomena does not exceed instantaneous total penetration failure

The staff has evaluated the potential offsite dose consequences for all of the above worst case scenarios. The results of these scenarios show that the worst case offsite dose projections at the exclusion area boundary are within the exposure guidelines of 10 CFR Part 20.

The effects of a penetration failure and simultaneous seismic event have been analyzed by the staff as stated in the above discussions. The result of these occurrences have been shown to be within 10 CFR Part 20 guidelines. Therefore the staff concludes that there is no undue risk to the health and safety of the public resulting from a seismic induced penetration failure, and it is the staff's opinion that the licensee's exemption request is justified.

The staff has determined that the post-accident status of the TMI–2 facility presents exceptional circumstances relative to the applicability of the Commission's regulations. Because of the suspension of the licensee's authority to operate the facility in other than the present recovery mode as defined in the proposed technical specifications, certain of the regulations, which are intended to apply to normal operating plants, are simply inappropriate and, more significantly, are unnecessary to protect the public health and safety. Indeed, given the unique status of the plant in terms of primary system temperature and pressure, available fission product inventory, the ability to cool the reactor without forced circulation (loss-to-ambient), and the low decay heat rate, maintenance of the facility with the exemptions granted and the alternate design approved hereby will provide an equivalent level of safety. Furthermore, because of the condition of the plant and the need to proceed with cleanup activities, literal compliance with the regulations from which relief is sought would present an unwarranted impediment.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, an exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. The Commission hereby grants an exemption to the requirements of 10 CFR Part 50, Appendix A, Criterion 2, 50, and 51.

It is further determined that the exemption does not authorize a change in effluent types or total amounts nor an increase in power level and will not result in any significant environmental impact. In light of this determination and as reflected in the Environmental Assessment and Notice of Finding of No Significant Environmental Impact prepared pursuant to 10 CFR 51.21 and 51.30 through 51.32, issued concurrently herewith, it was concluded that the instant action is insignificant from the standpoint of environmental impact and an environmental impact statment need not be prepared.

For further details with respect to this action, see the licensee's exemption request dated April 24, 1984. This item is available for public inspection at the Commission's Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the Government Publications Section, State Library of Pennsylvania 17128. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Program Director, TMI Program Office, Office of Nuclear Reactor Regulation.

Dated at Bethesda, Maryland, this 17th day of July, 1984.

For the Nuclear Regulatory Commission.

**Bernard J. Snyder,**

*Program Director, Three Mile Island Program Office, Office of Nuclear Reactor Regulation.*

[FR Doc. 84-20052 Filed 7-27-84; 8:45 am]

BILLING CODE 7590-01-M

## Advisory Committee on Reactor Safeguards, Joint Subcomittees on Waste Management and Reactor Radiological Effects; Meeting

The ACRS Subcommittees on Waste Management and Reactor Radiological Effects will hold a joint meeting on August 7 and 8, 1984, in Room 1046, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

*Tuesday, August 7, 1984—8:30 a.m. until the conclusion of business*

*Wednesday, August 8, 1984—8:30 a.m. until the conclusion of business*

The Subcommittees will continue the discussion with representatives of the Department of Energy (DOE) on DOE's draft Mission Plan for the civilian radioactive waste management program. Other related topics will also be reviewed.

Oral statements may be presented by members of the public with concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings wil be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as practicable so that appropriate arrangement can be made.

During the initial portion of the meeting, the Subcommittees, along with any of its consultants who may be present, will exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittees will then hear presentations by and hold discussions with representatives of the DOE and NRC Staffs, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Ms. R.C. Tang (telephone 202/634-1414) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: July 25, 1984.

**Thomas G. McCreless,**

*Assistant Executive Director for Technical Activities.*

[FR Doc. 84-20049 Filed 7-27-84; 8:45 am]

BILLING CODE 7590-01-M

## Advisory Committee on Reactor Safeguards; Revised Notice of Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the Advisory Committee on Reactor Safeguards will hold a meeting on August 9–11, 1984, in Room 1046, 1717 H Street, NW., Washington, DC. Notice of this meeting was published in the **Federal Register** on July 25, 1984.

The agenda for the subject meeting has been revised to include a session, as noted below, on the selection of certain generic issues as new unresolved safety issues. This topic was identified as an item to be considered during the 292nd meeting in the meeting notice previously published on June 27, 1984, but was not specifically noted in the detailed schedule for the 292nd meeting published on July 25, 1984. This revision is published to correct that omission.

**Thursday, August 9, 1984**

The schedule for this day is the same as previously noticed on July 25, 1984.

**Friday, August 10, 1984**

Add the following session:

*2:30 p.m.—4:00 P.M.: Unresolved Safety Issues* (Open)—The members will hear and discuss presentations from its Subcommittee Chairman and representatives of the NRC Staff regarding the review of high-priority generic issues and their selection as unresolved safety issues. The selection of Generic Issue–23, Reactor Coolant Pump Seal Failures, will be discussed specifically.

With the addition on the above session, the session on ACRS Reports will be held from 4:00 p.m.–6:00 p.m.

**Saturday, August 11, 1984**

The schedule for this day is the same as previously noticed on July 25, 1984.

Dated: July 25, 1984.

**John C. Hoyle,**

*Advisory Commitee Management Officer.*

[FR Doc. 84-20048 Filed 7-27-84; 8:45 am]

BILLING CODE 7590-01-M

## OFFICE OF PERSONNEL MANAGEMENT

### Proposed Extension of Form for OMB Review

**AGENCY:** U.S. Office of Personnel Management.

**ACTION:** Notice of proposed extension of form submitted to OMB for clearance.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1980, this notice announces a proposed extension of a form that collects information from the public. The Ethics in Government Act of 1978 (Pub. L. 95–521, as amended) requires that a financial disclosure report be filed by candidates for nomination or election to the Office of the President or Vice President and Presidential nominees requiring the advice and consent of the Senate. The Standard Form 278, Financial Disclosure Report, solicits the information required by law. For copies of this proposal, call John P. Weld, Agency Clearance Officer, on (202) 632–7720.

**DATES:** Comments on this proposal should be received within 10 working days from the date of publication.

**ADDRESSES:** Send or deliver comments to:

John P. Weld, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street, NW., Room 6410, Washington, D.C. 20415; and

Katie Lewin, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503

**FOR FURTHER INFORMATION CONTACT:** John P. Weld, (202) 632–7720.

Office of Personnel Management.

**Donald J. Devine,**

*Director.*

[FR Doc. 84–20062 Filed 7–27–84; 8:45 am]

BILLING CODE 6325–01–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 23373; 70–6860 and 70–6698]**

### AEP Generating Co.; Supplemental Notice of Proposed Modifications of Prior Orders Relating To Revolving Credit Agreement and Term Loan Agreement

July 23, 1984.

AEP Generating Company ("AEGCo"), 1 Riverside Plaza, Columbus, Ohio 43215, a wholly owned generating subsidiary of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed a post-effective amendment to the application-declaration in this proceeding pursuant to sections 6(a), 7, 9, 10, and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 thereunder.

By orders dated June 13, 1983 (HCAR No. 22973), September 19, 1983 (HCAR No. 23063), December 30, 1983 (HCAR No. 23192), and April 10, 1984 (HCAR No. 23279), the Commission has authorized AEGCo to borrow up to $300 million from one or more commercial banks at any time through December 31, 1985, pursuant to one or more long-term, fixed-rate loan agreements ("Term Loan Agreements"), and to enter into one or more interest rate swap agreements at any time through December 31, 1985, with respect to up to $300 million principal amount of unsecured notes issued or to be issued to a group of commercial banks by AEGCo pursuant to a revolving credit agreement, dated as of March 31, 1982, as amended, among AEGCo and the banks (Revolving Credit Agreement). Under the Revolving Credit Agreement, AEGCo may borrow up to $450 million at any one time outstanding through December 31, 1989. The April 10, 1984 order specifies that aggregate borrowings pursuant to the Term Loan Agreement and the Revolving Credit Agreement (with or without any related interest rate swap) may not exceed $650 million, and that AEGCo reduce the aggregate commitments of the banks under the Revolving Credit Agreement by the amount of any borrowings under the Term Loan Agreement maturing after June 30, 1989.

The June 13, 1983 order specifies, among other things, that AEGCo may issue notes under the Term Loan Agreement maturing not less than two nor more than ten years after the date thereof and that such note or notes shall bear interest at a fixed rate per annum not greater than 200 basis points above the prime rate as of the date issued, and in no event greater than 14% per annum. Similarly, the Commission has authorized AEGCo to enter into one or more interest rate swap agreements with respect to notes issued or to be issued under the Revolving Credit Agreement, subject to a ceiling of 14% per annum on the fixed rate payment that AEGCo would be obligated to make under any such agreement.

It is AEGCo's objective to "fix" up to $600 million of its external borrowing requirements through a combination of Term Loan borrowings and interest rate swap arrangements. As of May 22, 1984, AEGCo has borrowed $285 million pursuant to the Term Loan Agreement. AEGCo has relied exclusively on the Term Loan Agreement as the preferred vehicle for "fixing" its borrowing costs.

On July 3, and 5, 1984 notices were issued in this proceeding (HCAR Nos. 23358 and 23360). AEGCo proposed to increase borrowings under the Term Loan Agreement to up to $600 million, subject to all terms and conditions heretofore authorized by the Commission, provided that any combination of Term Loan borrowings and the reference amount of any "interest rate swap" shall not exceed $600 million. The proposal, if granted, will enable AEGCo to continue to rely upon the Term Loan Agreement to satisfy some or all of its fixed rate borrowing needs. In addition, AEGCo requested that the Commission modify its June 13, 1983 order to permit AEGCo to issue notes under the Term Loan Agreement bearing interest at a rate which is subject to a ceiling of 16%, rather than 14%, as currently authorized. AEGCo, by this post-effective amendment, now proposes that the Commission modify the April 10, 1984 order to permit AEGCo to issue notes under the Term Loan Agreement maturing after June 30, 1989 without being required to reduce the aggregate commitments of the bank under the Revolving Credit Agreement by the amount of any such borrowings. This modification would not increase the overall limitation of $650 million for aggregate borrowings pursuant to the Term Loan Agreement and the Revolving Credit Agreement.

The amended application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by August 16, 1984, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be further amended, may be granted and permitted to become effective.

For the Commission, by the Office of Public Utility Regulation, pursuant to delegated authority.

**George A. Fitzsimmons,**

*Secretary.*

[FR Doc. 84–19994 Filed 7–27–84; 8:45 am]

BILLING CODE 8010–01–M

**[Release No. 14043; 812–5899]**

### Bankamerica Corp.; Filing of Application

July 23, 1984.

Notice is hereby given that BankAmerica Corporation ("BAC"), Bank of America Center, 555 California Street, San Francisco, California 94104, filed an application on June 26, 1984 pursuant to section 9(c) of the Investment Company Act of 1940 (the "Act") for an order permanently exempting BAC and its affiliated persons from the provisions of section 9(a) of the Act in respect of the facts and circumstances described below and for an order of temporary exemption from Section 9(a) pending the determination of the Commission on its application for permanent exemption. All interested persons are referred to the application on file with the Commission for a

statement of the representations made therein, which are summarized below.

BAC, a Delaware corporation, is a bank holding company registered under the Bank Holding Company Act of 1956. The capital stock of Bank of America National Trust and Savings Association, a national banking association (the "Bank"), is the principal asset and source of net income of BAC.

The Bank operates a full-service commercial banking and trust business that serves individuals, businesses and governmental entities in California, throughout the United States and overseas. It receives deposits, makes loans, acts as a primary dealer in U.S. government and agency securities, deals in and underwrites municipal securities, and performs a wide variety of personal, corporate and pension trust and custodial services.

BAC also owns all of the capital stock of Seafirst Corporation, a registered bank holding company, whose principal asset is the capital stock of Seattle-First National Bank, a national banking association headquartered in the State of Washington.

BAC has nonbank subsidiaries engaged in securities and financial futures brokerage; consumer finance; commercial lending; mortgage banking; computer equipment leasing and data processing; marketing and distribution services for travelers checks issued by BAC; credit-related life and disability insurance; investment advisory services; securities processing, paying, clearing and transfer agency services; and venture capital advisory services.

BA Investment Management Corporation, a BAC nonbank subsidiary, is a registered investment adviser under the Investment Advisers Act of 1940 ("BAIMCO"). BAIMCO's investment advisory clients generally consist of pension and profit sharing plans, investment companies, corporations and other institutional investors. One of BAIMCO's investment advisory clients is Montgomery Street Income Securities, Inc., a registered closed-end investment company under the Act ("Montgomery Street"). BAIMCO is currently considering additional investment advisory relationships with other registered investment companies.

The Commission has filed an enforcement action pursuant to section 21(e) of the Securities Exchange Act of 1934 (the "Exchange Act") in the United States District Court for the District of Columbia. *Securities and Exchange Commission* v. *Bank of America National Trust and Savings Association, Trustee* (No. ——). The Commission sought an order directing the Bank, as trustee for any trust holding more than 10 per centum of any class of equity security (other than an exempted security) which is registered pursuant to section 12 of the Exchange Act, to file timely reports required by section 16(a) of the Exchange Act and the regulations thereunder with respect to changes in beneficial ownership of securities held by the Bank as trustee.

Simultaneous with the commencement of the action, the Bank, without admitting or denying the allegations of the complaint, consented to the entry of a final order terminating the action against it with prejudice (the "Final Order"). The Final Order directs the Bank, as trustee for any trust holding more than 10 per centum of any class of equity security (other than an exempted security) which is registered pursuant to Section 12 of the Exchange Act, to file timely beneficial ownership reports as required by section 16(a) of the Exchange Act and the regulations thereunder.

Sections 9(a) (2) and (3) of the Act make it unlawful for: (i) Any person who, by reason of any misconduct, has been permanently or temporarily enjoined from engaging in or continuing any act or practice in connection with the purchase or sale of any security (an "enjoined person") and (ii) any company, any "affiliated person" of which is an enjoined person, to serve as investment adviser or depositor of any registered investment company, or principal underwriter for any registered open-end company, registered unit investment trust or registered face-amount certificate company (such investment advisory, depository and underwriting activities are hereinafter referred to as the "Securities Related Activities").

Applicant does not concede that the Final Order would disqualify the Bank or BAC or its subsidiaries (including indirect subsidiaries that are subsidiaries of the Bank) under section 9(a) of the Act but has filed this application to clarify their status. Section 9(c) of the Act provides that, upon application, the Commission shall grant an exemption from the provisions of section 9(a) either unconditionally or upon an appropriate temporary or other conditional basis, if it is established that the prohibitions of section 9(a) as applied to the applicant are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

BAC submits that this is an appropriate case for an exemption under section 9(c). In support thereof, BAC submits that the violations of section 16(a) of the Exchange Act alleged in the enforcement proceeding do not indicate that the Bank, or BAC and its other affiliated persons, should be disqualified from acting as an investment adviser, in that among other things, these violations are "strict liability" offenses, and the Commission has not alleged that the Bank engaged in any intentional violation of the securities laws. BAC contends disqualification from advising an investment company would be grossly disproportionate to any wrongdoing.

BAC also submits that the Commission's enforcement action against the Bank did not involve BAC or any of its other direct or indirect subsidiaries, in that neither BAC nor any of its direct or indirect subsidiaries other than the Bank had any involvement with or responsibility for filing the beneficial ownership reports involved in the Commission's enforcement proceeding.

BAC notes BAIMCO is currently investment adviser to Montgomery Street, a registered closed-end investment company, and is considering investment advisory relationships with other registered investment companies. BAC contends that disqualifying BAIMCO from continuing to serve as investment adviser to Montgomery Street or from entering into advisory relationships with other registered investment companies, based solely upon entry of the Final Order, would be particularly disproportionate to any failure on the part of the Bank to comply with section 16(a) of the Exchange Act, and that such a disqualification would not serve the interests of investors. BAC submits that do disqualify BAIMCO because of actions in which it states it did not participate would unnecessarily deprive the shareholders of Montgomery Street of a long-standing and mutually satisfactory advisory relationship with BAIMCO. In addition, BAC notes disabling BAIMCO from serving as adviser to other registered investment companies might deny the managements of those investment companies the opportunity to select the adviser they view as the most suitable.

BAC contends the entry of the Final Order should also not be the sole basis for disqualifying the Bank from engaging in the Securities Related Activities. BAC contends not only was any violation of section 16(a) of the Exchange Act not intentional, but the Bank did not profit from, and no investor was injured by, the conduct underlying the

Commission's enforcement action. The Bank represents that it has implemented stringent and substantial procedures designed to assure timely compliance with its beneficial ownership reporting obligations under section 16(a) of the Exchange Act.

The Commission has considered the matter and finds that the prohibitions of section 9(a) of the Act are unduly or disproportionately severe as applied to BAC and its affiliated persons based solely upon the entry of the Final Order against the Bank.

BAC understands that the granting of this Application would not preclude the Commission from commencing a proceeding under section 9(b) of the Act on the basis of conduct other than that giving rise to this Application, nor would it preclude the Commission, in any such proceeding, from taking such conduct into consideration.

Accordingly, it is ordered, pursuant to section 9(c) of the Act, that BAC and its affiliated persons are temporarily exempted from the provisions of section 9(a) of the Act that may be operative as a result of entry of the Final Order entered against the Bank in *Securities and Exchange Commission* v. *Bank of America National Trust and Savings Association, Trustee* pending final determination by the Commission of BAC's application for an order permanently exempting it and its affiliated persons from the provisions of section 9(a) that may be operative as a result of the entry of such Final Order.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 23, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon BAC at the address stated above. Proof of service by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

By the Commission.

George A. Fitzsimmons,

*Secretary.*

[FR Doc. 84-19695 Filed 7-27-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 14042; 812-5866]

## Merrill Lynch Retirement Benefit Fund, Inc.; Application

July 23, 1984.

Notice is hereby given that Merrill Lynch Retirement Benefit Fund, Inc. ("Applicant"), 633 Third Avenue, New York, New York 10017, registered under the Investment Company Act of 1940 (the "Act") as an open-end, diversified management investment company, filed an application on June 1, 1984, requesting an order of the Commission, pursuant to section 6(c) of the Act, exempting Applicant from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and Rule 22c-1 thereunder to the extent necessary to permit Applicant to assess a contingent deferred sales charge on certain redemptions of its shares, and to permit Applicant to waive the contingent deferred sales charge in certain cases. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the provisions cited in the application.

Applicant states that traditional mutual fund sales loads are deducted at the time of purchase. The Applicant proposes, in lieu of such a front end charge, to impose a contingent deferred sales charge on certain redemptions of its shares. The proceeds from the contingent deferred sales charge will be paid to Merrill Lynch Asset Management, Inc. (the "Distributor"), Applicant's principal underwriter. The Distributor will use the proceeds from the contingent deferred sales charge to defray the expenses of dealers (including Merrill Lynch, Pierce, Fenner & Smith, Inc.) in connection with distribution-related services provided to Applicants such as the payment of sales commissions to account executives on the sale of shares of the Fund.

As described below, payments by the Applicant to the Distributor under a Plan of Distribution (the "Plan") proposed to be adopted by Applicant, pursuant to Rule 12b-1 under the Act, would also be used in whole or in part by the Distributor for the above-stated purpose. According to the application, the combination of the contingent deferred sales charge and the Plan facilitates Applicant's ability to sell its shares without a sales load being deducted at the time of purchase, thereby enabling investors to have the benefit of greater investment dollars working for them from the time of purchase. Applicant's distribution fee is calculated on the basis of 1.00% per annum of Applicant's average daily net assets.

The contingent deferred sales charge will be a percentage of the current market value of the shares being redeemed or the original cost of those shares, whichever is less. Where a contingent deferred sales charge is imposed, the amount of the charge will depend on the number of years since the purchase payment comprising the source of the redemption was made, according to the following table:

| Year since purchase payment made and contingent deferred sales charge as a percentage of amount redeemed | |
|---|---|
| First | 4.0 |
| Second | 3.0 |
| Third | 2.0 |
| Fourth | 1.0 |
| Fifth and thereafter | None |

Applicant represents that the contingent deferred sales charge will not be imposed on redemptions of shares that were purchased more than four years prior to the redemption or on shares derived from reinvestment of distributions. Furthermore, no contingent deferred sales charge will be imposed on an amount which represents appreciation in the value of the particular shares being redeemed above the amount paid for such shares. Applicant states that, in determining whether a contingent deferred sales charge is applicable, it will be assumed that a redemption is made, first, of shares purchased more than four years prior to the redemption, second, of shares derived from reinvestment of distributions and, third, of shares purchased during the preceding four years.

Applicant proposes to waive the contingent deferred sales charge when a total or partial redemption is made in connection with certain distributions from Individual Retirement Accounts ("IRA's") or other qualified retirement plans. More specifically, the charge is waived for any redemption in connection with a lump-sum or other distribution following retirement or, in the case of an IRA or a custodial account pursuant to section 403(b)(7) of the Internal Revenue Code (the "Code"), after the shareholder has attained age 59½. The charge is also waived on any redemption that results from the tax-free return of an excess contribution pursuant to sections 408(d) (4) or (5) of the Code, or from the death or disability of the employees. In sum, the contingent deferred sales charge will be waived on

redemptions constituting retirement plan distributions that are permitted to be made without penalty pursuant to the Code, other than tax-free rollovers or transfers of assets.

Applicant asserts that imposition of the contingent deferred sales charge is fair and in the best interests of its shareholders. Applicant submits that its proposal permits shareholders to have the advantage of greater investment dollars working for them from the time of their purchase of Applicant's shares. Furthermore, Applicant states that it is fair to shareholders because the contingent deferred sale charge applies only to amounts representing purchase payments and does not apply to amounts representing capital appreciation of the particular shares being redeemed or to amounts representing the current value of shares derived from reinvestment of distributions.

Applicant submits that the imposition of the contingent deferred sales charge in the manner described above would not cause its shares to fall outside the definition of "redeemable securit[ies]" in section 2(a)(32) of the Act. Applicant states that the imposition of the contingent deferred sales charge in no way restricts a shareholder from receiving a proportionate share of the current net assets of Applicant, but merely defers the deduction of a sales charge and makes it contingent upon an event which may not occur. Accordingly, Applicant requests an exemption from section 2(a)(32) of the Act to the extent necessary to permit implementation of the proposed contingent deferred sales charge.

Applicant submits that the proposed contingent deferred sales charge is consistent with the intent of the definition of "sales load" contained in section 2(a)(35) of the Act. Applicant contends that the deferral of the sales charge, and its contingency upon the occurrence of an event which might not occur, does not change the basic nature of this charge, which is in every other respect a sales charge. Accordingly, Applicant requests an exemption from the provisions of section 2(a)(35) to the extent necessary to implement the proposed charge.

Applicant states that when a redemption of its shares is effected, the price of the shares on redemption will be based on current net asset value. The contingent deferred sales charge will merely be deducted at the time of redemption in arriving at the shareholder's proportionate redemption proceeds. Accordingly, Applicant requests an exemption from the provisions of section 22(c) of the Act and Rule 22c-1 thereunder to the extent necessary to permit implementation of the proposed contingent deferred sales charge.

According to Applicant, an exemption from the provisions of section 22(d) of the Act is required to permit waiver of the contingent deferred sales charge under the circumstances described above. Applicant asserts that it is in the public interest and in the interest of shareholders for the contingent deferred sales charge to be waived on certain types of redemptions. In each situation in which the charge would be waived, the redeeming shareholder is a member of a class of shareholders that is favored under the tax laws or the securities laws. Applicant asserts that the waiver of the contingent deferred sales charge on certain distributions from a qualified retirement plan is consistent with the policies reflected in (1) the Code provisions granting favored tax treatment to accumulations under such plans and imposing additional taxes on early distributions from IRA's and other plans, and (2) Rules 22-1(a)(3) and 22d-1(b)(3) under the Act which permit quantity discounts to plans qualified under Code Section 401, and Rule 22d-1(f) under the Act which permits variations in the sales load for qualified plans (which unlike non-qualified employee benefit plans need not be based on realization of economies of scale).

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 17, 1984, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

**George A. Fitzsimmons,**

*Secretary.*

[FR Doc. 84-19993 Filed 7-27-84; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 14044; 812-5900]

## Benjamin N. Woodson; Filing of Application

July 23, 1984.

Notice is hereby given that Benjamin N. Woodson, hereinafter referred to as Applicant, 2727 Allen Parkway, Houston, TX 77019, has filed an application pursuant to the provisions of section 9(c) of the Investment Company Act of 1940, 15 U.S.C. 80a-1 *et seq.*, as amended (the "Act"), for an order granting an exemption from the provisions of section 9(a) of the Act in respect of the facts and circumstances described below and a temporary exemption from section 9(a) pending the Commission's determination of the application for a permanent exemption.

All interested persons may review the application on file with the Commission for a statement of the representations therein, pertinent parts of which are summarized below.

Applicant served as a director of American General Corporation until April 1984 when, because he became age 76, he resigned pursuant to the corporation's mandatory retirement rule for directors. Applicant also serves as a director of American Capital Bond Fund, Inc. and American Capital Convertible Securities, Inc. (the "Funds"). Each of the Funds is an investment company registered under the Act. On July 23, 1984, Applicant was named as a defendant in Civil Action No. 84-2259, brought by the Commission in the United States District Court for the District of Columbia. The Commission's complaint alleged that Applicant failed to comply with section 16(a) of the Securities Exchange Act of 1934 and Rule 16a-1 and Form 4 promulgated thereunder. Without admitting or denying any allegations in the complaint, Applicant, on the same date the complaint was filed, consented to the entry of a final order (the "Order") by the court. The Order directs Applicant to comply with the provisions cited above by timely filing Form 4 Statements of Changes of Beneficial Ownership.

Section 9(a) of the Act, insofar as is pertinent here, disqualifies any person, or any company with which such person is affiliated, from acting in the capacity of employee, officer, director, member of any advisory board, investment adviser, or depositor for any registered investment company, or principal underwriter for any registered open-end

company, registered unit investment trust, or registered face-amount certificate company if such person is by reason of any misconduct enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security. Applicant does not concede that the Order would disqualify him under section 9(a) of the Act but he has filed this application to clarify his status under the Act.

Section 9(c) of the Act provides that upon application the Commission shall grant an exemption from the provisions of section 9(a), either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of section 9(a), as applied to the applicant, are duly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

Applicant submits that the prohibitions of section 9(a) of the Act to the extent applicable by virtue of the entry of the Order would be unduly and disproportionately severe as applied to him and his conduct has not been such as to make it against the public interest or protection of investors to grant the requested exemption. In support thereof Applicant represents that:

(1) The prohibitions of section 9(a) to the extent applicable to Applicant would deprive the Funds of the services of Applicant as a director of the Funds;

(2) The allegations of the complaint and the facts and circumstances to which it and the Order relate in no way involve any activities of the Funds or Applicant's activities on behalf of the Funds;

(3) Prior to entry of the Order referred to above, no findings or judgment relating to Federal or state securities laws had ever been entered by any court against Applicant;

(4) The prohibitions of section 9(a) to the extent applicable to Applicant would unfairly deprive Applicant of his ability to serve as a director of the Funds, and of any other registered investment company; and

(5) Applicant has never before applied for an exemption from the provisions of section 9(a) of the Act.

Applicant understands that the granting of this application would not preclude the Commission from commencing a proceeding under section 9(b) of the Act on the basis of conduct other than that giving rise to this application, nor would it preclude the Commission, in any such proceeding, from taking the conduct giving rise to this application into consideration.

The Commission, having considered the matter, Applicant's application for an exemption from the prohibitions of section 9(a) of the Act and the terms of Applicant's consent and the relief granted by the court in the civil action described above, finds that the prohibitions of section 9(a) of the Act may be unduly or disproportionately severe as applied to Applicant.

Accordingly, it is hereby ordered that, pursuant to section 9(c) of the Act, Applicant be and hereby is granted a temporary exemption from the prohibitions of section 9(a) of the Act operative as a result of the entry of the Order referred to above pending final determination by the Commission of Applicant's application for an order exempting him from the provisions of section 9(a) operative as a result of the entry of such Order.

Notice is further given that any interested person may, not later than August 23, 1984, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his or her interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he or she may request that he or she be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail on John A. Dudley, Esquire, Sullivan & Worcester, 1025 Connecticut Avenue, NW., Washington, D.C. 20036. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided in Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

**George A. Fitzsimmons,**

*Secretary.*

[FR Doc. 84–19992 Filed 7–27–84; 8:45 am]

BILLING CODE 8010–01–M

## Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

July 20, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Anacomp, Inc.
Common Stock, $1 Par Value (File No. 7–7694)

Alexander & Alexander Services, Inc.
Common Stock, $1 Par Value (File No. 7–7695)

Analog Devices, Inc.
Common Stock, 16⅔¢ Par Value (File No. 7–7696)

Advest Group, Inc.
Common Stock, $1 Par Value (File No. 7–7697)

A.G. Edwards & Sons, Inc.
Common Stock, $1 Par Value (File No. 7–7698)

Amfac, Inc.
Common Stock, No Par Value (File No. 7–7699)

Anthony Industries, Inc.
Common Stock, $1 Par Value (File No. 7–7700)

Anixter Brothers, Inc.
Common Stock, $1 Par Value (File No. 7–7701)

American Plan Corp.
Common Stock, $1 Par Value (File No. 7–7702)

Arlen Realty & Development Corp.
Common Stock, $1 Par Value (File No. 7–7703)

American Sterilizer Co.
Common Stock, 83⅓¢ Par Value (File No. 7–7704)

AZL Resources
Common Stock, No Par Value (File No. 7–7705)

Artra Group, Inc.
Common Stock, No Par Value (File No. 7–7706)

Black Hills Power & Light Co.
Common Stock, $1 Par Value (File No. 7–7707)

BSN Corp.
Common Stock, $.01 Par Value (File No. 7–7708)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 9, 1984 written data, views and arguments concerning the above-referenced

applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**Shirley E. Hollis,**

*Assistant Secretary.*

[FR Doc. 84-19991 Filed 7-27-84; 8:45 am]

BILLING CODE 8010-01-M

## Pacific Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

July 23, 1984.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Federal Express Corporation
Common Stock, $0.10 Par Value (File No. 7-7717)
Imperial Chemical Industries PLC
American Depository Receipts (File No. 7-7718)
Northeast Utilities
Common Stock, $0.10 Par Value (File No. 7-7719)
M/A-Com, Inc.
Common Stock, $1.00 Par Value (File No. 7-7720)
Toys "R" Us, Inc.
Common Stock, $0.10 Par Value (File No. 7-7721)
Bally Manufacturing Corporation
Common Stock, $0.66⅔ Par Value (File No. 7-7722)
Potomac Electric Power Co.
Common Stock, $10.00 Par Value (File No. 7-7723)
Gulf Canada, Ltd.
Common Stock, No Par Value (File No. 7-7724)
Dynalectron Corporation
Common Stock, $0.10 Par Value (File No. 7-7725)
Bowmar Instrument Corporation
Common Stock, $0.10 Par Value (File No. 7-7726)

These securities are listed and registered on one or more other national securities exchange and are reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 13, 1984, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

**George A. Fitzsimmons,**

*Secretary.*

[FR Doc. 84-19998 Filed 7-27-84; 8:45 am]

BILLING CODE 8010-01-M

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster Loan Area No. 2158; Amdt. No. 1]**

### Nebraska; Disaster Loan Area

The above numbered declaration (49 FR 28500) is amended in accordance with the amendment to the President's declaration of July 3, 1984, to include Washington County as a disaster area with Douglas County as an adjacent County in the State of Nebraska as a result of damage from tornadoes, severe storms, and flooding beginning on or about June 11, 1984. All other information remains the same, i.e., the termination date for filing applications for physical damage is the close of business on September 4, 1984, and for ecomomic injury until the close of business on April 3, 1985.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: July 17, 1984.

**Bernard Kulik,**

*Deputy Associate Administrator for Disaster Assistance.*

[FR Doc. 84-19939 Filed 7-27-84; 8:45 am]

BILLING CODE 8025-01-M

## Action Subject To Intergovernmental Review

**AGENCY:** Small Business Administration.

**ACTION:** Notice of Action Subject to Intergovernmental Review Under Executive Order 12372.

**SUMMARY:** This notice provides for public awareness of SBA's intention to fund for the first time two additional Small Business Development Centers (SBDC's) during fiscal year 1984. Currently, there are 32 SBDC's in existence. This notice also provides a description of the SBDC program by setting forth a condensed version of the program announcement which has been furnished to the proposal developers for each of the SBDC's expected to be funded. This publication is being made to provide State single points of contact, designated pursuant to Executive Order 12372, and other interested State and local entities, the opportunity to comment on the proposed funding in accord with the Executive Order and SBA's regulations found at 13 CFR Part 135.

**DATE:** Comments will be received for a period of 60 days from the date of publication of this notice.

**ADDRESS:** Comments should be addressed to Mrs. Johnnie L. Albertson, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

**FOR FURTHER INFORMATION CONTACT:** Same as above.

**SUPPLEMENTARY INFORMATION:** SBA is bound by the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." SBA has promulgated regulations spelling out its obligations under that Executive Order. See 13 CFR Part 135, effective September 30, 1983.

In accord with these regulations, specifically § 135.4, SBA is publishing this notice to provide public awareness of the pending application for funding of the proposed Small Business Development Centers (SBDC's). Also, published herewith is an annotated program announcement describing the SBDC program in detail.

The proposed SBDC's will be funded at the earliest practicable date following the 60-day comment period. However, no funding will occur unless all comments have been considered. Relevant information identifying these proposed SBDC's and providing the mailing address of the proposal developers is provided below. In addition to this publication, a copy of this notice is being simultaneously furnished to each affected State single point of contact which has been established under the Executive Order.

State single points of contact and other interested State and local entities are expected to advise the relevant proposal developer of their comments

regarding the proposed funding in writing as soon as possible. Copies of such written comments must also be furnished to Mrs. Johnnie L. Albertson, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416. Comments will be accepted by the relevant proposal developer and SBA for a period of two months (60 days) from the date of publication of this notice. The relevant proposal developer will make every effort to accommodate these comments during the 60-day period. If the comments cannot be accommodated by the relevant proposal developer, SBA will, prior to funding the proposed SBDC, either attain accommodation of any comments or furnish an explanation to the commenter of why accommodation cannot be attained prior to funding the proposed SBDC.

**Description of the SBDC Program**

The Small Business Develpment Center Program is a major management assistance delivery program of the U.S. Small Business Administration. SBDC's are authorized under section 21 of the Small Business Act (15 U.S.C. 648). SBDC's operate pursuant to the provisions of section 21, a Notice of Award (Cooperative Agreement) issued by SBA, and a Program Announcement. The Program represents a partnership between SBA and the State-endorsed organization receiving Federal assistance for its operation. SBDC's operate on the basis of a State plan which provides small business assistance throughout the State. As a condition to any financial award made to an applicant, an additional amount equal to the amount of assistance provided by SBA must be provided to the SBDC from sources other than the Federal Government.

**Purpose and Scope**

The SBDC Program has been designed to meet the specialized and complex management and technical assistance needs of the small business community. SBDC's focus on providing indepth quality assistance to small businesses in all areas which promote growth, expansion, innovation, increased productivity and management improvement. SBDC's act in an advocacy role to promote local small business interests. SBDC's concentrate on developing the unique resources of the university system, the private sector, and State and local governments to provide services to the small business community which are not available elsewhere. SBDC's coordinate with other SBA programs of management assistance and utilize the expertise of these affiliated resources to expand services and avoid duplicaiton of effort.

**Program Objectives**

The overall objective of the SBDC Program is to leverage Federal dollars and resources with those of the State academic community and private sector to:

(a) Strengthen the small business community;

(b) Contribute to the economic growth of the communities served;

(c) Make assistance available to more small businesses than is now possible with present Federal resources; and

(d) Create a broader based delivery system to the small business community.

**SBDC Program Organization**

SBDC's are organized to provide maximum services to the local small business community. The lead SBDC receives financial assistance from the SBA to operate a statewide SBDC Program. In states where more than one organization receives SBA financial assistance to operate an SBDC, each lead SBDC is responsible for Program operations throughout a specific regional area to be served by the SBDC. The lead SBDC is responsible for establishing a network of SBDC subcenters to offer service coverage to the small business community. The SBDC network is managed and directed by a single full-time Director. SBDC's must ensure that at least 80 percent of Federal funds provided are used to provide services to small businesses. To the extent possible, SBDC's provide services by enlisting volunteer and other low cost resources on a statewide basis.

**SBDC Services**

The specific types of services to be offered are developed in coordination with the SBA district office which has jurisdiction over a given SBDC. SBDC's emphasize the provision of indepth, high-quality assistance to small business owners or prospective small business owners in complex areas that require specialized expertise. These areas may include, but are not limited to: management, marketing, financing, accounting, strategic planning, regulation and taxation, capital formation, procurement assistance, human resource management, production, operations, economic and business data analysis, engineering, technology transfer, innovation and research, new product development, product analysis, plant layout and design, agribusiness, computer application, business law information, and referral (any legal services beyond basic legal information and referral require the endorsement of the State Bar Association,) exporting, office automation, site selection, or any other areas of assistance required to promote small business growth, expansion, and productivity within the State.

The degree to which SBDC resources are directed towards specific areas of assistance is determined by local community needs, SBA priorities and SBDC Program objectives and agreed upon by the SBA district office and the SBDC.

The SBDC must offer quality training to improve the skills and knowledge of existing and prospective small business owners. As a general guideline, SBDC's should emphasize the provision of training in specialized areas other than basic small business management subjects. SBDC's should also emphasize training designed to reach particular audiences such as members of SBA priority and special emphasis groups.

**SBDC Program Requirements**

The SBDC is responsible to the SBA for ensuring that all programmatic and financial requirements imposed upon them by statute or agreement are met. The SBDC must assure that quality assistance and training in management and technical areas is provided to the State small business community through the State SBDC network. As a condition of this agreement, the SBDC must perform but not be limited to the following activities.

(a) The SBDC ensures that services are provided as close as possible to small business population centers. This is accomplished through the establishment of SBDC subcenters.

(b) The SBDC ensures that lists of local and regional private consultants are maintained at the lead SBDC and each SBDC subcenter. The SBDC utilizes and provides compensation to qualified small business vendors such as private management consultants, private consulting engineers, and private testing laboratories.

(c) The SBDC is responsible for the development and expansion of resources within the State, particularly the development of new resources to assist small business that are not presently associated with the SBA district office.

(d) The SBDC ensures that working relationships and open communications exist within the financial and investment communities, and with legal associations, private consultants, as well as small business groups and associations to help address the needs of the small business community.

(e) The SBDC ensures that assistance is provided to SBA special emphasis groups throughout the SBDC network. This assistance shall be provided to veterans, women, exporters, the handicapped, and minorities as well as any other groups designated a priority by SBA. Services provided to special emphasis groups shall be performed as part of the Cooperative Agreement.

**Advance Understandings**

(a) Lead SBDC's shall operate on a 40-hour week basis, or during normal State business hours, with National holidays or State holidays as applicable excluded.

(b) SBDC subcenters shall be operated on a full-time basis. The lead SBDC shall ensure that staffing is adequate to meet the needs of the small business community.

(c) All counseling assistance offered through the Small Business Development Center network shall be provided at no cost to the client.

Dated: July 20, 1984.

James C. Sanders,

*Administrator.*

**Addresses of Proposed SBDC's and Proposal Developers**

Brian Bosworth, Commissioner, Department of Commerce, 1 North Capitol, Indianapolis, Indiana 42609, (317) 232–8917; and

Alfred S. Dietzel, Director, Department of Development, P.O. Box 1001, Columbus, Ohio 43216–1001, (614) 466–2480.

[FR Doc. 84-19960 Filed 7-27-84; 8:45 am]

BILLING CODE 8025-01-M

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## Action Subject To Intergovernmental Review

**AGENCY:** Small Business Administration.

**ACTION:** Notice of Action Subject to Intergovernmental Review Under Executive Order 12372.

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**SUMMARY:** This notice provides for public awareness of SBA's intention to fund for the first time seven additional Small Business Development Centers (SBDC's) during fiscal year 1985. Currently, there are 32 SBDC's in existence. This notice also provides a description of the SBDC program by setting forth a condensed version of the program announcement which has been furnished to the proposal developers for each of the SBDC's expected to be funded. This publication is being made to provide State single points of contact, designated pursuant to Executive Order 12372, and other interested State and local entities, the opportunity to comment on the proposed funding in accord with the Executive Order and SBA's regulations found at 13 CFR Part 135.

**DATE:** Comments will be received for a period of 60 days from the date of publication of this notice.

**ADDRESS:** Comments should be addressed to Mrs. Johnnie L. Albertson, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

**FOR FURTHER INFORMATION CONTACT:** Same as above.

**SUPPLEMENTARY INFORMATION:** SBA is bound by the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." SBA has promulgated regulations spelling out its obligations under that Executive Order. See 13 CFR Part 135, effective September 30, 1983.

In accord with these regulations, specifically § 135.4, SBA is publishing this notice to provide public awareness of the pending application for funding of the proposed Small Business Development Centers (SBDC's). Also, published herewith is an annotated program announcement describing the SBDC program in detail.

The proposed SBDC's will be funded at the earliest practicable date following the 60-day comment period. However, no funding will occur unless all comments have been considered. Relevant information identifying these proposed SBDC's and providing the mailing address of the proposal developers is provided below. In addition to this publication, a copy of this notice is being simultaneously furnished to each affected State single point of contact which has been established under the Executive Order.

State single points of contact and other interested State and local entities are expected to advise the relevant proposal developer of their comments regarding the proposed funding in writing as soom as possible. Copies of such written comments must also be furnished to Mrs. Johnnie L. Albertson, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416. Comments will be accepted by the relevant proposal developer and SBA for a period of two months (60 days) from the date of publication of this notice. The relevant proposal developer will make every effort to accommodate these comments during the 60-day period. If the comments cannot be accommodated by the relevant proposal developer, SBA will, prior to funding the proposed SBDC, either attain accommodation of any comments or furnish an explanation to the commenter of why accommodation cannot be attained prior to funding the proposed SBDC.

**Description of the SEDC Program**

The Small Business Development Center Program is a major management assistance delivery program of the U.S. Small Business Administration. SBDC's are authorized under 21 of the Small Business Act (15 U.S.C. 648). SBDC's operate pursuant to the provisions of 21, a Notice of Award (Cooperative Agreement) issued by SBA, and a Program Announcement. The Program represents a partnership between SBA and the State-endorsed organization receiving Federal assistance for its operation. SBDC's operate on the basis of a State plan which provides small business assistance throughout the State. As a condition to any financial award made to an applicant, an additional amount equal to the amount of assistance provided by SBA must be provided to the SBDC from sources other than the Federal Government.

**Purpose and Scope**

The SBDC Program has been designed to meet the specialized and complex management and technical assistance needs of the small business community. SBDC's focus on providing indepth quality assistance to small businesses in all areas which promote growth, expansion, innovation, increased productivity and management improvement. SBDC's act in an advocacy role to promote local small business interests. SBDC's concentrate on developing the unique resources of the university system, the private sector, and State and local governments to provide services to the small business community which are not available elsewhere. SBDC's coordinate with other SBA programs of management assistance and utilize the expertise of these affiliated resources to expand services and avoid duplication of effort.

**Program Objectives:**

The overall objective of the SBDC Porogram is to leverage Federal dollars and resources with those of the State academic community and private sector to:

(a) Strengthen the small business community;

(b) Contribute to the economic growth of the communities served;

(c) Make assistance available to more small businesses than is now possible with present Federal resources; and

(d) Create a broader based delivery system to the small business community.

**SBDC Program Organization**

SBDC's are organized to provide maximum services to the local small business community. The lead SBDC receives financial assistance from the SBA to operate a statewide SBDC Program. In states where more than one organization receives SBA financial assistance to operate an SBDC, each lead SBDC is responsible for Program operations throughout a specific regional area to be served by the SBDC. The lead SBDC is responsible for establishing a network of SBDC subcenters to offer service coverage to the small business community. The SBDC network is managed and directed by a single full-time Director. SBDC's must ensure that at least 80 percent of Federal funds provided are used to provide services to small businesses. To the extent possible, SBDC's provide services by enlisting volunteer and other low cost resources on a statewide basis.

**SBDC Services**

The specific types of services to be offered are developed in coordination with the SBA district office which has jurisdiction over a given SBDC. SBDC's emphasize the provision of indepth, high-quality assistance to small business owners or prospective small business owners in complex areas that require specialized expertise. These areas may include, but are not limited to: management, marketing, financing, accounting, strategic planning, regulation and taxation, capital formation, procurement assistance, human resource management, production, operations, economic and business data analysis, engineering, technology transfer, innovation and research, new product development, product analysis, plant layout and design, agri-business, computer application, business law information, and referral (any legal services beyond basic legal information and referral require the endorsement of the State Bar Association,) exporting, office automation, site selection, or any other areas of assistance required to promote small business growth, expansion, and productivity within the State.

The degree to which SBDC resources are directed toward specific areas of assistance is determined by local community needs, SBA priorities and SBDC Program objectives and agreed upon by the SBA district office and the SBDC.

The SBDC must offer quality training to improve the skills and knowledge of existing and prospective small business owners. As a general guideline, SBDC's should emphasize the provision of training in specialized areas other than basic small business management subjects. SBDC's should also emphasize training designed to reach particular audiences such as members of SBA priority and special emphasis groups.

**SBDC Program Requirements**

The SBDC is responsible to the SBA for ensuring that all programmatic and financial requirements imposed upon them by statute or agreement are met. The SBDC must assure that quality assistance and training in management and technical areas is provided to the State small business community through the State SBDC network. As a condition of this agreement, the SBDC must perform but not be limited to the following activities.

(a) The SBDC ensures that services are provided as close as possible to small business population centers. This is accomplished through the establishment of SBDC subcenters.

(b) The SBDC ensures that lists of local and regional private consultants are maintained at the lead SBDC and each SBDC subcenter. The SBDC utilizes and provides compensation to qualified small business vendors such as private management consultants, private consulting engineers, and private testing laboratories.

(c) The SBDC is responsible for the development and expansion of resources within the State, particularly the development of new resources to assist small business that are not presently associated with the SBA district office.

(d) The SBDC ensures that working relationships and open communications exist within the financial and investment communities, and with legal associations, private consultants, as well as small business groups and associations to help address the needs of the small business community.

(e) The SBDC ensures that assistance is provided to SBA special emphasis groups throughout the SBDC network. This assistance shall be provided to veterans, women, exporters, the handicapped, and minorities as well as any other groups designated a priority by SBA. Services provided to special emphasis groups shall be performed as part of the Cooperative Agreement.

**Advance Understandings**

(a) Lead SBDC's shall operate on a 40-hour week basis, or during normal State business hours, with National holidays or State holidays as applicable excluded.

(b) SBDC subcenters shall be operated on a full-time basis. The lead SBDC shall ensure that staffing is adequate to meet the needs of the small business community.

(c) All counseling assistance offered through the Small Business Development Center network shall be provided at no cost to the client.

Dated: July 20, 1984.

**James C. Sanders,**

*Administrator.*

**Addresses of Proposed SBDC's and Proposal Developers**

Dr. Beth S. Jarman, Executive Director, State of Arizona, Office of Economic Planning and Development, 1700 West Washington, Executive Tower, 4th Floor, Phoenix, Arizona 85007, (602) 255–5371;

Richard E. Hughs, Dean, College of Business Administration, University of Nevada, Reno, Nevada 89557, (702) 784–4912;

Albert Calum, Interamerican University of Puerto Rico, P.O. Box 1293, Hato Rey, Puerto Rico 00919, (809) 753–8008, Ext. 253;

Richard Barta/Jerry Johnson, School of Business, University of South Dakota, Vermillion, South Dakota 57069, (605) 677–5287 or 5316;

Fred Volker, Texas Technological University, College of Business, Lubbock, Texas 79409, (806) 742–3461;

Dr. Jude Valdez, University of Texas at San Antonio, College of Business, Center for Economic Development, San Antonio, Texas 78285, (512) 224–1945; and

Nic Walker, Small Business Coordinator, Division of Industrial Development, Commonwealth of Virginia, 1000 Washington Building, Richmond, Virginia 23219, (804) 786–3791.

[FR Doc. 84–19941 Filed 7–27–84; 8:45 am]
BILLING CODE 8025–01–M

## DEPARTMENT OF STATE

**[CM–8/754]**

### Shipping Coordinating Committee, National Committee for the Prevention of Marine Pollution; Meeting

The National Committee for the Prevention of Marine Pollution (NCPMP) will conduct an open meeting at 9:30 a.m. on August 23, 1984 in Room 2415 at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C.

The purpose of the meeting is to review positions in preparation for the 20th Session of the Marine Environment

Protection Committee (MEPC) of the International Maritime Organization (IMO), which will be held in London, England September 3–7, 1984. The NCPMP will consider, among other issues:

—Implications of the harmonized system of surveys and certification
—Provision of Reception Facilities
—Reports of the Subcommittee on Bulk Chemicals
—Adoption of Amendments to Annex I of MARPOL '73/78

Members of the public may attend up to the seating capacity of the room.

For further information contact LCDR. J. Josiah, U.S. Coast Guard Headquarters, (G–WER), 2100 Second Street, SW., Washington, D.C. 20593. Telephone: (202) 426–9573.

Dated: July 17, 1984.

**Samuel V. Smith,**

*Executive Secretary, Shipping Coordinating Committee.*

[FR Doc. 84-20011 Filed 7-27-84; 8:45 am]

BILLING CODE 4710-07-M

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**[CM–8/753]**

## Shipping Coordinating Committee; Meeting

The Shipping Coordinating Committee (SHC), will conduct an open meeting at 1:00 p.m. on August 22, 1984, in Room 2415 of the U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C.

The purpose of the meeting is to prepare position documents for the 52nd Session of the International Maritime Organization Legal Committee, to be held in London on September 10–14, 1984. At its 52nd Session, the Legal Committee will consider the question of marine salvage, in particular the proposed revision of the 1910 Convention on Salvage and Assistance at Sea, and related issue. Specifically, the Legal Committee will address whether to adopt an exception to the traditional principle of "no-cure, no-pay," to provide for recovery by the salvor of expenses where the salvor has rendered assistance to a vessel which threatens damage to the environment, and recovery of enhanced awards where the salvor in rendering such assistance prevents or minimizes damage to the environment.

The Legal Committee will also consider work regarding maritime liens and mortgages and related subjects.

Members of the public may attend up to the seating capacity of the room.

For further information, contact Captain F. F. Burgess, Jr., U.S. Coast Guard Headquarters (G–LMI), 2100 Second Street, SW., Washington, D.C. 20593. Telephone: (202) 426–1527.

Dated: July 20, 1984.

**Samuel V. Smith,**

*Executive Secretary, Shipping Coordinating Committee.*

[FR Doc. 84-20030 Filed 7-27-84; 8:45 am]

BILLING CODE 4710-07-M

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**[CM–8/752]**

## Study Group 4 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 4 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on August 15, 1984 at 10:00 a.m. in the first floor Theater, Communications Satellite Corporation, 950 L'Enfant Plaza, SW., Washington, D.C.

Study Group 4 deals with matters relating to systems of radiocommunications for the fixed service using satellites. The purpose of the meeting will be to discuss preparations for the international meeting of Study Group 4 in 1985.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Requests for further information should be directed to Mr. Richard Shrum, State Department, Washington, D.C. 20520, telephone (202) 632–2592.

Dated: July 12, 1984.

**Earl S. Barbely,**

*Director, Office of International Communications Policy.*

[FR Doc. 84-20029 Filed 7-27-84; 8:45 am]

BILLING CODE 4710-07-M

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# DEPARTMENT OF TRANSPORTATION

## Coast Guard

**[CGD 84–054]**

## Equipment, Construction, and Materials

**AGENCY:** Coast Guard, DOT.

**ACTION:** Approval notice.

**SUMMARY:** This notice contains a listing of Coast Guard approvals issued between 1 May 1983 and 31 January 1984. These approvals are for safety equipment and materials required by regulation to be used on certain merchant vessels and recreational boats, and also in Outer Continental Shelf activities.

**FOR FURTHER INFORMATION CONTACT:** Ms. Valarie Williams, Office of Merchant Marine Safety (G–MVI–3/24), Room 2412, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593, (202) 426–1444. Normal office hours are between 7 a.m. and 3:30 p.m., Monday through Friday, except holidays.

**SUPPLEMENTARY INFORMATION:** Certain regulations in Titles 33 and 46 of the Code of Federal Regulations require that various items of lifesaving, firefighting and other safety equipment and materials used on board merchant vessels and recreational boats, and in Outer Continental Shelf activities be approved by the Commandant, U.S. Coast Guard. This document notifies interested persons that certain approvals have been issued or revised during the period from 1 May 1983 to 31 January 1984. These actions were taken under the procedures in 46 CFR 2.75–1 to 2.75–50.

The statutory authority for regulations governing this equipment is in sections 3306(a), 4102, and 4302(a)(2) of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these appovals (49 CFR 1.46(b)).

Most of the items in this list meet specification regulations in 46 CFR Parts 160 to 164. The approvals listed in this document are generally issued for a period of 5 years from the date of issue, unless sooner withdrawn, suspended or terminated.

### Lifeboat Winch

Approval No. 160.015/139/0, Type USW 3.0 lifeboat winch with single-fall drum, manufactured by Watercraft America, Inc., P.O. Box 1130, Edgewater, FL 32032.

### Lifeboat Sea Anchor

Approval No. 160.019/14/0, Model RSC–2 Sea Anchor, manufactured by Revere Supply Company, Inc., 603–607 W. 29th Street, New York , NY 10001.

Approval No. 160.019/16/0, Model RSC–3 Sea Anchor, manufactured by Revere Supply Company, Inc., 603–607 W. 29th Street, New York, NY 10001.

### Emergency Drinking Water

Approval No. 160.026/54/0, Emergency Drinking Water in sealed 12oz. polycarbonate bottles sealed in a foil envelope. Manufactured by Rubber Fabricators Inc., P.O. Box 248, Apex, NC 27502.

**Red Aerial Pyrotechnic Flare**

Approval No. 160.028/19/0, Heckler & Koch emergency flare launcher, 19mm. Manufactured by Heckler & Koch, Inc. 14601 Lee Road, Chantilly, VA 22021.

**Lifeboat Davit**

Approval No. 160.032/246/0, Type 28/WOD/OFF outrigger gravity davit, manufactured by Watercraft America, Inc., P.O. Box 1130, Edgewater, FL 32032.

Approval No. 160.032/247/0, Type 6.5 RBI/LP WOD fixed gravity davit, manufactured by Watercraft America, Inc., P.O. Box 1130, Edgewater, FL 32032.

Approval No. 160.032/249/0, Type 16 SP/WOP outrigger gravity davit, manufactured by Watercraft America, Inc., P.O. Box 1130, Edgewater, FL 32032.

Approval No. 160.032/251/0, Type PL 2100 fixed (outrigger) gravity davit, manufactured by Whittaker Corporation, 5159 Baltimore Drive, La Mesa, CA 92041.

Approval No. 160.032/252/0, type WP/24 gravity pivot davit, manufactured by Watercraft America, Inc., P.O. Box 1130, Edgewater, FL 32032.

**Mechanical Disengaging Apparatus (for Lifeboats)**

Approval No. 160.033/27/4, Rottmer Type, size 298 releasing, gear, manufactured by Lane Marine Technology Inc. 150 Sullivan, Brooklyn, NY 11231 (Supersedes Approval 160.033/27/4 dated 21 August 1980 to show change in manufacturer name).

Approval No. 160.033/75/0, Whittaker Model 510–111 Disengaging Apparatus, manufactured by Whittaker Corporation, Survival Systems Division, 5159 Baltimore Drive, La Mesa, CA 92041.

**Lifeboat**

Approval No. 160.033/508/0, EL/16 totally enclosed lifeboat, manufactured by Watercraft America Inc., P.O. Box 1130, Edgewater, FL 32032.

Approval No. 160.035/435/1, 24.0′ x 7.25′ x 3.25′ steel, oar-propelled lifeboat, manufactured by Marine Safety Equipment Corp., Foot of Wyckoff Road, Farmingdale, NJ 07727 (Extension of Appr. 160.035/435/1 dated 10 July 1978).

Approval No. 160.035/474/5, Model 1401 survival capsule, manufactured by Whittaker Corporation, Survival Systems Division, 5159 Baltimore Drive, La Mesa, CA 92041 (Supersedes Appr. 160.035/474/4 dated 16 February 1983 to show latest revisions).

Approval No. 160.035/483/1, Model CA5001, manufactured by Whittaker Corporation, Survival Systems Division, 5159 Baltimore Drive, La Mesa, CA 92041 (Extension of Appr. 160.035/483/1 dated 10 July 1978).

Approval No. 160.035/500/2, Model CA 5400, manufactured by Whittaker Corporation, Survival Systems Division, 5159 Baltimore Drive, La Mesa, CA 92041 (Supersedes Appr. 160.035/500/1 dated 4 November 1981 to show H2S option).

Approval No. 160.035/501/2, Model CA 3600, manufactured by Whittaker Corporation, Survival Systems Division, 5159 Baltimore Drive, La Mesa, CA 92041 (Supersedes Appr. 160.035/501/2 dated 30 July 1981 to show H2S option).

Approval No. 160.035/507/0, MA 24 open lifeboat, manufactured by Harding Safety Inc., 1st National Bank Bldg., Suite 2100, Mobile, AL 36602.

Approval No. 160.035/513/0, 30.0′ x 10.0′ x 4.4′ FRP hand propelled boat, manufactured by Marine Safety Equipment Co., Foot of Wyckoff Rd., Farmingdale, NJ 07727.

Approval No. 160.035/515/1, 30.0′ x 10.0′ x 4.33′ open lifeboat, manufactured by Marine Safety Equipment Co., Foot of Wyckoff Rd., Farmingdale, NJ 07727 (Supersedes Appr. 160.035/515/0 dated 20 July 1983 to show Lister option).

**Lifeboat Bilge Pump**

Approval No. 160.044/14/0, Size No. 3 lifeboat bilge pump, manufactured by Beckson Manufacturing, Inc., Box 336, Bridgeport, Connecticut 06605 (Extension of App. 160.044/14/0 dated 15 December 1977).

**Kapok Buoyant Cushions**

Approval No. 160.048/1/1, Group approval for Type IV PFD, Model Nos. 4315 and 2315 manufactured by Atlantic-Pacific, Box 27, Staten Island, NY 10314 (Extension of Appr. 160.048/1/1 dated 26 July 1978).

**Inflatable Liferaft**

Approval No. 160.051/50/2, Inflatable liferaft, 6-person capacity, manufactured by B. F. Goodrich Company, Star Route 1, P.O. Box 200, Fenwick, WV 26202 (Supersedes Appr. 160.051/50/1 dated 16 March 1982 to show changes of address and dwgs).

Approval No. 160.051/51/2, Inflatable liferaft, 15-person capacity, manufactured by B. F. Goodrich Company, Star Route 1, P.O. Box 200, Fenwick, WV 26202 (Supersedes Appr. 160.051/51/1 dated 16 March 1982 to show changes of address and dwgs).

Approval No. 160.051/52/2, Inflatable liferaft, 20-person capacity, manufactured by B. F. Goodrich Company, Star Route 1, P.O. Box 200, Fenwick, WV 26202 (Supersedes Appr. 160.051/52/1 dated 16 March 1982 to show changes of address and dwgs).

Approval No. 160.051/53/2, Inflatable liferaft, 25-person capacity with "Ocean Service Equipment" manufactured by B. F. Goodrich Company, Star Route 1, P.O. Box 200, Fenwick, WV 26202 (Supersedes Appr. 160.051/53/1 dated 16 March 1982 to show changes of address and dwgs).

Approval No. 160.051/60/3, 20-person, davit launched inflatable liferaft, manufactured by B. F. Goodrich Company, Star Route 1, P.O. Box 200, Fenwick, WV 26202 (Supersedes Appr. 160.051/60/1 dated 7 Sept. 1983 to show changes of address and dwgs).

Approval No. 160.051/810/2, Inflatable liferaft, 25-person capacity with "Limited Service Equipment" manufactured by B. F. Goodrich Company, Star Route 1, P.O. Box 200, Fenwick, WV 26202 (Supersedes Appr. 160.051/81/1 dated 16 March 1982 to show changes of address and dwgs).

Approval No. 160.051/83/3, 25-person davit-launched inflatable, Type 25 MC MK 3A, manufactured by B. F. Goodrich Company, Star Route 1, P.O. Box 200, Fenwick, WV 26202 (Supersedes Appr. 160.051/83/2 dated 7 Sept. 1983 to show changes of address and dwgs).

Approval No. 160.051/88/2, Inflatable liferaft, 10-person capacity, manufactured by B. F. Goodrich Company, Star Route 1, P.O. Box 200, Fenwick, WV 26202 (Supersedes Appr. 160.051/88/1 dated 16 March 1982 to show changes of address and dwgs).

Approval 160.051/89/2, 25-person inflatable liferaft, MK–5 series, manufactured by RFD Elliot Inc., 7555 Garden Road, Riviera Beach, FL 33404 (Supersedes Appr. 160.051/89/1 dated 24 July 1979 to show change of ownership).

Approval 160.051/90/2, 6-person inflatable liferaft, MK–5, manufactured by RFD Elliot, Inc., 7555 Garden Road, Riviera Beach, FL 33404 (Supersedes Appr. 160.051/90/1 dated 24 July 1979 to show change of ownership).

Approval 160.051/91/2, Inflatable liferaft, 8-person capacity, manufactured by B. F. Goodrich Company, Star Route 1, P.O. Box 200, Fenwick, WV 26202 (Supersedes Appr. 160.051/91/1 dated 16 March 1982 to show changes of address and dwgs).

Approval 160.051/92/2, Inflatable liferaft, 12-person capacity, manufactured by B. F. Goodrich Company, Star Route 1, P.O. Box 200, Fenwick, WV 26202 (Supersedes Appr. 160.051/92/1 dated 16 March 1982 to show changes of address and dwgs).

Approval 160.051/93/2, 25-person inflatable liferaft, MK–5 series, with "Limited Service Equipment," manufactured by RFD Elliot, Inc., 7555 Garden Road, Rivera Beach, FL 33404 (Supersedes Appr. 160.051/93/2 dated 24 July 1979 to show change of ownership).

Approval 160.051/94/2, 8-person inflatable liferaft, MK–5 Series, inflated by either steel or aluminum cylinders. Manufactured by RFD Elliot, Inc., 7555 Garden Road, Riviera Beach, FL 33404 (Supersedes Appr. 160.051/94/1 dated 24 July 1979 to show change of ownership).

Approval 160.051/95/2, 10-person inflatable liferaft, MK–5 series, inflated with steel or aluminum cylinders. Manufactured by RFD Elliot, Inc., 7555 Garden Road, Riviera Beach, FL 33404 (Supersedes Appr. 160.051/95/1 dated 24 July 1979 to show change of ownership).

Approval 160.051/96/2, 12-person inflatable liferaft, MK–5 series, inflated by either steel or aluminum cylinders. Manufactured by RFD Elliot, Inc., 7555 Garden Road, Riviera Beach, FL 33404 (Supersedes Appr. 160.051/96/1 dated 24 July 1979 to show change of ownership).

Approval 160.051/97/2, 15-person inflatable liferaft, MK–5 series, inflated by either steel or aluminum cylinders. Manufactured by RFD Elliot, Inc., 7555 Garden Road, Riviera Beach, FL 33404 (Supersedes Appr. 160.051/97/1 dated 24 July 1979 to show change of ownership).

Approval 160.051/98/2, 20-person inflatable liferaft, MK–5 series, inflated by either steel or aluminum cylinders. Manufactured by RFD Elliot, Inc., 7555 Garden Road, Riviera Beach, FL 33404 (Supersedes Appr. 160.051/98/1 dated 24 July 1979 to show change of ownership).

Approval 160.051/113/1, 25-person davit-launched inflatable, Type 25 MC MK 3A, manufactured by B. F. Goodrich Company, Star Route 1, P.O. Box 200, Fenwick, WV 26202, (Supersedes Appr. 160.051/113/1 dated 7 September 1983 to show changes of address and dwgs).

Approval 160.051/149/0, 4-person inflatable liferaft, Viking Type 4 K, with ocean or limited service equipment. Manufactured by Viking-A/S Nordisk, Gummibadsfabrik, P.O. Box 3060–6700 Esbjerg, Denmark.

Approval 160.051/150/0, 6-person inflatable liferaft, Viking Type 6 K, with ocean or limited service equipment. Manufactured by Viking-A/S Nordisk, Gumibadsfabrik, P.O. Box 3060–6700 Esbjerg, Denmark.

Approval 160.051/152/0, 10-person inflatable liferaft, Viking Type 10 K, with ocean or limited service equipment. Manufactured by Viking-A/S Nordisk, Gummibadsfabrik, P.O. Box 3060–6700 Esbjerg, Denmark.

Approval 160.051/153/0, 12-person inflatable liferaft, Viking Type 12 K, with ocean or limited service equipment. Manufactured by Viking-A/S Nordisk, Gummibadsfabrik, P.O. Box 3060–6700 Esbjerg, Denmark.

Approval 160.051/154/0, 16-person inflatable liferaft, Viking Type 16 K, with ocean or limited service equipment. Manufactured by Viking-A/S Nordisk, Gummibadsfabrik, P.O. Box 3060–6700 Esbjerg, Denmark.

Approval 160.051/155/0, 20-person inflatable liferaft, Viking Type 20 K, with ocean or limited service equipment. Manufactured by Viking-A/S Nordisk, Gummibadsfabrik, P.O. Box 3060–6700 Esbjerg, Denmark.

Approval 160.051/156/0, 25-person inflatable liferaft, Viking Type 25 K, with ocean or limited service equipment. Manufactured by Viking-A/S Nordisk, Gummibadsfabrik, P.O. Box 3060–6700 Esbjerg, Denmark.

Approval 160.051/157/0, 25-person inflatable liferaft, Viking Type 25 K, with ocean or limited service equipment. Manufactured by Viking-A/S Nordisk, Gummibadsfabrik, P.O. Box 3060–6700 Esbjerg, Denmark.

Approval 160.051/158/0, 12-person inflatable liferaft, (davit-launched), Viking Type 12 KF, with ocean or limited service equipment. Manufactured by Viking-A/S Nordisk, Gummibadsfabrik, P.O. Box 3060–6700 Esbjerg, Denmark.

Approval 160.051/159/0, 16-person inflatable liferaft, (davit-launched), Viking Type 16 KF, with ocean or limited service equipment. Manufactured by Viking-A/S Nordisk, Gummibadsfabrik, P.O. Box 3060–6700 Esbjerg, Denmark.

Approval 160.051/160/0, 20-person inflatable liferaft, (davit-launched), Viking Type 20 KF, with ocean or limited service equipment. Manufactured by Viking-A/S Nordisk, Gummibadsfabrik, P.O. Box 3060–6700 Esbjerg, Denmark.

Approval 160.051/161/0, 20-person inflatable liferaft, (davit-launched), Viking Type 20 KF, with ocean or limited service equipment. Manufactured by Viking-A/S Nordisk, Gummibadsfabrik, P.O. Box 3060–6700 Esbjerg, Denmark.

Approval 160.051/162/0, 25-person inflatable liferaft (davit-launched), Viking type 25 KF with ocean or limited service equipment. Manufactured by Viking-A/S Nordisk, Gummibadsfabrik, P.O. Box 3060–6700 Esbjerg, Denmark.

Approval 160.051/163/0, 25-person inflatable liferaft (davit-launched), Viking Type 25 KF with ocean or limited service equipment. Manufactured by Viking-A/S Nordisk, Gummibadsfabrik, P.O. Box 3060–6700 Esbjerg, Denmark.

**Work Vest Unicellular Plastic**

Approval 160.053/38/1, Adult Small, Type V PFD, Model No. 2175, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B.C., Canada V6V 1Y6 (Supersedes Appr. 160.053/38/1 dated 8 January 1982 to show change in manufacturer's name).

Approval 160.053/39/1, Adult Medium, Type V PFD, Model No. 2175, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B. C., Canada V6V 1Y6 (Supersedes Appr. 160.053/39/1 dated 8 January 1982 to show change in manufacturer's name).

Approval 160.053/40/1, Adult Large, Type V PFD, Model No. 2175, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B. C., Canada V6V 1Y6 (Supersedes Appr. 160.053/40/1 dated 8 January 1982 to show change in manufacturer's name).

Approval 160.053/41/1, Adult X-Large, Type V PFD, Model No. 2175, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B. C., Canada V6V 1Y6 (Supersedes Appr. 160.053/41/1 dated 8 January 1982 to show change in manufacturer's name).

Approval 160.053/42/1, Adult XX-Large, Type V PFD, Model No. 2175, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B. C., Canada V6V 1Y6 (Supersedes Appr. 160.053/42/1 dated 8 January 1982 to show change in manufacturer's name).

**Unicellular Plastic Foam Work Vest**

Approval 160.055/139/0, Adult Small/Medium, Type V PFD, Model 100W, manufactured by America's Cup, Inc., P.O. Box 2009, La Puente, CA 91746.

Approval 160.055/140/0, Adult Large/X-Large, Type V PFD, Model 100W, manufactured by America's Cup, Inc., P.O. Box 2009, La Puente, CA 91746.

Approval 160.055/141/0, Youth (for person 50 to 90 lbs.) Type V PFD, Model 100W, manufactured by America's Cup, Inc., P.O. Box 2009, La Puente, CA 91746.

Approval 160.055/146/0, Adult, Type I PFD, Model LP–1A manufactured by Taylortec, Inc., 2400 South Range Rd., Hammond, LA 70401.

**Launching Device**

Approval 160.063/7/0, Type GR–50 raft-launching davit (single arm, gravity-type) with Type R–50H–1 (MK–I) pedestal winch, manufactured by Marine Safety Equipment Corp., P.O. Box 465, Farmingdale, NJ 07727.

**Marine Buoyant Device**

Approval 160.064/432/0, Adult, Type III PFD, Model 800, manufactured by Fabrionics, Inc., P.O. Box 1061, Toiono, IL 61880 (Extension of Approval 160.064/432/0 dated 9 November 1978).

Approval 160.064/433/0, Adult, Type III PFD, Model 700, manufactured by Fabrionics, Inc., P.O. Box 1061, Tolono, IL 61880 (Extension of Approval 160.064/433/0 dated 9 November 1978).

Approval 160.064/434/0, Adult, Type III PFD, Model 650, manufactured by Fabrionics, Inc., P.O. Box 1061, Tolono, IL 61880 (Extension of Approval 160.064/434/0 dated 9 November 1978).

Approval 160.064/526/0, Child small, Type III PFD, Model BJJ, manufactured by Texas Recreation Corporation, Texas Watercrafters Division, 912 N. Beverly Drive, Wichita Falls, Texas 76307.

Approval 160.064/636/0, Child Medium, Type III PFD, Model 400, manufactured by Fabrionics, Inc., P.O. Box 1061, Tolono, IL 61880 (Extension of Appr. 160.064/636/0 dated 9 November 1978).

Approval 160.064/893/0, Adult, Type III PFD, Model 900, manufactured by Fabrionics, Inc., P.O. Box 1061, Tolono, IL 61880 (Extension of Appr. 160.064/893/0 dated 9 November 1978).

Approval 160.064/1016/0, Adult, Type III PFD, Model 601, manufactured by Fabrionics, Inc., P.O. Box 1061, Tolono, IL 61880 (Extension of Appr. 160.064/1016/0 dated 9 November 1978).

Approval 160.064/1017/0, Adult, Type III PFD, Model 701, manufactured by Fabrionics, Inc., P.O. Box 1061, Tolono, IL 61880 (Extension of Appr. 160.064/1017/0 dated 9 November 1978).

Approval 160.064/1018/0, Adult, Type III PFD, Model 801, manufactured by Fabrionics, Inc., P.O. Box 1061, Tolono, IL 61880 (Extension of Appr. 160.064/1018/0 dated 9 November 1978).

Approval 160.064/1144/0, Adult, Type III PFD, Model Rodney I, manufactured by Taylortec, Inc., Box 2400, South Range Rd., Hammond, LA 70401 (Extension of Appr. 160.064/1144/0 dated 1 August 1978).

Approval 160.064/1308/0, Adult Small, Type III PFD, Model No. 1661, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B. C., Canada V6V 1Y6 (Supersedes Appr. 160.064/1308/0 dated 20 July 1982 to show change in manufacturer's name).

Approval 160.064/1309/0, Adult Medium, Type III PFD, Model No. 1661, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B.C. Canada V6V 1Y6 (Supersedes Appr. 160.064/1309/0 dated 20 July 1982 to show change in manufacturer's name).

Approval 160.064/1310/0, Adult Large, Type III PFD, Model No. 1661, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B.C. Canada V6V 1Y6 (Supersedes Appr. 160.064/1310/0 dated 20 July 1982 to show change in manufacturer's name).

Approval 160.064/1311/0, Adult X-Large, Type III PFD, Model No. 1661, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B.C. Canada V6V 1Y6 (Supersedes Appr. 160.064/1311/0 dated 20 July 1982 to show change in manufacturer's name).

Approval 160.064/1312/0, Adult Medium, Type III PFD, Model No. 1662, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B.C. Canada V6V 1Y6 (Supersedes Appr. 160.064/1312/0 dated 20 July 1982 to show change in manufacturer's name).

Approval 160.064/1313/0, Adult Large, Type III PFD, Model No. 1662, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B.C. Canada V6V 1Y6 (Supersedes Appr. 160.064/1313/0 dated 20 July 1982 to show change in manufacturer's name).

Approval 160.064/1314/0, Adult Small, Type III PFD, Model No. 101, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B.C. Canada V6V 1Y6 (Supersedes Appr. 160.064/1314/0 dated 20 July 1982 to show change in manufacturer's name).

Approval 160.064/1315/0, Adult Medium, Type III PFD, Model No. 101, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B.C. Canada V6V 1Y6 (Supersedes Appr. 160.064/1315/0 dated 20 July 1982 to show change in manufacturer's name).

Approval 160.064/1316/0, Adult Large, Type III PFD, Model No. 101, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B.C. Canada V6V 1Y6 (Supersedes Appr. 160.064/1316/0 dated 20 July 1982 to show change in manufacturer's name).

Approval 160.064/1317/0, Adult X-Large, Type III PFD, Model No. 101, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B.C. Canada V6V 1Y6 (Supersedes Appr. 160.064/1317/0 dated 20 July 1982 to show change in manufacturer's name).

Approval 160.064/1318/0, Adult Medium, Type III PFD, Model No. 202, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B.C. Canada V6V 1Y6 (Supersedes Appr. 160.064/1318/0 dated 20 July 1982 to show change in manufacturer's name).

Approval 160.064/1319/0, Adult Large, Type III PFD, Model No. 202, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B.C. Canada V6V 1Y6 (Supersedes Appr. 160.064/1319/0 dated 20 July 1982 to show change in manufacturer's name).

Approval 160.064/1439/0, Child (for persons 30 to 50 lbs.), Type III PFD, Model Nos. ABXS or 602, BRC manufactured by The Coleman Co., Inc., P.O. Box 1762, 250 N. St. Francis, Wichita, KS 67201 (Supersedes Appr. 160.064/1439/0 dated 29 November 1982 to add option model nos.).

Approval 160.064/1440/0, Youth Medium (for persons 50 to 90 lbs.), Type III PFD, Model Nos. ABSS or 603, BRY or GRY manufactured by The Coleman Co., Inc., P.O. Box 1762, 250 N. St. Francis, Wichita, KS 67201 (Supersedes Appr. 160.064/1440/0 dated 29 November 1982 to add option model nos.).

Approval 160.064/1760/0, Child Small (for persons 30 to 50 lbs.), Type III PFD, Model Nos. M–20, D201, manufactured by Omega Corporation, 266 Border Street, East Boston, MA 02128 (Supersedes Appr. 160.064/1760/0 dated 10 December 1979 to add new model No.).

Approval 160.064/1761/0, Child Medium (for persons 50 to 90 lbs.), Type III PFD, Model Nos. M–20, D201, manufactured by Omega Corporation, 266 Border Street, East Boston, MA 02128 (Supersedes Appr. 160.064/1760/0 dated 10 December 1979 to add new model No.).

Approval 160.064/1790/1, Infant (for person under 30 lbs.), Type II PFD, Model Nos. MW–10, D–100, manufactured by Omega Corporation, 266 Border Street, East Boston, MA 02128 (Supersedes Appr. 160.064/1790/0 dated 2 May 1983 to add new model No.).

Approval 160.064/1815/1, Adult Small, Type V PFD, Model No. 2175, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B.C. Canada V6V 1Y6 (Supersedes Appr. 160.064/1815/1 dated 12 May 1983 to show change in manufacturer's name).

Approval 160.064/1816/1, Adult Medium, Type V PFD, Model No. 2175, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B.C. Canada V6V 1Y6 (Supersedes Appr. 160.064/1816/1 dated 12 May 1983 to show change in manufacturer's name).

Approval 160.064/1817/1, Adult Large, Type III PFD, Model No. 2175, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B.C. Canada V6V 1Y6 (Supersedes Appr. 160.064/1817/1 dated 12 May 1983 to show change in manufacturer's name).

Approval 160.064/1818/1, Adult X-Large, Type V PFD, Model No. 2175, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B.C. Canada V6V 1Y6 (Supersedes Appr. 160.064/1817/1 dated 12 May 1983 to show change in manufacturer's name).

Approval 160.064/1819/1, Adult XX-Large, Type III PFD, Model No. 2175, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B.C. Canada V6V 1Y6 (Supersedes Appr.

160.064/1817/1 dated 12 May 1983 to show change in manufacturer's name).

Approval 160.064/1850/0, Adult Slim, Type III PFD, Model Nos. WV–30, D804, AV–30, manufactured by Omega Corporation, 266 Border Street, East Boston, MA 02128 (Supersedes Appr. 160.064/1850/0 dated 10 March 1982 to add new model No.).

Approval 160.064/1851/0, Adult Small, Type III PFD, Model Nos. WV–40, D803, AV–40, manufactured by Omega Corporation, 266 Border Street, East Boston, MA 02128 (Supersedes Appr. 160.064/1851/0 dated 10 March 1982 to add new model No.).

Approval 160.064/1852/0, Adult Medium, Type III PFD, Model Nos. WV–50, D802, AV–50, manufactured by Omega Corporation, 266 Border Street, East Boston, MA 02128 (Supersedes Appr. 160.064/1852/0 dated 10 March 1982 to add new model No.).

Approval 160.064/1853/0, Adult Large, Type III PFD, Model Nos. WV–60, D801, AV–60, manufactured by Omega Corporation, 266 Border Street, East Boston, MA 02128 (Supersedes Appr. 160.064/1853/0 dated 10 March 1982 to add new model No.).

Approval 160.064/1854/0, Adult X-Large, Type III PFD, Model Nos. WV–70, D800, AV–70, manufactured by Omega Corporation, 266 Border Street, East Boston, MA 02128 (Supersedes Appr. 160.064/1853/0 dated 10 March 1982 to add new model No.).

Approval 160.064/1938/0, 16 x 16 x 2¼, 2½ or 2⅝, Type IV PFD, Model No. SBC, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56301.

Approval 160.064/2062/0, Infant (for person less than 30 lbs.), Type II PFD, Model 1300, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B.C., Canada V6V 1Y6 (Supersedes Appr. 160.064 2062/0 dated 3 May 1982 to show change in manufacturer's name).

Approval 160.064/2063/0, Child Small (for person 30 to 50 lbs.), Type III PFD, Model 1350, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B. C., Canada V6V IY6 (Supersedes Appr. 160.064 2063/0 dated 3 May 1982 to show change in manufacturer's name).

Approval 160.064/2064/0, Youth (for person 50 to 90 lbs.), Type III PFD, Model 1390, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B.C., Canada V6V IY6 (Supersedes Appr. 160.064 2064/0 dated 3 May 1982 to show change in manufacturer's name).

Approval 160.064/B2106/0, 15 x 15 x 2½, Type IV PFD, Model PF 101, manufactured by Foam Design, Inc., P.O. Box 12178, 444 Transport Ct., Lexington, KY 40581 (Supersedes Appr. 160.064/B1438/1 dated 7 June 1983 to show correction in appr. No.).

Approval 160.064/2142/0, Adult Small/Medium, Type III PFD, Model 100W, manufactured by America's Cup, Inc., P.O. Box 2009, La Puente, CA 91746.

Approval 160.064/2143/0, Adult Large/X-Large, Type III PFD, Model 100W, manufactured by America's Cup, Inc., P.O. Box 2009, La Puente, CA 91746.

Approval 160.064/2144/0, Youth (for person 50 to 90 lbs.), Type III PFD, Model 100W, manufactured by America's Cup, Inc., P.O. Box 2009, La Puente, CA 91746.

Approval 160.064/2151/0, Adult X-Small, Type III PFD, Model Nos. FR–30, D900, manufactured by Omega Corporation, 266 Border Street, East Boston, MA 02128 (Supersedes Appr. 160.064/2151/0 dated 23 February 1983 to add new model No.).

Approval 160.064/2152/0, Adult Small, Type III PFD, Model Nos. FR–40, D901, manufactured by Omega Corporation, 266 Border Street, East Boston, MA 02128 (Supersedes Appr. 160.064/2152/0 dated 23 February 1983 to add new model No.).

Approval 160.064/2153/0, Adult Medium, Type III PFD, Model Nos. FR–50, D902, manufactured by Omega Corporation, 266 Border Street, East Boston, MA 02128 (Supersedes Appr. 160.064/2153/0 dated 23 February 1983 to add new model No.).

Approval 160.064/2154/0, Adult Large, Type III PFD, Model Nos. FR–60, D903, manufactured by Omega Corporation, 266 Border Street, East Boston, MA 02128 (Supersedes Appr. 160.064/2154/0 dated 23 February 1983 to add new model No.).

Approval 160.064/2155/0, Adult X-Large, Type III PFD, Model Nos. FR–70, D904, manufactured by Omega Corporation, 266 Border Street, East Boston, MA 02128 (Supersedes Appr. 160.064/2155/0 dated 23 February 1983 to add new model No.).

Approval 160.064/2179/0, Adult Universal, Type III PFD, Model WIS–1, manufactured by Wirt Inflatable Specialists, Inc., P.O. Box 520, Elizabeth, WV 26143.

Approval 160.064/2192/0, Small, Type V PFD, Model SH 450, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B.C., Canada V6V IY6 (Supersedes Appr. 160.064/2192/0 dated 21 April 1983 to show change in manufacturer's name).

Approval 160.064/2193/0, Medium, Type V PFD, Model SH 450, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B. C., Canada V6V IY6 (Supersedes Appr. 160.064/2193/0 dated 21 April 1983 to show change in manufacturer's name).

Approval 160.064/2194/0, Large, Type V PFD, Model SH 450, manufactured by Mustang Industries, Inc., 3810 Jacombs Road, Richmond, B. C., Canada V6V IY6 (Supersedes Appr. 160.064/2194/0 dated 21 April 1983 to show change in manufacturer's name).

Approval 160.064/C2195/0, Adult XX-Large, Type III PFD, Model No. 5–584, manufactured by O'Brien International Inc., Division of Coleman Co., 14615 N.E. 91st. St., Redmond, WA 98052.

Approval 160.064/2201/0, Adult X-Small, Type III PFD, Model No. 1042, manufactured by Wellington Leisure Products, Inc., P.O. Box 46, 2600 Industrial St., Leesburg, FL 32748.

Approval 160.064/2202/0, Adult Small, Type III PFD, Model No. 1042, manufactured by Wellington Leisure Products, Inc., P.O. Box 46, 2600 Industrial St., Leesburg, FL 32748.

Approval 160.064/2203/0, Adult Medium or Adult Small/Medium, Type III PFD, Model No. 1042, manufactured by Wellington Leisure Products, Inc., P.O. Box 46, 2600 Industrial St., Leesburg, FL 32748.

Approval 160.064/2204/0, Adult Large, Type III PFD, Model No. 1042, manufactured by Wellington Leisure Products, Inc., P.O. Box 46, 2600 Industrial St., Leesburg, FL 32748.

Approval 160.064/2205/0, Adult Large or Adult Large/X-Large or Adult Universal, Type III PFD, Model No. 1042, manufactured by Wellington Leisure Products, Inc., P.O. Box 46, 2600 Industrial St., Leesburg, FL 32748.

Approval 160.064/2206/0, Adult Universal, Type III PFD, Model No. 1001, manufactured by Wellington Leisure Products, Inc., P.O. Box 46, 2600 Industrial St., Leesburg, FL 32748.

Approval 160.064/2207/0, Adult Universal, Type III PFD, Model No. 1003, manufactured by Wellington Leisure Products, Inc., P.O. Box 46, 2600 Industrial St., Leesburg, FL 32748.

Approval 160.064/2210/0, 14¼x18½ x2½, Type IV PFD, Model SBC–318A, manufactured by Stearns Manufacturing Co., P.O. Box 1498, St. Cloud, MN 56301.

Approval 160.064/2211/0, Adult Small, Type III PFD, Model SSV–6770, manufactured by Stearns Manufacturing Co., 30th and Division Sts., P.O. Box 1498, St. Cloud, MN 56302.

Approval 160.064/2212/0, Adult Medium, Type III PFD, Model SSV–6770, manufactured by Stearns Manufacturing Co., 30th and Division Sts., P.O. Box 1498, St. Cloud, MN 56302.

Approval 160.064/2211/3, Adult Large, Type III PFD, Model SSV–6770, manufactured by Stearns Manufacturing

Co., 30th and Division Sts., P.O. Box 1498, St. Cloud, MN 56302.

Approval 160.064/2211/4, Adult X-Large, Type III PFD, Model SSV–6770, manufactured by Stearns Manufacturing Co., 30th and Division Sts., P.O. Box 1498, St. Cloud, MN 56302.

Approval 160.064/2215/0, Child Small (for person 30 to 50 lbs.), Type III PFD, Model JR–2, manufactured by Paris Southern Corporation, P.O. Drawer 9038, Station A, Greenville, SC 29604.

Approval 160.064/2216/0, Child Small (for person 30 to 50 lbs.), Type III PFD, Model JR–3, manufactured by Paris Southern Corporation, P.O. Drawer 9038, Station A, Greenville, SC 29604.

Approval 160.064/2217/0, Adult XX-Large, Type III PFD, Model FV–2, 180, 181, manufactured by Paris Southern Corporation, P.O. Drawer 9038, Station A, Greenville, SC 29604.

Approval 160.064/2223/0, Adult Small, Type III PFD, Model SSV–5362, manufactured by Stearns Manufacturing Co., 30th and Division Streets., P.O. Box 1498, St. Cloud, MN 56302.

Approval 160.064/2224/0, Adult Medium, Type III PFD, Model SSV–5362, manufactured by Stearns Manufacturing Co., 30th and Division Streets., P.O. Box 1498, St. Cloud, MN 56302.

Approval 160.064/2225/0, Adult Large, Type III PFD, Model SSV–5362, manufactured by Stearns Manufacturing Co., 30th and Division Streets., P.O. Box 1498, St. Cloud, MN 56302.

Approval 160.064/2226/0, Adult X-Large, Type III PFD, Model SSV–5362, manufactured by Stearns Manufacturing Co., 30th and Division Streets., P.O. Box 1498, St. Cloud, MN 56302.

Approval 160.064/2233/0, Adult Extra-Small, Type III PFD, Models BRS, GRS, or SPS, manufactured by The Coleman Co., Inc., P.O. Box 1762, 250 N. St. Francis, Wichita, KS 67201.

Approval 160.064/2234/0, Adult Medium/X-Small, Type III PFD, Models BRL, GRL, or SPL, manufactured by The Coleman Co., Inc., P.O. Box 1762, 250 N. St. Francis, Wichita, KS 67201.

Approval 160.064/2237/0, Adult Universal, Type III PFD, Model A3, manufactured by Ero Industries, Inc., 5940 W. Touhy, Chicago, IL 60648.

Approval 160.064/2238/0, Child Medium (for person 50 to 90 lbs.), Type III PFD, Model CM3, manufactured by Ero Industries, Inc., 5940 W. Touhy, Chicago, IL 60648.

Approval 160.064/2239/0, Child small (for person 30 to 50 lbs.), Type III PFD, Model CS3, manufactured by Ero Industries, Inc., 5940 W. Touhy, Chicago, IL 60648.

Approval 160.064/2241/0, Infant (for person under 30 lbs.), Type II PFD, Model PW–3001, manufactured by Stearns Manufacturing Co., 30th and Division Streets., P.O. Box 1498, St. Cloud, MN 56302.

Approval 160.064/2242/0, Child Small (for person 30 to 50 lbs.), Type II PFD, Model PW–3002, manufactured by Stearns Manufacturing Co., 30th and Division Streets., P.O. Box 1498, St. Cloud, MN 56302.

**Protective Cover (for Lifeboats)**

Approval 160.065/8/0, Protective Cover for Harding MA24 open lifeboat. Manufactured by Harding Safety Inc., 1st National Bank Bldg., Suite 2100, Mobile, AL 36602.

**Red Aerial Pyrotechnic Flare**

Approval 160.066/19/0, 19 mm flare for use with Heckler & Koch emergency flare launcher. Manufactured by Heckler & Koch, Inc., 14601 Lee Road, Chantilly, VA 22021 (Supersedes Appr. 160.066/19/0 dated 23 September 1982 to show change of address).

**Exposure Suit**

Approval 160.071/1/1, Exposure Suit, Adult, Model No. 1409, manufactured by Imperial Manufacturing Co., P.O. Box 4119, Olympic View Industrial Park, Bremerton, WA 98310 (Supersedes Appr. 160.071/1/1 dated 4 March 1982 to show optional features).

Approval 160.071/7/0, Exposure Suit, Jumbo (Adult Extra Large), Model No. 1409, manufactured by Imperial Manufacturing Co., P.O. Box 4119, Olympic View Industrial Park, Bremerton, WA 98310 (Supersedes Appr. 160.071/7/0 dated 4 March 1982 to show optional features).

Approval 160.071/10/0, Model E38–001 Exposure Suit, Adult. Manufactured by Narwahl Marine, Ltd., 2 Bluewater Road, Bedford, Nova Scotia B4B 1G7 Canada.

**Class "A" EPIRB**

Approval 160.011/11/0, Model B–CON–200A, Class A, float free, emergency position indication radio beacon with bracket, manufactured by Modern Products Ltd., P.O. Box 2697, Redmond, WA 98052.

**Safety Valves for Auxiliary Boilers and Unfired Steam Generators**

Approval 162.002/82/1, Dresser Series 1811 safety valve, manufactured by Dresser Industries, Industrial Valve and Instrument Division, P.O. Box 1430, Alexandria, LA 71301 (Supersedes Appr. 162.002/82/0 dated 30 August 1978 to show change of size).

Approval 162.002/84/1, Dresser series 1811 safety valve, manufactured by Dresser Industries, Industrial Valve and Instrument Division, P.O. Box 1430, Alexandria, LA 71301 (Supersedes Appr. 162.002/84/0 dated 30 August 1978 to show change of size).

Approval 162.002/85/1, Dresser series 1811 safety valve, manufactured by Dresser Industries, Industrial Valve and Instrument Division, P.O. Box 1430, Alexandria, LA 71301 (Supersedes Appr. 162.002/85/0 dated 30 August 1978 to show change of size).

**Liquefied Compressed Gas Safety Relief Valve**

Approval 162.018/78/1, Type 91, pressure vacuum relief valves, manufactured by Anderson, Greenwood & Company, 5425 South Rice Ave., Houston, TX 77036 (Supersedes Appr. 162.018/78/1 dated 1 March 1982 to show revision of dwg.).

**Foam-Type Fire Extinguishing Systems**

Approval 162.033/6/2, Rockwood Marine Air-Foam Fire Extinguishing Systems using double strength (3%) foam liquid, manufactured by Rockwood System Corporation, 80 Second Street, South Portland, ME 04106 (Supersedes Appr. 162.033/6/2 dated 12 November 1978 to include bladder tank).

Approval 162.033/25/0, Rockwood Foam Fire Extinguishing Systems as described in Rockwood System's Design and Installation Instruction Manual No. 510-1888, manufactured by Rockwood Systems Corporation, 80 Second Street, South Portland, ME 04106 (Supersedes Appr. 162.033/25/0 dated 24 February 1983 to include alternate foam concentrate).

Approval 162.033/26/0, Rockwood Foam Fire Extinguishing Systems as described in Rockwood System's Design and Installation Instruction Manual No. 510-1889, manufactured by Rockwood Systems Corporation, 80 Second Street, South Portland, ME 04106 (Supersedes Appr. 162.033/26/0 dated 24 February 1983 to include alternate foam concentrate).

**Carbon Dioxide Type Fire Extinguishing Systems**

Approval 162.038/3/0, Cardox Low Pressure Carbon Dioxide Marine Fire Extinguishing System, manufactured by Chemetron Fire Systems Division of Chemetron Corporation, Route 50 and Governors Highway, Monee, IL 60449 (Reinstate Certificate 162.038/3/0 dated 9 September 1982).

Approval 162.038/6/0, Cardox Series 65 marine type high pressure carbon dioxide type fire extinguishing systems, manufactured by Chemetron Fire Systems Division of Chemetron Corporation, Route 50 and Governors Highway, Monee, IL 60449 (Reinstate

Certificate 162.038/6/0 dated 8 September 1982).

**Backfire Flame Control; Gasoline Engines; Flame Arrester**

Approval 162.041/200/0, Facet Model A175–66, manufactured by Facet Enterprises, Inc., Fuel Devices Division, 696 Hart Ave., Detroit, MI 48214 (Extension of Appr. 162.041/200/0 dated 23 June 1978).

**Oily Water Separators**

Approval 162.050/1104/0, Model SFC 5 BW–2 tons/hr, manufactured by Butter Worth Systems (UK) Ltd., 445 Brighton Road, South Croydon, Surrey CR2 GEA (England).

Approval 162.050/1105/0, Model SFC 8 BW–5 tons/hr, manufactured by Butter Worth Systems (UK) Ltd., 445 Brighton Road, South Croydon, Surrey CR2 GEA (England).

Approval 162.050/1106/0, Model SFL 12 BW–10 tons/hr, manufactured by Butter Worth Systems (UK) Ltd., 445 Brighton Road, South Croydon, Surrey CR2 GEA (England).

**Oil Water Interface Detector**

Approval 162.055/8001/0, Employs ultra sonic variation of wave propagation through different fluids as a method of detecting the interface between oil and water. Manufactured by Marine Moisture Control Co., 449 Sheridan Boulevard, Inwood Long Island, N.Y. 11696.

**Deck Covering**

Approval 164.006/23/0, Dex-O-Magnabond No. 1 composite mastic and magnesite type deck covering, manufactured by Crossfield Products Corporation, 140 Valley Road, Roselle Park, NJ 07204 (Reinstate Appr. 164.006/23/0 dated 4 October 1977).

Approval 164.006/58/0, Dex-O-Magnabond No. 1 composite mastic and magnesite type deck covering, manufactured by Crossfield Products Corporation, 140 Valley Road, Roselle Park, NJ 07204 (Supersedes Appr. 164.006/58/0 dated 22 August 1983 to show correct magnesite overlay thickness).

Approval 164.006/59/0, Dex-O-Magnabond No. 1 composite mastic and magnesite type deck covering, manufactured by Crossfield Products Corporation, 140 Valley Road, Roselle Park, NJ 07204.

**Structural Insulation**

Approval 164.007/58/0, "Hi-Wool" Type W–205 mineral wool, manufactured by Keumkang Limited 485–1, Sinsa-Dong, Kangnan-Ku, Seoul, Korea (Supersedes Appr. 164.007/58/0 dated 28 July 1983 to show correct report).

**Bulkhead Panels**

Approval 164.008/112/0, "Firetest 36" bulkhead panel, manufactured by Masonite Corporation, Commercial Division, 202 Harger Street, Dover, OH 44622 (Supersedes Appr. 164.008/112/0 dated 29 July 1983 to include additional joint details).

Approval 164.008/113/0, "Thermolite 650 SA" bulkhead panels, manufactured by Asberit, S. A., P.O. Box 716, 2000 ZC–00, Riode Janeriro, Brazil.

**Noncombustible Material**

Approval 164.009/72/3, "Incombustible Microlite" fibrous glass insulation type noncombustible material, manufactured by Johns-Manville Sale Corporation, Denver, Colorado 80217 (Supersedes Appr. 164.009/72/3 dated 21 July 1983 to correct plant locations).

Approval 164.009/90/0, " SeeGee Adhesive IC–292" noncombustible material, manufactured by Marathon Industries, Inc., Delaware Avenue and Sylon Blvd., Hainesport, NJ 08036 (Reinstate Certificate 164.009/90/0 dated 6 January 1976 and to show change of ownership).

Approval 164.009/218/0, "Ecomax 335" mineral wool type noncombustible material, manufactured by Rockwool AB, Fack 615, S–541 01 Skovde, Sweden (Extension of Appr. 164.009/218/0 dated 1 June 1978).

Approval 164.009/260/0, "Hi-Wool", Types 80 through 400 mineral wool, manufactured by Keumkang Limited, 485–1, Sinsa-Dong, Kangnan–Ku, Seoul, Korea (Supersedes Appr. 164.009/206/0 dated 28 July 1983 to show density range).

Approval 164.009/261/0, "Ecomax 327" mineral wool, manufactured by Rockwool AB, S54186 Skovde, Sweden.

Approval 164.009/262/0, "Ecomax 337" mineral wool, manufactured by Rockwool AB, S54186 Skovde, Sweden.

Approval 164.009/263/0, "High Temperature Blanket, Type I" Fiberglass blankets, manufactured by CertainTeed Corporation, P.O. Box 1100, Blue Bell, PA 19422.

Approval 164.009/264/0, "Utility Blankets, Numbers 26 and 28" fiberglass blankets, manufactured by CertainTeed Corporation, P.O. Box 1100, Blue Bell, PA 19422.

**Structural Ceilings**

Approval 164.010/6/0, "Joinlock" continuous ceiling, manufactured by Intersystems Design and Technology Corporation, 2810 East Oakland Park Blvd., Ft. Lauderdale, FL 33306.

Approval 164.010/7/0, "Joinlock" continuous ceiling, manufactured by Intersystems Design and Technology Corporation, 2810 East Oakland Park Blvd., Ft. Lauderdale, FL 33306

**Interior Finish**

Approval 164.012/11/1, Foster INSULFAS Coating 31–31, manufactured by H. B. Fuller Company, P.O. Box 625, Springhouse, PA 19477 (Extension of Appr. 164.012/11/1 dated 15 June 1978).

Approval 164.012/19/0, Acrylic vinyl coating, Type EC102, manufactured by Marathon Industries, Inc., Delaware Avenue and Sylon Blvd., Hainesport, NJ 08836 (Extension of Appr. 164.012/19/0 dated 8 August 1977 and to show change of ownership).

Approval 164.012/28/0, "Mariner Coating 30–55" general purpose coating, manufactured by H. B. Fuller Company, P.O. Box 625, Springhouse, PA 19477 (Extension of Appr. 164.012/28/0 dated 21 June 1980).

Approval 164.012/33/0, #332 Fiberglass wall covering manufactured by KWS Company, 111 North Mines Road, Livermore, CA 94550 Extension of Appr. 164.012/33/0 dated 22 August 1978).

Approval 164.012/34/0, Type FR FORMICA laminate, manufactured by Formica Corporation 120 E. 4th Street, Cincinnati, OH 45202 (Extension of Appr. 164.012/34/0 dated 3 October 1978).

Approval 164.012/35/0, Type FR 50 FORMICA laminate, manufactured by Formica Corporation 120 E. 4th Street, Cincinnati, OH 45202 (Extension of Appr. 164.012/35/0 dated 3 October 1978).

Approval 164.012/36/0, Type FR BK 32 FORMICA laminate, manufactured by Formica Corporation. 120 E. 4th Street, Cincinnati, OH 45202 (Extension of Appr. 164.012/36/0 dated 3 October 1978).

Approval 164.012/208/0 dated 21 June 1978)

Dated: July 25, 1984.

**Clyde T. Lusk, Jr.,**

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

[FR Doc. 84–20009 Filed 7–27–84; 8:45 am]

BILLING CODE 4910–14–M

## Federal Aviation Administration

### Radio Technical Commission for Aeronautics (RTCA), Special Committee 151—Airborne Microwave Landing System Area Navigation Equipment; 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 RTCA Special Committee 151 on Airborne Microwave Landing System (MLS) Area Navigation Equipment to be held on August 16–18, 1984, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Fifth Meeting Held on May 16–18, 1984; (3) Review and Discuss Special Committee 137 (Airborne Area Navigation Systems) and Special Committee 149 (Airborne Distance Measuring Equipment) Activities as they Affect the Performance Standards for MLS Area Navigation Equipment; (4) Report on MLS Program Activities; (5) Reports on Working Group Activities; (6) Review Draft Committee Report on Minimum Operational Performance Standards for Airborne MLS Area Navigation Equipment; (7) Working Groups Meet in Separate Sessions; (8) Assignment of Tasks; and (9) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on July 23, 1984.

**Karl F. Bierach**

*Designated Officer.*

[FR Doc. 84–20174 Filed 7–27–84; 8:45 am]

BILLING CODE 4910–13–M

### Radio Technical Commission for Aeronautics (RTCA), Special Committee 137—Airborne Area Navigation Systems; 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 RTCA Special Committee 137 on Airborne Area Navigation Systems (RNAV) to be held on August 22–24, 1984, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approve Minutes of the Sixteenth Meeting Held on March 21–23, 1984; (3) Report on European Organization for Civil Aviation Electronics (EUROCAE) Working Group 13 Activities; (4) Report on FAA Omega Advisory Circular; (5) Report on FAA LORAN–C Policy; (6) Review Requirements to Update RTCA Document DO–180 "Minimum Operational Performance Standards for Airborne Area Navigation Equipment Using VOR/DME Reference Facility Sensor Inputs" dated September 1982; (7) Report on Multi-Sensor Working Group Meetings; (8) Review Proposed Final Draft of Committee Report on Minimum Operational Performance Standards for Multi-Sensor Based Area Navigation Equipment; (9) Review Draft of Committee Report on Minimum Operational Performance Standards for Omega Based Area Navigation Equipment; and (10) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, D.C. 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on July 24, 1984.

**Karl F. Bierach,**

*Designated Officer.*

[FR Doc. 84–20175 Filed 7–27–84; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–84–13]

### Petitions for Exemption; Summary of Petitions Received Dispositions of Petitions Issued

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petitions for exemption received and of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATE:** Comments on petitions received must identify the petitions docket number involved and must be received on or before: August 20, 1984.

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

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

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on July 24, 1984.

**John H. Cassady,**

*Assistant Chief Counsel, Regulations and Enforcement Division.*

## PETITIONS FOR EXEMPTION—Continued

| Docket No. | Petitioner | Regulations Affected | Description of relief sought |
|---|---|---|---|
| 24131 | Windwalkers Air Country Club | 14 CFR 91.303 | To allow petitioner to operate one Stage 1 Boeing 720 aircraft until December 31, 1987, in noncompliance with the operating noise limits. |
| 24140 | Lineas Aereas Del Cobre | do | To allow petitioner to operate Stage 1 Boeing 727 aircraft into Miami Int'l. Airport from January 1, 1985 to January 1, 1988, in noncompliance with the operating noise limits. |
| 24135 | Icelandair | do | To allow petitioner to operate Stage 1 DC-8 aircraft until January 1, 1988, in noncompliance with the operating noise limits. |
| 24130 | Worldways Canada, Ltd | do | To allow petitioner to operate Stage 1 DC-8 and Boeing 707 aircraft until December 31, 1987, in noncompliance with the operating noise limits. |
| 24123 | Lineas Aereas Paraguayas | do | To allow petitioner to operate three Stage 1 Boeing 707 aircraft in noncompliance with the operating noise limits for a limited time until they are able to obtain and place into service a noise compliant DC-8-73 aircraft. |
| 24112 | VIASA | do | To allow petitioner to operate two Stage 1 DC-8 aircraft in noncompliance with the operating noise limits until December 31, 1987. |
| 24119 | Pennsylvania State Police | 14 CFR 45.23, 45.27 and 45.29 | To allow petitioner to operate its helicopter fleet used in law enforcement activities displaying 3-inch registration markings instead of the required 12-inch marks. |
| 20378 | Beckett Aviation Corp | 14 CFR 61.58(c) | To extend the 9/30/84 termination date of Exemption 3067 which allows petitioner to complete the entire 24-month pilot-in-command proficiency check in an FAA-approved flight simulator. |
| 24113 | Compagnie IBM France | 14 CFR 21.181, 91.27 and 91.29 | To allow petitioner to operate two Falcon 20 and one Falcon 10 aircraft using an FAA-approved minimum equipment list. |
| 24093 | Albuquerque Int'l. Balloon Fiesta, Inc | 14 CFR 61.3 and 91.27 | To allow foreign-registered pilots and balloons to fly in the Albuquerque Balloon Fiesta without complying with the pilot certification and airworthiness requirements of these sections. |
| 24096 | Trans World Airlines | 14 CFR 121.621(a)(1) | To allow petitioner to dispatch scheduled international flights under IFR on alternate conditions when the flight time exceeds 6 hours. |
| 12227 | Nat'l. Business Aircraft Assn., Inc | 14 CFR 91.169 and 91.181(a) | To extend Exemption 1637, as amended, to allow petitioner's members to use inspection programs required for large and turbojet or turboprop-powered airplanes for their small civil airplanes and helicopters. It will also allow their operation of the aircraft under Subpart D of Part 91. |
| 24127 | Johnson & Johnson | 14 CFR Portions of Parts 21, 43, and 91 | To allow petitioner to operate aircraft under Part 91 with inoperative equipment utilizing the provisions of minimum equipment lists. |
| 24118 | Int'l. Air Service Co., Ltd | 14 CFR 121.613 | To allow petitioner to release an aircraft to a destination airport when that airport's terminal forecaset predicts at or above minimum weather at estimated arrival time, but also contains conditional language predicting the possible occurrence of below minimum weather during that period. |
| 17145 | United Airlines | 14 CFR 121.695 and 121.697 | To allow petitioner a permanent exemption to use a computerized load manifest that displays and prints the name of the responsible agent in lieu of the requirement for a signature. |
| 24125 | Hensen Airlines | 14 CFR 121.503, 121.505, and 121.515 | To allow petitioner to conduct operations under Part 121 utilizing the flight and duty time requirements of § 135.261 for its Shorts 330 pilots. |
| 23716 | World Balloon Corp | 14 CFR 47.15(b) | To allow for an exemption from the conventional registration identification as provided in said section, and to request a special registration of N-WORLD. |
| 24147 | Norman E. Midthun | 14 CFR 121.383(c) | To allow petitioner to continue in active flight status as a fully qualified and confident airline pilot after reaching his 60th birthday. |
| 24120 | Petroleum Helicopters | 14 CFR 135.11 | To grant relief from the requirement that aircraft registration numbers be placed on operations specifications. |
| 24121 | Airlift Int'l. Inc | 14 CFR 121.3 and § 610(a)(4) of FA Act of 1958. | To allow petitioner to conduct authorized wet-lease flights for Air Haiti using Haiti's flight numbers and call sign. |
| 24137 | Delta Airlines | 14 CFR 121.434(c) | To allow transitioning pilots-in-command to acquire operating experience on a "train to proficiency" basis instead of the 25 hours (reduceable) for initial operating experience. |
| 24151 | Belize Air Int'e., Ltd | 14 CFR 91.303 | To allow petitioner to operate Stage 1 aircraft until January 1, 1988, in noncompliance with the operating noise limits. |
| 24146 | S. Pacific Island Airways | do | To allow petitioner to operate four Stage 1 Boeing 707 airplanes in noncompliance with the operating noise limits until compliance with the Part 36 noise standards can be achieved by installation of quiet nacelles. |
| 24145 | Dominicana De Aviacion, C. POR A | do | To allow petitioner to operate one Stage 1 Boeing 707 airplanes in noncompliance with the operating noise limits until December 31, 1987, or one year after the issuance of a Supplemental Type Certificate for a quiet nacelle, whichever is later. |

## DISPOSITIONS OF PETITIONS FOR EXEMPTION

| Docket No. | Petitioner | Regulations affected | Description of relief sought disposition |
|---|---|---|---|
| 24081 | Viking Int'l. Airlines | 14 CFR 121.161(d)(2) | To allow Mr. Charles Mills to serve as Chief Inspector without meeting the requirements for 3 years of diversified maintenance experience with an air carrier, commerical operator, or repair station. *Withdrawn 6/27/84.* |
| 23885 | Agusta Aviation | 14 CFR 91.6(a)(1) | To permit petitioner to conduct IFR Caterogy II approach operations in its A109 helicopter with a single pilot crewmember. *Withdrawn 6/29/84.* |
| 23962 | Independent Air, Inc | 14 CFR 91.303 | To allow petitioner to operate two Boeing 720 and two Boeing 707 aircraft until December 31, 1987, in noncompliance with the operating noise limits. *Denied 6/22/84.* |
| 23941 | Sheriff's Dept. of the County of Sacramento, CA (SCSD). | 14 CFR 45.29 | To allow the SCSD to operate a 1977 Hughes 369/500d rotorcraft that displays the word "SHERIFF" and 3-inch-high nationality and registration marks (N-numbers), N-33CN in place of the 12-inch high N-numbers now required by the regulations. By telephone on June 1, 1984, the SCSD informed the FAA that the correct designation of the rotorcraft is Hughes Model 369D, manufacturer's Serial No. 670150D. *Denied 7/12/84.* |
| 24024 | VARIG, S.A | 14 CFR 91.303 | To allow petitioner to operate Boeing 707-320C aircraft through December 31, 1987, in noncompliance with the operating noise limits. *Denied 7/13/84.* |
| 23962 | Norman L. Coffelt | 14 CFR 65.91(c)(1) | To allow petitioner to apply for an Inspection Authorization without having held a mechanic certificate with Airframe and powerplant ratings for the 3-year period immediatly before the date of application. *Denied 6/29/84.* |
| 24017 | Floyd M. Homstad | 14 CFR 121.383(c) | To allow petitioner to serve as a pilot in Part 121 operations after reaching his 60th birthday. *Denied 6/22/84.* |
| 23979 | Sterling Airways A/S | 14 CFR 91.303 | To allow petitioner to operate DC-8 aircraft in noncompliance with the operating noise limits until installation of "hush kits," expected during early 1985. *Denied 6/29/84.* |

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

| Docket No. | Petitioner | Regulations affected | Description of relief sought disposition |
|---|---|---|---|
| 23875 | Beech Aircraft Corp | 14 CFR 45.25(b)(2) | To permit petitioner to display registration marks on the engine nacelles which are attached to the wing rather than on the fuselage of its new 2000 model aircraft. *Partial Grant 7/12/84.* |
| 23935 | EMS Helicopters, Inc | 14 CFR 135.261(b) | To permit petitioner to operate Bell 206L and Agusta 109 Mark II helicopters in a hospital emergency service without complying with certain of the duty time limitations of that section. *Partial Grant 7/9/84.* |
| NM-13 | Cessna Aircraft Co | 14 CFR 25.1303 (b)(4) 25.1321(c) | To permit type certification of the Cessna Model 552 with an instrument arrangement that does not comply with certain provisions of these sections. *Granted 6/14/84.* |
| 23808 | Lone Star Helicopters, Inc | 14 CFR 43.3(h) | To allow petitioner's appropriately trained and certificated pilots to remove, check, and reinstall magnetic chip detector plugs in the Allison 250 series turbine engine, aircraft transmission, and tail rotor gearbox installed on Bell 206 series helicopters operated by petitioner. *Granted 5/10/84.* |
| 23771 | Cessna Aircraft Co | 14 CFR 91.213 and 91.31 | To allow airplanes type certificated for operation by a single pilot to be operated without a second in command. *Granted 6/27/84.* |
| 23960 | Air National | 14 CFR 121.371(a) and 121.378 | To allow petitioner to contract with Swissair, KLM, SAS, and UTA for the inspection, repair, and overhaul of its B747-200 aircraft, airframe, engine, appliances, and parts. *Granted 6/26/84.* |
| 22506 | Guyana Airways Corp | 14 CFR Portions of Parts 21 and 91 | To amend Exemption No. 3434C to add an aircraft which would allow Guyana to operate a B-707321B aircraft under the provisions of an FAA-approved minimum equipment list. *Granted 6/20/84.* |
| 23869 | Strong Enterprises, Inc., & The Relative Workshop, Inc. | 14 CFR 105.43(a) | To permit the petitioner's employees and representatives and other volunteer experimental parachute test jumpers under their direction and control to make parachute jumps while wearing a dual harness dual parachute pack. *Granted 6/21/84.* |
| 23521 | Singapore Airlines | 14 CFR Portions of Part 91 | To amend Exemption 3768, to add a B-747-312 aircraft which would allow petitioner to operate aircraft under Part 91 of the Federal Aviation Regulations using FAA-approved minimum equipment list. *Granted 6/22/84.* |
| 22701 | Omniflight Helicopters, Inc | 14 CFR 135.261(b) | To allow petitioner to operate helicopters from Welborn Baptist Hospital in Evansville, Indiana, without complying with the duty-time limitations. *Granted 6/26/84.* |
| 20846 | Braniff Airlines | 14 CFR Part 121, Phase II of Appendix H | To reinstate Exemption 3147 which permits petitioner to use its Boeing 727 Advanced Simulators, Serial Nos. 228 and 229, for training and checking without those simulators meeting the continuous minimum horizontal field-of-view requirement. *Granted 6/29/84.* |
| 24124 | Congoleum Aviation | 14 CFR 91.307 | To allow operation in the United States, under a service to small communities exemption, of specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: BAC 1-11: N12CZ. *Granted 7/9/84.* |
| 23949 | Jet Aviation of America, Inc | 14 CFR 91.191(a)(4) and 135.165(b) | To allow the operation of a Dassault Falcon 10 airplane in extended overwater operations with only one VLF/Omega long-range navigation system and one high-frequency communication system. *Granted 7/9/84.* |
| 23859 | Department of the Army | 14 CFR 101.23(b) | Relief from the unmanned rockets in controlled airspace provisions to allow for the launching of 2.75 "Folding Fin Aerial Rockets) in the St. George Island controlled firing area. *Granted 7/10/84.* |
| 23883 | Florida Express, Inc | 14 CFR 91.307 | To amend Exemption No. 3902a to add 1 aircraft. The present exemption allows operation in the United States, under a service to small communities exemption, of specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: 4 BAC-11: N1543, N1544, N1545, and N1548. *Granted 6/27/84.* |
| 23921 | Flight Safety Int'l | 14 CFR 61.57 (c) and (d) | To permit pilots contracting with petitioner to use an approved Phase II simulator to meet the currency requirements. *Granted 7/11/84.* |

[FR Doc. 84-20157 Filed 7-27-84; 8:45 am]
BILLING CODE 4910-13-M

## National Highway Traffic Safety Administration

## Automotive Fuel Economy Program; Report to Congress

The attached document, *Automotive Fuel Economy Program, Eighth Annual Report to the Congress*, has been prepared pursuant to section 502(a)(2) of the Motor Vehicle Information and Cost Savings Act (Pub. L. 92-513, as amended by the Energy Policy and Conservation Act (Pub. L. 94-163), which requires in pertinent part that "each year beginning in 1977, the Secretary shall transmit to each House of Congress, and publish in the **Federal Register**, a review of average fuel economy standards under this part."

Dated: July 25, 1984.

**Barry Felrice,**

*Associate Administrator for Rulemaking.*

## Automotive Fuel Economy Program

*Eighth Annual Report to the Congress*

January 1984

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Section I: Introduction
Section II: Fuel Economy Improvement by Manufacturers
Section III: MY 1986-87 Light Truck Standards
Section IV: Impact of Domestic Content Amendment
Section V: Use of Advanced Technology

### Section I: Introduction

This Eighth Annual Report to the Congress (1984) summarizes the activities of the National Highway Traffic Safety Administration (NHTSA) during Fiscal Year (FY) 1983 regarding the implementation of applicable sections of Title V: "Improving Automotive Fuel Efficiency," of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 *et seq.*), as amended (the Act). Section 502(a)(2) of the Act requires submission of a report by January 15th of each year. Included in this report are sections summarizing rulemaking activities during FY 1983 and a discussion of the use of advanced automotive technology by the industry as required by section 305, Title III of the Department of Energy Act of 1978 (Pub. L. 95-238).

Title V of the Act requires the Secretary of Transportation to administer a program for regulating the fuel economy of new passenger cars in light trucks in the United States (U.S.) market. On June 22, 1976, the authority to administer the program was

delegated by the Secretary to the Administrator of NHTSA (41 FR 25015).

The National Highway Traffic Safety Administration's responsibilities in the fuel economy area include: (1) Establishing average fuel economy standards for manufacturers of passenger automobiles and light trucks as necessary; (2) promulgating regulations concerning procedures, definitions, and reports necessary to support the fuel economy standards; (3) considering petitions for exemption from established fuel economy standards by low volume manufacturers (those producing fewer than 10,000 passenger cars annually worldwide) and establishing alternative standards for them; (4) preparing reports to Congress annually on the progress of the fuel economy program, (5) enforcing the fuel economy standards and regulations; and (6) responding to petitions concerning domestic production by foreign manufacturers and other matters.

To date, passenger car fuel economy standards have been established by the Congress for model years (MY's) 1978 through 1980 and for 1985 and thereafter, and by the Department of Transportation for the 1981 through 1984 model years. Standards for light trucks have been established by the Department of Transportation for MY's 1979 through 1985. All current standards are listed in Table I–1.

TABLE I–1.—FUEL ECONOMY STANDARDS FOR PASSENGER CARS AND LIGHT TRUCKS FOR THE 1978 THROUGH 1985 MODEL YEARS (IN MPG)

| Model year | Passenger cars | Light trucks [1] | | |
|---|---|---|---|---|
| | | 2-wheel drive | 4-wheel drive | composite [2] |
| 1978 | [3] 18.0 | | | |
| 1979 [4] | [3] 19.0 | 17.2 | 15.8 | 17.2 |
| 1980 [5] | [3] 20.0 | 16.0 | 14.0 | |
| 1981 [6] | 22.0 | 16.7 | 15.0 | |
| 1982 | 24.0 | 18.0 | 16.0 | 17.5 |
| 1983 | 26.0 | 19.5 | 17.5 | 19.0 |
| 1984 | 27.0 | 20.3 | 16.5 | 20.0 |
| 1985 | [3] [6] 27.5 | 21.6 | 19.0 | 21.0 |

[1] Standards for 1979 model year light trucks were established for vehicles with a gross vehicle weight rating (GVWR) of 6000 lbs. or less. Standards for MY's 1980 through 1985 are for light trucks with a GVWR of up to and including 8,500 lbs.

[2] For model years 1982–1985, manufacturers may comply with the two-wheel and four-wheel drive standards or may combine their two-wheel and four-wheel drive light trucks and comply with the combined standard.

[3] Established by Congress in the Energy Policy and Conservation Act of 1975.

[4] For MY 1979, light truck manufacturers may comply separately with standards for four-wheel drive, general utility vehicles and all other light trucks, or combine their trucks into a single fleet and comply with the 17.2 mpg standard.

[5] Light trucks manufactured by a manufacturer whose fleet is powered exclusively by basic engines which are not also used in passenger automobiles, must meet standards of 14 mpg and 14.5 mpg in model years 1980 and 1981, respectively.

[6] For MY 1985 and thereafter.

## Section II: Fuel Economy Improvement by Manufacturers

The fuel economy achievements of both domestic and foreign manufacturers in MY 1982 have been updated since their publication in the *Seventh Annual Report to the Congress* and, together with current data for MY 1983, are listed in Tables II–1 and II–2. During MY 1983, lower fuel prices stimulated consumer demand for larger cars and larger engines. These lower prices also contributed to reduced demand for diesel engines. Consequently, MY 1983 Corporate Average Fuel Economy (CAFE) values increased over MY 1982 levels for only 43 percent of the passenger car manufacturers listed in Table II–1.

Light truck manufacturers faced a similar situation. The average MY 1983 CAFE for truck manufacturers using the two-wheel drive standard for compliance declined 0.7 miles per gallon from MY 1982 levels. In contrast, the average CAFE for manufacturers using the four-wheel drive standard rose by 1.0 miles per gallon, and the average CAFE for manufacturers using the combined standard increased by 1.2 miles per gallon. A major contributor to these increases was the introduction by domestic producers of compact pickup trucks, including four-wheel drive models.

Because of heightened consumer demand for larger vehicles and engines, a number of manufacturers did not meet the CAFE values of the fuel economy standards. These manufacturers will not pay civil penalties because in earlier years they earned sufficient credits by exceeding fuel economy standards to offset later shortfalls.

Despite the fact that many manufacturers had lower MY 1983 CAFE values than in MY 1982, the total fleet average fuel economy met the MY 1983 passenger car standard. Total fleet average fuel economy values of light trucks exceeded all MY 1983 standards. In the *Seventh Annual Report of Congress*, NHTSA estimated that by 1995 the projected cumulative fuel savings if all new cars and light trucks were to just meet the Federal fuel economy requirements through 1985 would amount to approximately 400 billion gallons, compared to consumption projected at 1976 fuel economy levels.

TABLE II–1.—PASSENGER CAR FUEL ECONOMY PERFORMANCE BY MANUFACTURER AND MODEL YEAR [1]

| Manufacturer | Model Year—CAFE [2] (mpg) | |
|---|---|---|
| | 1982 | 1983 |
| Domestic: | | |
| AM | 24.0 | 33.6 |
| Chrysler | 27.0 | 27.0 |
| Ford | 24.5 | 23.8 |
| GM | 24.1 | 23.5 |
| Sales Weighted Average | 24.5 | 24.2 |
| Imported: | | |
| Alfa Romeo | 24.8 | 25.2 |
| Bertone | | 29.1 |
| BMW | 26.4 | 25.6 |
| Chrysler | 34.2 | 33.9 |
| Datsun | 30.7 | 32.6 |
| Fiat [4] | 25.7 | 13.1 |
| Ford | 34.4 | |
| Honda | 33.4 | 35.4 |
| Isuzu | 37.6 | 34.1 |
| Jaguar Rover Triumph (JRT) | 18.8 | 18.6 |
| Mazda | 29.4 | 29.1 |
| Mercedes-Benz | 26.3 | 26.5 |
| Mitsubishi | | 31.4 |
| Peugeot | 27.6 | 25.1 |
| Pininfarina | | 26.3 |
| Renault | 32.2 | 31.4 |
| Saab | 24.1 | 25.6 |
| Subaru | 31.6 | 33.7 |
| Toyota | 30.5 | 33.3 |
| Volvo | 24.6 | 25.6 |
| VW [3] | 32.9 | 30.2 |
| Sales Weighted Average | 30.7 | 31.8 |
| Total fleet average | 26.1 | 26.0 |
| Fuel economy standards | 24.0 | 26.0 |

[1] Manufacturers of fewer than 10,000 passenger cars annually are not listed.

[2] Corporate Average Fuel Economy.

[3] Includes VW domestic production as well Audi and Porsche.

[4] Fiat's CAFE fleet for model year 1983 consists only of Ferrari models. Fiat itself withdrew from the U.S. market before producing any 1983 models.

TABLE II–2.—LIGHT TRUCK FUEL ECONOMY PERFORMANCE BY MANUFACTURER AND MODEL YEAR

| Manufacturer | Model year CAFE (mpg) | | | | | |
|---|---|---|---|---|---|---|
| | 2-Wheel Drive | | 4-Wheel Drive | | Combined[1] | |
| | 1982 | 1983 | 1982 | 1983 | 1982 | 1983 |
| Domestic: | | | | | | |
| AM | 23.7 | 23.6 | 19.7 | 19.5 | — | — |
| Chrysler | — | — | — | — | 19.0 | 17.7 |
| Ford | — | — | — | — | 17.1 | 19.2 |
| GM | 21.1 | 20.3 | 19.0 | 20.6 | — | — |
| Sales weighted average | 21.1 | 20.3 | 19.3 | 20.3 | 17.5 | 18.9 |
| Imported: | | | | | | |
| Chrysler | — | — | — | — | 26.3 | 27.5 |
| Datsun | 29.2 | 28.5 | 24.1 | 24.1 | — | — |
| Ford | 27.7 | 31.1 | — | — | — | — |
| GM | 36.1 | — | 31.0 | — | — | — |
| Isuzu | 35.0 | 35.6 | 29.4 | 30.3 | — | — |
| Mazda | 31.8 | 30.7 | — | — | — | — |
| Mitsubishi | — | 30.6 | — | 24.7 | — | — |
| Subaru | — | — | — | 29.4 | — | — |
| Suzuki | — | — | 24.9 | 25.0 | — | — |

TABLE II-2.—LIGHT TRUCK FUEL ECONOMY PERFORMANCE BY MANUFACTURER AND MODEL YEAR—Continued

| Manufacturer | Model year CAFE (mpg) | | | | | |
|---|---|---|---|---|---|---|
| | 2-Wheel Drive | | 4-Wheel Drive | | Combined[1] | |
| | 1982 | 1983 | 1982 | 1983 | 1982 | 1983 |
| Toyota | 28.9 | 27.4 | 22.6 | 22.7 | — | — |
| VW | 27.9 | 24.7 | — | — | — | — |
| Sales weighted average | 28.8 | 28.8 | 23.4 | 25.4 | 25.3 | 27.5 |
| Total fleet average | 23.0 | 22.3 | 20.6 | 21.6 | 18.1 | 19.3 |
| Fuel economy standards | 18.0 | 19.5 | 16.0 | 17.5 | 17.5 | 19.0 |

[1] In models years 1982 and 1983, manufacturers could comply with the two-wheel and four-wheel drive standards or could combine their two-wheel and four-wheel drive light trucks and comply with the combined standard.

**Section III: MY 1986–87 Light Truck Standards**

Section 502(b) of Title V requires NFTSA to issue light truck standards at least 18 months before the beginning of each model year after 1978. During FY 1983, the agency therefore developed a rulemaking analysis which will culminate in the issuance of fuel economy standards for MY's 1986–87 light trucks. The first step in the rulemaking was the issuance in October 1982 of a questionnaire to domestic and foreign light truck manufacturers. Information was requested on such items as product plans, fuel economy gains expected from particular technology items, sales projections, and capital expenditures.

Reponses to the questionnaire were received in late 1982 and early 1983. NHTSA has used these responses to develop proposed standards for MY's 1986–87. Final standards are scheduled to be issued in April 1984.

**Section IV: Impact of Domestic Content Amendment**

The Automobile Fuel Efficiency (Act of 1980) modified several provisions of the Motor Vehicle Information and Cost Savings Act. One of these modifications concerned the domestic content provision in section 503 of Title V. Section 503 specifies that passenger cars having less than 75 percent of the cost to the manufacturer attributable to value added in the United States or Canada are considered to be foreign manufactured. Conversely, vehicles with at least 75 percent value added in the U.S. or Canada are considered to be domestically manufactured for the purposes of complying with fuel economy regulations. Since Section 503 also requires that domestically and foreign produced passenger automobiles not be grouped together for the purpose of complying with fuel economy standards, highly fuel-efficient vehicles with less than 75 percent value added in the United States or Canada may not be used by a manufacturer to offset the lower fuel economy of its domestically produced cars.

The domestic content provision was included in Title V to promote employment in the U.S. automobile industry by encouraging manufacturers to produce high fuel economy vehicles in this country, instead of relying on the importation of such cars which they produce or purchase abroad. However, foreign manufacturers choosing to build their most fuel-efficient vehicles in the U.S. or Canada, with at least 75 percent domestic content, would not, under original domestic content provision, be permitted to average such cars with their less fuel-efficient foreign-produced models. Thus, there existed a disincentive for foreign manufacturers to initiate U.S. production and to achieve high levels of domestic content. The Act of 1980 permits manufacturers completing their first year of production in the period 1975–85 to petition NHTSA for exemption from the separate compliance provision of section 503 of Title V. Such a petition must be granted unless the agency finds that doing so would result in reduced employment in the U.S. automobile industry.

Volkswagen of America, Inc. (VWOA) has been the only manufacturer to petition NHTSA for an exemption from the separate compliance provision. The agency granted the petition for relief on October 23, 1981. The agency concluded that granting the petition would not result in adverse effects on employment in the U.S. automobile industry.

As required by the Act of 1980 (section 512(c)(1) of Title V), the Secretaries of Transportation and Labor have made during FY 1983 their second annual examination of the impact of the domestic content amendment to Title V. During 1983, auto industry unemployment declined substantially as the economy recovered. U.S. hourly indefinite layoffs fell from 268,750 at the end of calendar year 1982 to 107,900 as of mid-December 1983. In contrast to the other domestic passenger car manufacturers, VWOA experienced a slight decline in car sales in 1983. VWOA has nonetheless followed its plan to increase domestic content, as presented to NHTSA in 1981, and expects that its MY 1984 U.S. produced vehicles will contain over 75 percent domestic content. There is no reason, at present, to change the 1981 findings of NHTSA that granting VWOA's petition will promote employment in the U.S. automobile industry without causing undue harm to domestic manufacturers. Also, no evidence has been found that the domestic content provision has permitted a manufacturer of domestically produced cars to attain the 75 percent level, and then subsequently to fall below the 75 percent requirement.

**Section V: Use of Advanced Technology**

This section fulfills the statutory requirement of the Department of Energy Act of 1978 (Pub. L. 95–238) Title III, Section 305, which directs the Secretary of Transportation to submit an annual report to Congress on the use of advanced technologies by the automotive industry to improve motor vehicle fuel economy. This report focuses on the application of materials to save weight and applications of electronic systems for engines and transmissions made during 1983.

Manufacturers have made their most innovative use of materials in expensive automobiles. The most significant new material applications were made in automobiles such as the Corvette, which contains more than 350 pounds of aluminum in the engine and chassis. This particular application is triple the amount of aluminum used in the average 1983 automobile. Despite an impressive list of new and expanding applications of aluminum, the aluminum content of a typical U.S. car increased only 4 pounds in 1983. Some of the new applications included drive shafts and instrument panel reinforcements. The greatest increase in the application of aluminum was in the intake manifolds, water pumps, transaxle cases, differential cases, brake valves, radiators and starters.

Plastic usage grew in 1983. American Motors is using new low density urethane-foam energy management systems in both front and rear bumper systems of the Alliance. Rocker panels on GM's Corvette are the first to use reinforced glass-fiber urethane. This material's dimensional stability and absence of sag make it suitable for this application. The Corvette also has the first plastic front leaf-spring in its suspension system. Ford's Thunderbird and Cougar have bumper facias made from reaction-injected-molded (RIM) plastic. The new Mustang and Capri

also have new RIM-faced bumper systems. Other plastic parts on 1983 models include lower air dams, rear parcel shelves, inner fender liners and stone deflector moldings.

On a pounds per vehicle basis, high strength steel (HSS) continued to gain. According to Ward's 1983 Automotive Yearbook, the average weight of high strength steel increased from 203 pounds in 1982 to 207 pounds in 1983 in a typical U.S.-built automobile. Chrysler's new E cars used HSS in rear frame rails, side rail reinforcements, rear door guard beams and rear seat backs. Ford replaced aluminum bumpers with high strength steel. Wheels made entirely of HSS were used on the Alliance.

Engine trends were mixed during MY 1983. Sales of both large and small gasoline engines showed gains in 1982 and 1983, while sales of diesels declined. The manufacturers' emphasis in 1983, was placed on getting greater output from smaller engines. Electronic fuel injection (EFI) is being used to increase power and fuel ecomony on both large and small engines, and turbocharging is being used to increase the performance of smaller engines. Ford has a new 2.3 liter overhead cam turbocharged engine option for its new Thunderbird. Chrysler has converted its 2.2 liter engine into a performance powerplant with the introduction of turbocharging and electronic fuel injection. Among the domestic producers, EFI was used on engines offered in the GM J-cars; Ford Thunderbird, Mustang, Capri, County Squire, Grand Marquis, and Continental; Chrysler's E-Class, 600, and New Yorker; and the American Motors Alliance. Work is continuing on uses of electronics to improve fuel economy and performance. The Alliance has an electronically-controlled automatic transaxle. Toyota is offering an electronic transmission that allows the driver to select economy, power, or normal operating modes. General Motors is working with Isuzu Motors in the development of the world's first microcomputerized diesel engine. Isuzu predicts that the microcomputer will improve fuel economy by 10 percent.

In summary, although lower fuel prices encouraged consumer demand for less fuel-efficient vehicles, auto manufacturers continued their emphasis on enhancing the technology of new cars and trucks.

[FR. Doc. 84-20058 Filed 7-27-84; 8:45 am]
BILLING CODE 4910-59-M

## DEPARTMENT OF THE TREASURY

**[General Counsel Order No. 21 (Rev. 4)]**

### Appointment of Members of the Legal Division to the Performance Review Board

Under the authority granted to me as General Counsel of the Department of the Treasury by 31 U.S.C. 301 and 26 U.S.C. 7801, Treasury Department Order No. 101-5 (Revised), and pursuant to the Civil Service Reform Act, I hereby appoint the following persons to the Legal Division Performance Review Board:

(1) For the General Panel—
Chairperson, Margery Waxman
Arnold Intrater
Allan Schott
Richard Fitzgerald
Richard Abbey
Marvin Dessler

(2) For the IRS Panel—
Chairperson, the Deputy Chief Counsel, Internal Revenue Service
Deputy General Counsel
An Associate Chief Counsel for the Internal Revenue Service
A rotating Regional Counsel
A rotating Division Director of the Internal Revenue Service and such other SES officials as designated by the Chief Counsel

I hereby delegate to the Chief Counsel for the Internal Revenue Service the authority to make the appointments specified in this Order to the IRS Panel and to make the publication required by section 4314(c)(4) of the Title 5 United States Code of the members of the IRS Panel.

Effective Date: July 24, 1984.

**Margery Waxman,**
*Acting General Counsel.*

[FR Doc. 84-19886 Filed 7-27-84; 8:45 am]
BILLING CODE 4810-25-M

### Senior Executive Service Performance Review Board; Membership Change

**ACTION:** Notice of Change in Membership of a Senior Executive Service Performance Review Board (PRB).

**SUMMARY:** This notice announces the revised membership of the Departmental PRB, pursuant to 5 U.S.C. 4314(c)(4), the Civil Service Reform Act of 1978. The purpose of the Board is to review proposed performance appraisals, ratings, bonuses and other appropriate personnel actions for incumbents of non-delegated SES positions. These positions include SES bureau heads, deputy bureau heads, bureau chief inspectors, Associate Commissioners of the Internal Revenue Service, and certain other positions. The Board makes recommendations to the Secretary or his designee as Appointing Authority. The Board will perform PRB functions for other top bureau positions if requested. Three members constitute a quorum, at least two of whom must be career appointees. In addition, the Board will review proposed SES bonus distribution, SES incentive award requests, and Presidential Rank nominations from the bureaus if requested.

**FOR FURTHER INFORMATION CONTACT:** Paul T. Weiss, Director of Personnel, Room 2426, 1500 Pennsylvania Avenue, NW, Washington, DC 20220; telephone 566-2701.

**SUPPLEMENTARY INFORMATION:** The revised membership of the Departmental PRB is as follows:

Terence C. Golden, Assistant Secretary (Administration)
Carole J. Dineen, Fiscal Assistant Secretary
Gerald Murphy, Deputy Fiscal Assistant Secretary
Roscoe L. Egger, Jr., Commissioner, Internal Revenue Service
Robert J. Leuver, Director, Bureau of Engraving and Printing
Richard L. Gregg, Deputy Commissioner, Bureau of Public Debt
John A. Kilcoyne, Assistant Fiscal Assistant Secretary
John P. Simpson, Director, Office of Regulations and Rulings, U.S. Customs Service
James I. Owens, Deputy Commissioner, Internal Revenue Service
Michael F. Hill, Director, Office of Revenue Sharing
Diane E. Clark, Director, Office of Equal Opportunity Program
George N. Carlson, Deputy Director, International Taxation Division
Joseph E. Bishop, Deputy Assistant Secretary (Administration) for Operations
Alfred R. DeAngelus, Deputy Commissioner, U.S. Customs Service
Katherine D. Ortega, Treasurer of the United States
Larry E. Rolufs, Deputy to the Treasurer
Edward Stevenson, Deputy Assistant Secretary (Operations)
Margery Waxman, Deputy General Counsel

This notice does not meet the Department's criteria for significant regulations.

**Terence C. Golden,**

*Assistant Secretary (Administration).*

[FR Doc. 84-20027 Filed 7-27-84; 8:45 am]
BILLING CODE 4810-25-M

## Public Information Collection Requirements Submitted to OMB for Review

Dated: July 25, 1984.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureaus), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained from the Treasury Department Clearance Officer, by calling (202) 535-6020. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7316, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

### Internal Revenue Service

*OMB Number:* 1545-0213
*Form Number:* IRS Form 5578
*Type of Review:* Extension
*Title:* Annual Certification of Racial Nondiscrimination for a Private School Except from Federal Income Tax
*OMB Reviewer:* Norman Frumkin (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

### U.S. Customs Service

*OMB Number:* 1515-0077
*Form Number:* Customs Form 7514
*Type of Review:* Extension
*Title:* Drawback Notice (Lading/Foreign Trade Zone Transfer)
*OMB Number:* New
*Form Number:* ICB Form 143
*Type of Review:* Existing Collection
*Title:* Withdrawal for Consumption or Withdrawal for Exportation of Articles Manufactured in Bond.
*OMB Reviewer:* Judy McIntosh (202) 396-668, Office of Management and Budget, Room 3208, New Executive Office Building, Washington. D.C. 20503.

**Joseph Maty,**

*Departmental Reports Management Office.*

[FR Doc. 84-20056 Filed 7-27-84; 8:45 am]
BILLING CODE 4810-25-M

# Sunshine Act Meetings

Federal Register
Vol. 49, No. 147
Monday, July 30, 1984

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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### 1

**FEDERAL COMMUNICATIONS COMMISSION**

Additional item to be considered at open meeting, Thursday, July 26th

The Federal Communications Commission will consider an additional item on the subject listed below at the Open Meeting scheduled for 9:30 a.m., Thursday, July 26, 1984 at 1919 M Street, NW., Washington, D.C.

*Agenda, Item No., and Subject*

General—3—Title: Fiscal Year 1986 OMB Budget. Summary: The Commission will consider the Managing Director's recommendations for its FY 1986 Budget estimates to be presented to the Office of Management and Budget on September 4, 1985.

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given consideration of this additional item.

Action by the Commission July 25, 1984. Commissioners Fowler, Chairman; Quello, Dawson, Rivera and Patrick voting to consider this additional item.

Additional information concerning this item may be obtained from Judith Kurtich, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: July 25, 1984.

**William J. Tricarico,**

*Secretary, Federal Communications Commission.*

[FR Doc. 84-20125 Filed 7-25-84; 8:45 am]

BILLING CODE 6712-01-M

### 2

**FEDERAL COMMUNICATIONS COMMISSION**

Deletion of agenda item from July 26 open meeting

The following item has been deleted from the list of agenda items scheduled for consideration at the July 26, 1984, Open Meeting and previously listed in the Commission's Notice of July 19, 1984.

*Agenda, Item No., and Subject*

General—2—Title: Establishment of a spectrum utilization policy for the fixed and mobile services' use of certain bands between 947 MHz and 40 MHz; and Digital Termination Systems at 10.6 GHz and 18 GHz. Summary: The Commission will reconsider action taken in the First Report and Order in Docket 82-334 and the Second Report and Order in Docket 79-188 with respect to the 18 GHz channeling plan and technical standards and reaccommodation provisions for displaced private 12 GHz private microwave licensees.

Issued: July 25, 1984.

**William J. Tricarico,**

*Secretary, Federal Communications Commission.*

[FR Doc. 84-20126 Filed 7-25-84; 2:49 pm]

BILLING CODE 6712-01-M

### 3

**FEDERAL ELECTION COMMISSION**

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** FR Doc. 84-19971 published on July 27, 1984.

**PREVIOUSLY ANNOUNCED DATE AND TIME:** Thursday, August 2, 1984, 10:00 a.m.

Pursuant to 11 CFR 3.5(d)(1), the Commission is adding the following matter to the open meeting agenda:

Request for delay of commencement of audit fieldwork—Reagan-Bush '84

**PERSON TO CONTACT FOR INFORMATION:** Mr. Fred Eiland, Information Officer, 202-523-4065.

**Marjorie W. Emmons,**

*Secretary of the Commission.*

[FR Doc. 84-20102 Filed 7-25-84; 3:01 pm]

BILLING CODE 6715-01-M

### 4

**FEDERAL HOME LOAN BANK BOARD**

**TIME AND DATE:** 2:30 p.m., Thursday, August 2, 1984.

**PLACE:** Board Room 6th Floor, 1700 G St., NW., Washington, D.C.

**STATUS:** Open meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Ms. Gravlee (202-377-6970).

**MATTERS TO BE CONSIDERED:**

Policies Relating to Insurance of Accounts of *De Novo* Institutions
Conversion from Mutual to Stock Form
Prepayment Penalties in Connection with Home Loans

No. 92, July 25, 1984.

**J. J. Finn,**

*Secretary.*

[FR Doc. 84-20023 Filed 7-25-84; 10:37 am]

BILLING CODE 6720-01-M

### 5

**FEDERAL HOME LOAN MORTGAGE CORPORATION**

**DATE AND PLACE:** August 3, 1984, 2:30 p.m.

**PLACE:** 1776 G Street, NW., Washington, D.C., Main Conference Room, Eighth Floor.

**STATUS:** Closed.

**CONTACT PERSON FOR MORE INFORMATION:** Alan B. Hausman, 1776 G Street, NW., P.O. Box 37248, Washington, D.C. 20013, (202) 789-4763.

**MATTERS TO BE CONSIDERED:**

Closed—Minutes of June 7, 1984 Board of Directors' Meeting
Closed—President's Report
Closed—Financial Report

Date sent to Federal Register: July 25, 1984.

[FR Doc. 84-20158 Filed 7-25-84; 4:08 pm]

BILLING CODE 6720-02-

### 6

**NATIONAL COUNCIL ON THE HANDICAPPED**

**TIME AND DATE:**

9:00 a.m.—5:00 p.m., August 6, 1984
9:00 a.m.—5:00 p.m., August 7, 1984

**PLACE:** Fairfax Room, Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, Virginia.

**STATUS:** Open Meeting.

**MATTERS TO BE CONSIDERED:**

General Business Including:
Approval of Minutes
Long-Range Plan FY '85
By Law Revisions
Appointment of Committees/Advisors
Presentations:
Rehabilitation International

Note.—Any person requiring an interpreter or other special services, please contact NCH staff no later than August 2, 1984.

**CONTACT FOR MORE INFORMATION:** Harvey C. Hirschi, Executive Director, NCH, 202-453-3846.

**Harvey C. Hirschi,**

*Executive Director, National Council on the Handicapped.*

[FR Doc. 84-20075 Filed 7-25-84; 9:56 am]

BILLING CODE 6820-BS-M

federal register

Monday
July 30, 1984

Part II

# Department of Commerce

International Trade Administration

15 CFR Part 330 et al.
Defense Priorities and Allocations System; Final Rule

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

**15 CFR Parts 330, 331, 332, 340, 341, 342, 343, 350, 351, 352, 353, and 354**

**Defense Priorities and Allocations System**

**AGENCY:** Office of Industrial Resource Administration, International Trade Administration, Commerce.

**ACTION:** Final rule.

**SUMMARY:** On June 2, 1981, the Department of Commerce requested comments on a proposed rule published in the Federal Register (46 FR 29662). The proposal would establish a new Defense Priorities and Allocations System regulation to supersede the regulations of the Defense Materials System and the Defense Priorities System. All substantive comments received as a result of the June 2 publication are discussed below. This rule establishes the final regulation.

In reviewing the previous regulations and in issuing this revised regulation, the objective has been to ensure that the priorities and allocations system is effective, efficient, easy to understand, and properly designed to keep current defense programs on schedule and to support future emergency needs.

**EFFECTIVE DATE:** This rule is effective August 29, 1984.

**ADDRESSES:** Iain S. Baird, Director, Priorities and Allocations Division, Room 3876, Office of Industrial Resource Administration, U.S. Department of Commerce, Washington, D.C. 20230. The public record of the proposed rule and this final rule is available at the ITA Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

**FOR FURTHER INFORMATION CONTACT:** Iain S. Baird, Director, Priorities and Allocations Division, Room 3876, Office of Industrial Resource Administration, U.S. Department of Commerce, Washington, D.C. (202) 377–4506.

**SUPPLEMENTARY INFORMATION:**

**Background**

On June 2, 1981, the Department of Commerce requested comments on a proposed rule published in the Federal Register (46 FR 29662). The proposal would establish a Defense Priorities and Allocations System (DPAS) to supersede the regulations of the Defense Materials System and the Defense Priorities System.

Interested parties had the opportunity to submit comments on the proposed rule by August 31, 1981. A total of 79 comments were received. Under section 709 of the Defense Production Act of 1950, as amended (50 U.S.C. app. 2159), the Department also consulted with industry representatives, including trade association representatives, and careful consideration was given to their comments. Based on these comments and an editorial review of the entire rule, many sections of the proposed rule are redrafted, certain Subparts are reorganized, several new sections are added, certain provisions are deleted, and numerous editorial changes are made.

**Analysis of Comments**

Most commentors agreed with the regulatory approach and the organization and presentation of the material as set forth in the proposed rule. Accordingly, the Department has decided to proceed with a final rule in the same format as the proposed rule with the changes discussed below.

In particular, public comments were sought for three provisions in the proposed rule that would permit persons to: (1) combine rated orders with unrated orders; (2) place priority ratings on contracts and orders for needed items in advance of the receipt of a rated order; and (3) reject a rated order if the order is for an item which has not been supplied to the person placing the order within the past two years *unless* certain conditions are met.

Comments were also solicited on whether to modify or discontinue the metalworking machine provisions, the sufficiency and completeness of the definitions, and the adequacy of the controlled materials program as proposed, with special review requested for Schedule II of the proposed rule.

(1) *Combine rated and unrated order quantities.* This provision would permit persons, in certain cases, to combine rated order quantities with unrated order quantities as long as the rated portion is clearly identified. Commentors were concerned with the potential for misuse by the contracting party and the possibility of supplier confusion and increased administrative burden. Some commentors believed the tracking of orders could be more difficult and enforcement problems could be created, especially in the event of a national emergency.

In order to satisfy these concerns, yet, to obtain the cost benefits and efficiencies the proposal offers, the proposed rule was modified to permit persons to place orders for rated and unrated quantities at the same time, provided that the rated order quantities are clearly identified and are also contained in a separate rated order. In addition to identifying clearly the rated order quantities, the combined purchase order must contain a statement that the rated order quantities are also contained in a separate rated order placed in accordance with the regulation. Where practical, the separate rated order must be attached to the larger combined purchase order. Suppliers are obligated to give preferential treatment to only the rated portion of the combined order.

Use of the authority to combine orders is optional and is designed to lower procurement costs for individual firms and their customers, including the government.

(2) *Authority to place priority ratings on orders in advance of receipt of a rated prime contract.* This provision would permit persons, in very specific instances, to request authority to place a priority rating on contracts and orders for needed items in advance of the receipt of a rated prime contract. Commentors were concerned that persons granted such authority might not notify their suppliers of the removal of rating authority, if the prime contract is not ultimately placed by the procuring defense agency.

The Department wishes to make it very clear that each application for priority rating authority in advance of the receipt of a rated prime contract will receive very close scrutiny. No authority will be granted without the sponsorship of the involved Delegate Agency, for example, the Department of Defense, and a full review by the Department of Commerce of (1) the need for the authority, (2) the probability that the prime contract will be awarded, and (3) the impact of the resulting rated orders on suppliers and on procurements for other authorized programs. The use of the priority rating authority, once granted, will be carefully monitored to include removal of the rating authority if the rated prime contract is not ultimately issued. In addition, the regulation requires that if the rated prime contract is not awarded, all suppliers must be notified promptly that the priority rating is cancelled.

Commerce believes that the occasional use of this procedure can be instrumental in keeping certain national defense programs on schedule, especially those involving the procurement of long lead time items. For such items, the annual procurement authorization that exists for most government purchases is not timely enough to ensure delivery when needed. This provision can, in some cases,

compensate for that situation by permitting customers to secure a position in a production schedule appropriate to an important defense program. Accordingly, Commerce retains this provision in the regulation.

(3) *Rejection of a rated order.* This provision would permit a supplier to reject a rated order if the order is for an item which has not been supplied to the purchaser within the past two years, *unless* the purchaser makes certain certifications to the supplier. This proposal was intended to prevent the purchaser from using rated orders to disrupt an industry-implemented allocation system in times of short supply. Opinion on this proposal was divided. Those favoring the provision generally viewed it as protection of their longstanding customer relationships. Those opposed believed that the provision would weaken the regulation's mandatory acceptance requirements and make it more cumbersome to obtain items for national defense programs in time of short supply, especially during a national emergency.

Commerce is persuaded that the necessity of ensuring the timely acceptance of rated orders outweighs the possible delay to filling rated orders that would be caused by this provision. Thus, the discretion to reject rated orders by suppliers based on whether they have supplied the item during the past two years is deleted from the final rule.

However, the Department will consider a request for adjustment (§ 350.80), on a case-by-case basis, by a supplier or a customer who believes that rated orders are being placed or accepted in a manner not intended by the regulation and, thus, causing the supplier or customer to suffer an undue hardship not shared generally by others in similar situations or circumstances.

(4) *Special rules for metalworking machines.* A majority of the several commentors who addressed the need for the metalworking machine provisions were in favor of retaining the provisions. Based on those comments and the experiences of past mobilizations, the Department agrees that there is a continuing need for these special rules and retains them in the final regulation.

(5) *Sufficiency and completeness of the definitions provided.* Several commentors pointed out certain deficiencies in some of the definitions. However, no major problems were raised. Based on these comments and an editorial review, the Department is making changes to certain definitions in § 350.8 of the final rule. This includes incorporating into § 350.8, controlled material technical definitions for "Distributor", "Further Conversion", and "Minimum Mill Quantity", which appeared in § 350.31 of the proposal. Definitions applicable to each specific controlled material are now found in Schedule III.

Modified or added definitions include:

- "Controlled materials"
- "Controlled materials suppliers"
- "Lead time"
- "Official action"
- "Rated order"
- "Set-aside"

Deleted are the definitions for:

- "Capital equipment", as this term is included in a new definition for "Production equipment"
- "Directive" and "Letter of Understanding", as these terms are defined as "Official actions" and explained in the regulation (§§ 350.62 and 350.63)

(6) *The controlled materials program.* Most of the comments on the controlled materials program concerned technical corrections and adjustments to the data included in Schedules II, III, and IV of the proposed rule. These changes are incorporated into the final rule. In addition, for ease of reference, the nickel alloys data were separated from the copper data and put into a new Schedule V.

(7) *Compliance provisions.* Some commentors were concerned with the broad access by the Department to books, records, documents, or other writings and information during the conduct of an audit or other investigation. It was suggested that such access be limited to materials that are "directly pertinent" to the purpose of the audit or investigation.

Section 705(a) of the Defense Production Act of 1950, as amended, requires that the investigatory authority given to the President be utilized only after the scope and purpose of the investigation, inspection, or other inquiry is defined by competent authority, and it is assured that no adequate and authoritative data are available from any Federal or other responsible agency. Section 350.71 of the final rule fully implements these requirements. Therefore, the suggested change is not necessary. In addition, during an audit, investigation, inspection, or other inquiry, it is the policy of Commerce to interrupt a person's operations to the least extent possible consistent with its enforcement and administrative responsibilities under the Defense Production Act and the regulation.

One comment highlighted a recent U.S. Supreme Court ruling concerning government inspections of business premises over the refusal of a person to permit such access. Accordingly, the Department adds a new § 350.72, to provide a procedure for securing compulsory process to gain access when it is refused.

To provide additional details on the priorities and allocations system, attached to the final rule at Appendix I are copies of the Delegations of Authority from the Department of Commerce to the Departments of Defense and Energy, the General Services Administration, and the Federal Emergency Management Agency. Appendix II contains copies of Interagency Memoranda of Understanding between the Department of Commerce and the Departments of Agriculture, Energy and the Interior. Appendix III provides a copy of Form ITA-999—Request for Special Priorities Assistance. Appendix IV contains a copy of the Memorandum of Understanding on Priorities and Allocations Support Between the U.S. and Canada.

**Non-Substantive and Editorial Changes**

Many sections of the proposed rule are edited, and several Subparts are reorganized to eliminate duplication and achieve greater clarity. In addition, editorial and technical corrections are made throughout the regulation.

**Rulemaking Requirements**

The Department has made certain determinations with respect to the following rulemaking requirements:

*Classification*—The DPAS regulation is a revision of a regulatory system that has been in existence for over 30 years. Its administration, implementation, jurisdiction, and impact will be similar to the regulatory system it replaces. Accordingly, this regulation is not a "major rule" pursuant to Executive Order 12291 (46 FR 13193; Feb. 19, 1981), "Federal Regulation". Therefore, a "Regulatory Impact Analysis" is not required as there will be: (1) No major monetary effect on the economy; (2) no major increase in costs or prices; and (3) no significant adverse effects on competition (domestic or foreign), employment, investment, productivity or innovation.

*Regulatory Analysis*—The DPAS regulation is not subject to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) because, under section 709 of the Defense Production Act of 1950, as amended (50 U.S.C. app. 2159), it is not subject to the informal rulemaking requirements of the Administrative Procedure Act (5 U.S.C. 553).

*Information Collection*—The DPAS regulation is consistent with the purpose of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*). Recordkeeping requirements imposed by this regulation have been cleared by the Office of Management and Budget and are assigned OMB Number 0625–0107.

**List of Subjects in 15 CFR Part 350**

Administrative practice and procedure, Aluminum, Authority delegations (Government agencies), Business and industry, Canada, Civil defense, Copper, Energy, Government contracts, Investigations, National defense, Nickel alloys, Penalties, Steel, Strategic and critical materials.

Issued: June 20, 1984.

**John A. Richards,**

*Director, Office of Industrial Resource Administration.*

Accordingly, the Department of Commerce amends 15 CFR Chapter III, Subchapter B, by removing Parts 330–332, 340–343, and 351–354, and revises Part 350 to read as follows:

**PART 330—BASIC RULES OF DEFENSE MATERIALS SYSTEM. (DMS REG. 1) [REMOVED]**

**PART 331—SELF AUTHORIZATION PROCEDURE FOR MRO NEEDED TO FILL MANDATORY ACCEPTANCE ORDERS. (DMS REG. 1, DIR. 1) [REMOVED]**

**PART 332—CONTROLLED MATERIALS PRODUCERS AND DISTRIBUTORS. (DMS REG. 1, DIR. 2) [REMOVED]**

**PART 340—IRON AND STEEL. (DMS ORDER 1) [REMOVED]**

**PART 341—NICKEL. ALLOYS. (DMS ORDER 2) [REMOVED]**

**PART 342—ALUMINUM. (DMS ORDER 3) [REMOVED]**

**PART 343—COPPER AND COPPER-BASE ALLOYS. (DMS ORDER 4) [REMOVED]**

**PART 351—OPERATIONS OF THE PRIORITIES AND ALLOCATION**

**SYSTEM BETWEEN CANADA AND THE UNITED STATES. (DPS REG. 2) [REMOVED]**

**PART 352—COMPLIANCE AND ENFORCEMENT PROCEDURES. (DPS REG. 3) [REMOVED]**

**PART 353—METALWORKING MACHINES. (DPS ORDER 1) [REMOVED]**

**PART 354—NICKEL. (DPS ORDER 2) [REMOVED]**

## PART 350—DEFENSE PRIORITIES AND ALLOCATIONS SYSTEM

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**Authority:** Sections 101–103, 701–707, 709, and 713 of the Defense Production Act of 1950, Pub. L. 81–774, 64 Stat. 798, as amended (50 U.S.C. app. 2071–2073, 2151–2157, 2159, and 2163); Executive Order 10480, 18 FR 4939, 3 CFR 1949–1953 Comp., p. 962, as amended; Executive Order 11912, 41 FR 15825, 3 CFR 1976 Comp., p. 114, as amended; Executive Order 12148, 44 FR 43239, 3 CFR 1979 Comp., p. 393, as amended; Defense Mobilization Order (DMO) 3, 44 CFR 322; DMO–12, 44 CFR 329; and DMO–13, 44 CFR 330.

### Subpart A—Purpose

**§ 350.1 Purpose of this regulation.**

(a) Title I of the Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, *et seq.*) (Defense Production Act), authorizes the President: to require the priority performance of contracts and orders necessary or appropriate to promote the national defense over other contracts or orders; to allocate materials

and facilities as necessary or appropriate to promote the national defense; and to require the allocation of, or the priority performance under contracts or orders relating to, supplies of materials and equipment in order to assure domestic energy supplies for national defense needs.

(b) This regulation consolidates, simplifies, and revises the Defense Materials System and the Defense Priorities System regulations, directions, and orders. The Defense Priorities and Allocations System (DPAS) helps to keep current national defense programs on schedule and provides an operating system that can be rapidly expanded in a national emergency.

(c) To aid in understanding and using the DPAS, an overview of its major provisions is incorporated into this regulation as Subpart B—Overview. The full text of the DPAS is found in Subparts D through L.

## Subpart B—Overview

### § 350.2 Introduction.

(a) The Federal Emergency Management Agency authorizes certain national defense programs for priorities and allocations support. For example, military aircraft production, ammunition, and certain programs which maximize domestic energy supplies are "authorized programs." A complete list of currently authorized programs is provided at Schedule I.

(b) To ensure the preferential treatment of certain contracts and orders for authorized programs, the Department of Commerce administers the DPAS.

(c) Commerce has delegated authority to place priority ratings on contracts or orders necessary or appropriate to promote the national defense to the government agencies that issue such contracts or orders. Schedule I includes a list of agencies delegated this authority. Copies of the Delegations of Authority are provided at Appendix I. They set forth the authorities delegated and those retained by Commerce.

### § 350.3 Priority ratings and rated orders.

(a) Rated orders are identified by a priority rating consisting of the rating—either DX or DO—and a program identification symbol. Rated orders take preference over all unrated orders as necessary to meet required delivery dates. Among rated orders, DX rated orders take preference over DO rated orders. Program identification symbols indicate which authorized program is involved with the rated order. For example, A1 identifies defense aircraft programs and A7 signifies defense electronic programs. The program identification symbols, in themselves, do not connote any priority.

(b) Persons receiving rated orders must give them preferential treatment as required by this regulation. This means a person must accept and fill a rated order for items that the person normally supplies. The existence of previously accepted unrated or lower rated orders is not sufficient reason for rejecting a rated order. Persons are required to reschedule unrated orders if they conflict with performance against a rated order. Similarly, persons must reschedule DO rated orders if they conflict with performance against a DX rated order.

(c) All rated orders must be scheduled to the extent possible to ensure delivery by the required delivery date.

(d) Persons who receive rated orders must in turn place rated orders with their suppliers for the items they need to fill the orders. This provision ensures that suppliers will give priority treatment to rated orders from contractor to subcontractor to suppliers throughout the procurement chain.

(e) Persons may place a priority rating on orders only when they are in receipt of a rated order, have been explicitly authorized to do so by the Department of Commerce or a Delegate Agency, or are otherwise permitted to do so by this regulation.

### § 350.4 Controlled materials.

(a) Federal central management of certain key materials, designated "controlled materials", has been essential in the past to effective industrial mobilizations. Accordingly, special rules are maintained in peacetime to provide an operating mechanism that can be rapidly expanded during a national emergency to meet increased defense and other essential needs. Currently, the controlled materials are steel, copper, aluminum, and nickel alloys.

(b) Under the controlled materials program, the Department of Commerce requires suppliers of controlled materials to accept rated orders up to a specified quantity of material during a given period of time. This quantity is called a "set-aside". This provision ensures that the material will be available when rated orders are placed. In addition, the system ensures that controlled materials producers are treated equitably, for after the set-aside quantity levels have been reached, controlled materials producers may generally reject additional rated orders. These orders would then be filled by other controlled materials producers who had not exhausted their set-aside requirement.

(c) In time of national emergency, the level and scope of the controlled materials program may be greatly expanded to ensure the necessary allocation of materials and in order to direct general industrial activity toward supporting the requirements of the emergency.

(d) Certain other items, in addition to the controlled materials, have critical importance to national defense programs. From time-to-time, special rules, similar to those for controlled materials, may be needed to manage those materials.

(e) If items become scarce and critical and the requirements of the national defense cannot be met without creating a significant dislocation in the civilian market place so as to create appreciable hardship, special rules may be established under section 101(b) of the Defense Production Act to control the general distribution of such items in the civilian market.

### § 350.5 Special priorities assistance.

(a) The DPAS is designed to be largely self-executing. However, from time-to-time production or delivery problems will arise. In this event, special priorities assistance is available from Commerce and from the Delegate Agencies.

(b) Special priorities assistance is available for any reason consistent with this regulation. Generally, special priorities assistance is provided to expedite deliveries, resolve delivery conflicts, place rated orders, locate suppliers, or to verify information supplied by customers and vendors. Special priorities assistance may also be used to request rating authority for items not automatically ratable.

### § 350.6 Official actions.

When necessary, Commerce takes specific official actions to implement or enforce the provisions of this regulation and to provide special priorities assistance. Such actions may include the issuance of: Rating Authorizations, Directives, Letters of Understanding, Set-asides, and compliance documents (Administrative Subpoenas, Demands for Information, and Inspection Authorizations).

### § 350.7 Compliance.

(a) Compliance with the provisions of this regulation and official actions is required by the Defense Production Act. Violators are subject to criminal penalties.

(b) Any person who places or receives a rated order should be thoroughly

familiar with, and must comply with, the provisions of this regulation.

## Subpart C—Definitions

### § 350.8 Definitions.

The following definitions pertain to all sections of the regulation:

"Authorized program"—a program approved by the Federal Emergency Management Agency for priorities and allocations support under the Defense Production Act.

"Construction"—the erection, addition, extension, or alteration of any building, structure, or project, using materials or products which are to be an integral and permanent part of the building, structure, or project. Construction does not include maintenance and repair.

"Controlled materials"—the various shapes and forms of steel, copper, aluminum, and nickel alloys, whether new, remelted, rerolled or redrawn, as specified in Schedule II, and as defined in Schedule III.

"Controlled materials suppliers"—all persons, including producers, distributors, brokers, importers and exporters engaged in the sale or resale of controlled materials.

"Delegated Agency"—a government agency authorized by delegation from the Department of Commerce to place priority ratings on contracts or orders needed to support authorized programs.

"Defense Production Act"—the Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, *et seq.*).

"Distributors of controlled materials"—those persons (including warehouse operators or jobbers, but not retailers) engaged in stocking controlled materials at locations regularly maintained for their sale or resale in the form or shape as received, or after performing such operations as cutting to length or shape, slitting, shearing, or sorting and grading.

"Further conversion"—the further processing of controlled materials by a processor of such materials.

"Item"—any raw, in process, or manufactured material, article, commodity, supply, equipment, component, accessory, part, assembly, or product of any kind, technical information, process, or service.

"Lead time"—the period of time specified in this regulation for the receipt of orders for controlled materials by a supplier in advance of the first day of the month in which shipment is required.

"Maintenance and repair and operating supplies (MRO)"—

(a) "Maintenance" is the upkeep necessary to continue any plant, facility, or equipment in working condition.

(b) "Repair" is the restoration of any plant, facility, or equipment to working condition when it has been rendered unsafe or unfit for service by wear and tear, damage, or failure of parts.

(c) "Operating supplies" are any items carried as operating supplies according to a person's established accounting practice. Operating supplies may include hand tools and expendable tools, jigs, dies, fixtures used on production equipment, lubricants, cleaners, chemicals and other expendable items.

(d) MRO does not include items produced or obtained for sale to other persons or for installation upon or attachment to the property of another person, or items required for the production of such items; items needed for the replacement of any plant, facility, or equipment; or items for the improvement of any plant, facility, or equipment by replacing items which are still in working condition with items of a new or different kind, quality, or design.

"Minimum mill quantity"—the minimum quantity of a controlled material that may be obtained from a producer for shipment at any one time to any one destination.

"Official action"—an action taken by Commerce under the authority of the Defense Production Act and this regulation. Such actions include the issuance of Set-asides, Rating Authorizations, Directives, Letters of Understanding, Demands for Information, Inspection Authorizations, and Administrative Subpoenas.

"Person"—any individual, corporation, partnership, association, or any other organized group of persons, and includes any agency of the United States Government or any other government.

"Production equipment"—any item of capital equipment used in producing materials or furnishing services that has a unit acquisition cost of $2,500 or more, an anticipated service life in excess of one year, and the potential for maintaining its integrity as a capital item.

"Rated order"—a prime contract, a subcontract, or a purchase order in support of an authorized program issued in accordance with the provisions of this regulation.

"Set-aside"—the amount of an item for which a supplier must reserve order book space in anticipation of the receipt of rated orders.

## Subpart D—Industrial Priorities

### § 350.10 Delegation of authority.

(a) The priorities and allocations authorities given to the President in Title I of the Defense Production Act have been delegated to the Director of the Federal Emergency Management Agency (FEMA), who, in turn, has delegated these authorities with respect to industrial resources to the Secretary of Commerce. FEMA retains the overall policy and coordinating functions for this delegated authority.

(b) Within the Department of Commerce, these responsibilities have been assigned to the Office of Industrial Resource Administration. The Department of Commerce has authorized the Delegate Agencies to assign priority ratings to orders for items needed for authorized programs. Copies of these Delegations of Authority are provided at Appendix I. They set forth the authorities delegated and those retained by Commerce.

### § 350.11 Priority ratings.

(a) *Levels of Priority.* (1) There are two levels of priority established by this regulation, identified by the rating symbols "DO" and "DX".

(2) All DO rated orders have equal priority with each other and take preference over unrated orders. All DX rated orders have equal priority with each other and take preference over DO rated orders and unrated orders. (For resolution of conflicts among rated orders of equal priority, see § 350.14(c).)

(3) In addition, a Directive issued by Commerce takes preference over any DX rated order, DO rated order, or unrated order, as stipulated in the Directive. (For a full discussion of Directives, see § 350.62.)

(b) *Program identification symbols.* Program identification symbols indicate which authorized program is being supported by a rated order. The list of authorized programs and their identification symbols are listed in Schedule I. For example, A1 identifies defense aircraft programs and A7 signifies defense electronic programs. Program identification symbols, in themselves, do not connote any priority.

(c) *Priority ratings.* A priority rating consists of the rating symbol—DO and DX—and the program identification symbol, such as A1, B2, or H6. Thus, a contract for the production of an aircraft will contain a DO–A1 or DX–A1 priority rating. A contract for a radar set will contain a DO–A7 or DX–A7 priority rating.

**§ 350.12 Elements of a rated order.**

Each rated order must include:

(a) The appropriate priority rating (e.g. DO–A1, DX–A4, DO–H1);

(b) A required delivery date or dates. The words "immediately" or "as soon as possible" do not constitute a delivery date. A "requirements contract" bearing a priority rating may contain no specific delivery date or dates and may provide for the furnishing of items from time-to-time or within a stated period against specific purchase orders or "calls". Such "calls" must specify a required delivery date or dates and are to be considered as rated as of the date of their receipt by the supplier and not as of the date of the original "requirements contract";

(c) The signature of an individual authorized to sign rated orders for the person placing the order. The signature certifies that the rated order is authorized under this regulation and that the requirements of this regulation are being followed; and

(d) A statement that reads in substance:

This is a rated order certified for national defense use, and you are required to follow all the provisions of the Defense Priorities and Allocations System regulation (15 CFR Part 350).

**§ 350.13 Acceptance and rejection of rated orders.**

(a) *Mandatory acceptance.* (1) Except as otherwise specified in this section, a person shall accept every rated order received and must fill such orders regardless of any other rated or unrated orders that have been accepted.

(2) A person shall not discriminate against rated orders in any manner such as by charging higher prices or by imposing different terms and conditions than for comparable unrated orders.

(b) *Mandatory rejection.* Unless otherwise directed by Commerce:

(1) A person shall not accept a rated order for delivery on a specific date if unable to fill the order by that date. However, the person must inform the customer of the earliest date on which delivery can be made and offer to accept the order on the basis of that date. Scheduling conflicts with previously accepted lower rated or unrated orders are not sufficient reason for rejection under this section.

(2) A person shall not accept a DO rated order for delivery on a date which would interfere with delivery of any previously accepted DO or DX rated orders. However, the person must offer to accept the order based on the earliest delivery date otherwise possible.

(3) A person shall not accept a DX rated order for delivery on a date which would interfere with delivery of any previously accepted DX rated orders, but must offer to accept the order based on the earliest delivery date otherwise possible.

(c) *Optional rejection.* Unless otherwise directed by Commerce, rated orders may be rejected in any of the following cases as long as a supplier does not discriminate among customers:

(1) If the person placing the order is unwilling or unable to meet regularly established terms of sale or payment;

(2) If the order is for an item not supplied or for a service not performed;

(3) If the order is for an item produced, acquired, or provided only for the supplier's own use for which no orders have been filled for two years prior to the date of receipt of the rated order. If, however, a supplier has sold some of these items, the supplier is obligated to accept rated orders up to that quantity or portion of production, whichever is greater, sold within the past two years;

(4) If the person placing the rated order, other than the U.S. Government, makes the item or performs the service being ordered;

(5) If the rated order is for a controlled material in an amount below the minimum mill quantity established in Schedule II, and the person placing the order is not willing to buy the minimum quantity;

(6) If the rated order is for a controlled material and is not received by the controlled materials producer within the time frame specified in Schedule I;

(7) If the applicable set-aside has been reached or would be exceeded by acceptance, except that a DX order must be accepted without regard for such set-aside;

(8) If acceptance of a rated order or performance against a rated order would violate any other regulation, official action, or order of the Department of Commerce issued under the authority of the Defense Production Act [See § 350.75].

(d) *Customer notification requirements.* (1) A person must accept or reject a rated order in writing within ten working days after receipt of a DO rated order and within five working days after receipt of a DX rated order. The person must give reasons in writing for the rejection.

(2) If a person has accepted a rated order and later discovers that, due to circumstances beyond the person's control, deliveries will be delayed, the person must notify the customer immediately, give the reasons for the delay, and advise of a new shipment date. If notification is given verbally, written confirmation must be provided within five working days.

**§ 350.14 Preferential scheduling.**

(a) A person must schedule operations, including the acquisition of all needed production items, in a timely manner to satisfy the delivery requirements of each rated order. Modifying production or delivery schedules is necessary only when required delivery dates for rated orders cannot otherwise be met.

(b) DO rated orders must be given production preference over unrated orders, if necessary to meet required delivery dates, even if this requires the diversion of items being processed or ready for delivery against unrated orders. Similarly, DX rated orders must be given preference over DO rated orders and unrated orders.

*Examples:* If a person receives a DO rated order with a delivery date of June 3 and if meeting that date would mean delaying production or delivery of an item for an unrated order, the unrated order must be delayed. If a DX rated order is received calling for delivery on July 15 and a person has a DO rated order requiring delivery on June 2 and operations can be scheduled to meet both deliveries, there is no need to alter production schedules to give any additional preference to the DX rated order.

(c) If a person cannot fill all the rated orders of equal priority status received on the same day, the person must accept those orders which can be filled which have the earliest delivery dates. For example, the person must accept order A requiring delivery on December 15 before accepting order B requiring delivery on December 31. For those orders which cannot be filled on time, the supplier must inform the customer within the time limits set forth in § 350.13(d), of the earliest date on which delivery can be made and offer to accept the order on the basis of that date.

(d) If a person is unable to purchase needed production items in time to fill a rated order by its required delivery date, the person must fill the rated order by using inventoried production items. A person who uses inventoried items to fill a rated order may replace those items with the use of a rated order as provided in § 350.17(b).

**§ 350.15 Extension of priority ratings.**

(a) A person must use rated orders with suppliers to obtain items needed to fill a rated order. The person must use the priority rating indicated on the customer's rated order, except as otherwise provided in this regulation or as directed by the Department of Commerce.

For example, if a person is in receipt of a DO–A3 rated order for a navigation system

and needs to purchase semiconductors for its manufacture, that person must use a DO–A3 rated order to obtain the needed semiconductors.

(b) The priority rating must be included on each successive order placed to obtain items needed to fill a customer's rated order. This continues from contractor to subcontractor to supplier throughout the entire procurement chain.

**§ 350.16 Changes or cancellations of priority ratings and rated orders.**

(a) The priority rating on a rated order may be changed or cancelled by:

(1) An official action of the Department of Commerce; or

(2) Written notification from the person who placed the rated order (including a Delegate Agency).

(b) If an unrated order is amended so as to make it a rated order, or a DO, rating is changed to a DX rating, the supplier must give the appropriate preferential treatment to the order as of the date the change is received by the supplier.

(c) An amendment to a rated order that significantly alters a supplier's original production or delivery schedule shall constitute a new rated order as of the date of its receipt. The supplier must accept or reject the amended order according to the provisions of § 350.13.

(d) The following amendments do not constitute a new rated order: a change in shipping destination; a reduction in the total amount of the order; an increase in the total amount of the order which has negligible impact upon deliveries; a minor variation in size or design; or a change which is agreed upon between the supplier and the customer.

(e) If a person no longer needs items to fill a rated order, any rated orders placed with suppliers for the items, or the priority rating on those orders, must be cancelled.

(f) When a priority rating is added to an unrated order, or is changed or cancelled, all suppliers must be promptly notified in writing.

**§ 350.17 Use of rated orders.**

(a) A person must use rated orders to obtain:

(1) Items which will be physically incorporated into other items to fill rated orders, including that portion of such items normally consumed, or converted into scrap or by-products, in the course of processing;

(2) Containers or other packaging materials required to make delivery of the finished items against rated orders;

(3) Services, other than contracts of employment, needed to fill rated orders; and

(4) MRO needed to produce the finished items to fill rated orders. However, for MRO, the priority rating used must contain the program identification symbol H7 along with the rating symbol contained on the customer's rated order. For example, a person in receipt of a DO–A3 rated order, who needs MRO, would place a DO–H7 rated order with the person's supplier.

(b) A person may use a rated order to replace inventoried items (including finished items) if such items were used to fill rated orders, as follows:

(1) The order must be placed within 90 days of the date of use of the inventory.

(2) A DO rating symbol and the program identification symbol indicated on the customer's rated order must be used on the order (except as provided in § 350.31(d)—Controlled materials program identification symbols). A DX rating symbol may not be used even if the inventory was used to fill a DX rated order.

(3) If the priority ratings on rated orders from one customer or several customers contain different program identification symbols, the rated orders may be combined. In this case, the program identification symbol H1 must be used (i.e., DO–H1) (not applicable to controlled materials producers).

(c) A person may combine DX and DO rated orders from one customer or several customers if the items covered by each level of priority are identified separately and clearly. If different program identification symbols are indicated on those rated orders of equal priority, the person must use the program identification symbol H1 (i.e., DO–H1 or DX–H1), except as provided in § 350.31(d) (Controlled materials program identification symbols).

(d) *Combining rated and unrated orders.* (1) A person may combine rated and unrated orders provided that the rated quantities are identified separately and are also contained in a separate rated order which conforms to the requirements of § 350.12 (Elements of a rated order). In addition to identifying clearly the rated quantities, the combined purchase order must contain a statement that the rated quantities are contained in a separate rated order placed in accordance with this regulation. Wherever possible, the separate rated order must be physically attached to the combined purchase order. A supplier must give preferential treatment to the rated quanitities of the combined order, if necessary. A supplier may not use the authorities of this regulation to give preferential treatment to the unrated portion.

(2) Any supplier who believes that rated and unrated orders are being combined in a manner contrary to the intent of this regulation or in a fashion that causes undue or exceptional hardship may submit a request for adjustment or exception under § 350.80.

(e) A person may place a rated order for the minimum commercially procurable quantity even if the quantity needed to fill a rated order is less than that minimum. However, a person must combine rated orders as provided in paragraph (c) of this section, if possible, to obtain minimum procurable quantities.

(f) A person is not required to place a priority rating on an order for less than $5,000 provided that delivery can be obtained in a timely fashion without the use of the priority rating.

**§ 350.18 Limitations on placing rated orders.**

(a) *General limitations.* (1) A person may not place a DO or DX rated order unless entitled to do so under this regulation.

(2) Rated orders may not be used to obtain:

(i) Delivery on a date earlier than needed;

(ii) A greater quantity of the item than needed, except to obtain a minimum procurable quantity. Separate rated orders may not be placed solely for the purpose of obtaining minimum procurable quantities on each order;

(iii) Items in advance of the receipt of a rated order, *except* as specifically authorized by Commerce (see § 350.51(c) for information on obtaining authorization for a priority rating in advance of a rated order); or

(iv) Any of the following items unless specific priority rating authority has been obtained from a Delegate Agency or Commerce:

(A) Items for plant improvement, expansion or construction, unless they will be physically incorporated into a construction project covered by a rated order; and

(B) Production or construction equipment or items to be used for the manufacture of production equipment. [For information on requesting priority rating authority, see § 350.53.]

(b) *Jurisdictional limitations.* (1) The priorities and allocations authority for certain items has been delegated under Executive Order 10480, as amended, to other agencies, and, thus, the provisions of this regulation are not applicable to them. These items include:

(i) Petroleum, gas, solid fuel, and electric power and all other forms of energy (Department of Energy);

(ii) Food and the domestic distribution of farm equipment and commercial fertilizer (Department of Agriculture);

(iii) Civil transportation and the movement of persons and property by all modes (Department of Transportation);

(iv) Minerals (Department of Interior);

(v) Water (Department of Defense—U.S. Army Corps of Engineers);

(vi) Housing facilities (Department of Housing and Urban Development);

(vii) Health facilities (Department of Health and Human Services); and

(viii) Radioisotopes, stable isotopes, source material, and special nuclear material, produced in Government-owned plants or facilities operated by or for Department of Energy (Department of Energy).

(2) The jurisdiction of the Department of Commerce and the Departments of Energy, Agriculture, and the Interior over certain specific items included in the categories listed above has been clarified by Interagency Memoranda of Understanding. Copies of these Memoranda are provided for information at Appendix II.

(3) The following items under the jurisdiction of Commerce are currently excluded from the rating provisions of this regulation; however, these items are subject to Commerce Directives. These excluded items are:

Communication services
Copper raw materials (as defined in Schedule III)
Crushed stone
Gravel
Sand
Scrap
Slag
Steam heat, central
Waste paper

## Subpart E—Industrial Priorities for Energy Programs

### § 350.20 Use of priority ratings.

(a) Section 101(c) of the Defense Production Act authorizes the use of priority ratings for projects which maximize domestic energy supplies.

(b) Projects which maximize domestic energy supplies include those which maintain or further domestic energy exploration, production, refining, and transportation; maintain or further the conservation of energy; or are involved in the construction or maintenance of energy facilities.

### § 350.21 Application for priority rating authority.

(a) For projects believed to maximize domestic energy supplies, a person may request priority rating authority for scarce, critical and essential supplies of materials and equipment by submitting DOE Form PR 437 to the Department of Energy. Blank applications and further information may be obtained from the Technical Information Center, Department of Energy, P.O. Box 62, Oak Ridge, Tennessee 37830, or from the Procurement and Assistance Management Directorate, Department of Energy, Attn: MA 932, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585.

(b) On receipt of the application, the Department of Energy will:

(1) Determine if the project maximizes domestic energy supplies; and

(2) Find whether the materials or equipment involved in the application are critical and essential to the project.

(c) If the Department of Energy notifies Commerce that the project maximizes domestic energy supplies and that the materials or equipment are critical and essential, Commerce must find whether the items in question are scarce and whether there is a need to use the priorities and allocations authorities.

(1) Scarcity implies an unusual difficulty in obtaining the material or equipment in a time frame consistent with the timely completion of the energy project. Among the factors to be used in making the scarcity finding will be the following:

(i) Value and volume of material or equipment shipments;

(ii) Consumption of material and equipment;

(iii) Volume and market trends of imports and exports;

(iv) Domestic and foreign sources of supply;

(v) Normal levels of inventories;

(vi) Rates of capacity utilization;

(vii) Volume of new orders; and

(viii) Lead times for new orders.

(2) In finding whether there is a need to use the priorities and allocations authorities, Commerce will consider alternative supply solutions and other measures.

(d) If Commerce does not find that the items of material or equipment are scarce, it will not proceed to analyze the need to use the priorities and allocations authorities.

(e) Commerce will inform the Department of Energy of the results of its analysis. If Commerce has made the two required findings, it will authorize the Department of Energy to grant the use of a priority rating to the applicant.

(f) Schedule I includes a list of authorized programs to support the maximization of domestic energy supplies. A Department of Energy regulation setting forth the procedures and criteria used by the Department of Energy in making its determination and findings is published in 10 CFR Part 216.

## Subpart F—The Controlled Materials

### § 350.30 Management of the controlled materials.

(a) The controlled materials are steel, copper, aluminum, and nickel alloys in the shapes and forms listed in Schedule II and defined in Schedule III. These materials are basic industrial resources necessary for both authorized defense programs and for general industrial activity. Federal management of these four materials assures the timely availability of the materials to meet current authorized program requirements; assures the equitable distribution of requirements among the suppliers of the materials; and provides a flexible and expandable system capable of directing general economic and industrial activity during times of emergency.

(b) Before controlled materials can be used for authorized programs, the Delegate Agencies must obtain specific approval, known as an allotment, from the Federal Emergency Management Agency (FEMA). Accordingly, the Delegate Agencies submit to FEMA requirements for the controlled materials necessary to support their authorized programs. After reviewing the available supply of the materials and other national security, economic and policy considerations, FEMA approves the use of specific quantities of controlled materials by issuing allotments to each Delegate Agency. (Special controlled materials provisions applicable to the Delegate Agencies are found in the Delegations of Authority and the U.S.-Canadian Memorandum of Understanding appended to this regulation.)

(c) To assure the timely availability of controlled materials, the Department of Commerce manages their supply and distribution by requiring producers and distributors of controlled materials to set-aside or reserve space in their order books for the receipt of rated orders. This process is described in greater detail in the following section.

### § 350.31 Specific rules for controlled materials suppliers and users.

(a) *Rated orders.* Rated orders are used to obtain controlled materials needed for authorized programs. Such orders must comply with the requirements of § 350.12 (Elements of a rated order). In addition, a rated order for controlled materials placed with a

producer must be in sufficient detail to permit entry on mill schedules.

(b) *Set-asides.* (1) Controlled materials suppliers are issued set-asides by type and shape of controlled material as provided in the following paragraphs. Each supplier is required to accept all rated orders received up to the set-aside level. The supplier may reject DO rated orders after the set-aside quantity has been filled except that the supplier must accept all DX rated orders regardless of the set-aside level.

(2) A person who has had a DO rated order rejected because a set-aside has been filled, must attempt to place the rated order with other controlled materials suppliers whose set-asides are not filled. If still unable to place the rated order, the person should request special priorities assistance (see Subpart H).

(3) *Steel controlled materials.* (i) A set-aside is applicable to each steel controlled materials producer who receives a written set-aside notification from Commerce.

(ii) Any steel controlled materials producer who has not received a set-aside notification must accept, in accordance with the provisions of this regulation, all rated orders received, but may receive a set-aside by applying in writing to Commerce.

(iii) The set-aside is a specified monthly quantity based on average monthly shipments during a specific base period.

(4) *Copper controlled materials.* (i) Set-asides are applicable to all copper controlled materials producers.

(ii) The monthly set-aside for each copper controlled materials producer is calculated by multiplying the producer's set-aside base by the appropriate set-aside percentage for each product. The set-aside percentage and set-aside base are contained in Schedule IV.

(5) *Aluminum controlled materials.* (i) A set-aside is applicable to each aluminum controlled materials producer who receives a written set-aside notification from Commerce.

(ii) Any aluminum controlled materials producer who has not received a set-aside notification must, in accordance with the provisions of this regulation, accept all rated orders received, but may receive a set-aside in writing by applying in writing to Commerce.

(iii) The set-aside for aluminum ingot and aluminum molten metal is calculated based on the average monthly production capacity during a specific base period.

(iv) The set-aside for all other aluminum controlled materials is calculated based on the average monthly shipments during a specific base period.

(6) *Nickel alloys controlled materials.* (i) Set-asides are applicable to all nickel alloys controlled materials producers.

(ii) The monthly set-aside for each nickel alloys controlled materials producer is calculated by multiplying the producer's set-aside base by the appropriate set-aside percentage for each product. The set-aside percentage and set-aside base are contained in Schedule V.

(c) *Order books and product lead times.* (1) Each controlled materials producer must open its order books for the acceptance of DO rated orders at least 45 days prior to the commencement of the applicable minimum lead times provided in Schedule II for the various shapes and forms of controlled materials.

(2) When order books are open, a controlled materials producer must accept all rated orders received until the minimum lead time shown in Schedule II is reached or until the set-aside level is reached.

(3) Once the minimum lead time is reached, a controlled materials producer may devote remaining capacity to unrated orders, even if the set-aside has not been filled. However, the producer must accept all DX rated orders without regard to lead time. If unable to make delivery by the required date, the producer must offer to accept the order in accordance with § 350.13.

(d) *Controlled materials program identification symbols.* (1) A controlled materials producer must use the program identification symbol H2 on all rated orders to obtain production materials or to replace inventories used to fill rated orders except for materials for further conversion.

(2) A controlled materials producer must use the program identification symbol H3 on rated orders to obtain controlled materials for further conversion needed for production or inventory replacement.

(3) A controlled materials distributor must use the program identification symbol H4 on rated orders to obtain controlled materials needed to fill rated orders, or to replace in inventory, controlled materials used to fill rated orders.

(e) *Controlled materials shipments and requirements data.* (1) Controlled materials producers and distributors are required to maintain and submit to Commerce upon request, data on shipments against rated and unrated orders and on related activities [OMB Nos. 0625–0107 (Recordkeeping), 0625–0011 (Copper), 0625–0016 (Aluminum), 0625–0017 (Steel), and 0625–0021 (Nickel Alloys)].

(2) Persons performing against rated orders must provide, upon request of the appropriate Delegate Agency or the prime contractor, data on requirements for controlled materials needed to fill rated contracts for items manufactured to authorized program specifications or used in construction for authorized programs [OMB Nos. 0625–0107 (Recordkeeping) and 0625–0013 (Controlled Materials Requirements—Production, Construction, or Research and Development)]. Prime contractors may request this information from their subcontractors only when needed to satisfy a request for requirements data from a Delegate Agency.

## Subpart G—Critical Items

### § 350.40 General provisions.

(a) From time-to-time Commerce may determine that certain items have a critical importance to industrial production with respect to the national defense and authorized programs. Special rules for such items are set forth in this Subpart.

(b) Commerce may establish special rules as needed to ensure that critical items are available to authorized programs in a timely fashion and to provide for an equitable and orderly distribution of requirements for such items among all suppliers of the items.

### § 350.41 Metalworking machines.

(a) "Metalworking machines" include power driven, manual or automatic, metal cutting and metal forming machines and complete machines not supported in the hands of an operator when in use. Basic machines with a list price of $2,500 or less are not covered by this section.

(b) Metalworking machines covered by this section include:

Bending and forming machines
Boring machines
Broaching machines
Drilling and tapping machines
Electrical discharge, ultrasonic and chemical erosion machines
Forging machinery and hammers
Gear cutting and finishing machines
Grinding machines
Hydraulic and pneumatic presses, power driven
Machining centers and way-type machines
Manual presses
Mechanical presses, power driven
Milling machines
Miscellaneous machine tools
Miscellaneous secondary metal forming and cutting machines
Planers and shapers
Polishing, lapping, boring, and finishing machines

Punching and shearing machines
Riveting machines
Saws and filing machines
Turning machines, lathes, including automatic
Wire and metal ribbon forming machines

(c) A metalworking machine producer is not required to accept DO rated orders calling for delivery in any month of a total quantity of any size of machine in excess of 60 percent of scheduled production of that size of machine for that month, or any DO rated orders received less than three months prior to the beginning of the month for which delivery is requested. However, DX rated orders must be accepted without regard to a set-aside or the lead time, if delivery can be made by the required date.

## Subpart H—Special Priorities Assistance

### § 350.50 General provisions.

(a) The DPAS is designed to be largely self-executing. However, it is anticipated that from time-to-time problems will occur. In this event, a person should immediately contact the appropriate contract administration officer for guidance or assistance. If additional formal aid is needed, special priorities assistance should be sought from the Delegate Agency through the contract administration officer. If the Delegate Agency is unable to resolve the problem or to authorize the use of a priority rating and believes additional assistance is warranted, the Delegate Agency may forward the request to the Department of Commerce for action. Special priorities assistance is a service provided to alleviate problems that do arise.

(b) Special priorities assistance can be provided for any reason in support of this regulation, such as assisting in obtaining timely deliveries of items needed to satisfy rated orders or authorizing the use of priority ratings on orders to obtain items not automatically ratable under this regulation.

(c) A request for special priorities assistance or priority rating authority must be submitted on Form ITA–999 (OMB #0625–0015) to the local contract administration representative. Form ITA–999 may be obtained from the Delegate Agency representative, any Commerce Field Office, or from the Department of Commerce. A sample Form ITA–999 is attached at Appendix III.

### § 350.51 Requests for priority rating authority.

(a) If a rated order is likely to be delayed because a person is unable to obtain items not normally rated under this regulation, the person may request the authority to use a priority rating in ordering the needed items. Examples of items for which priority ratings can be authorized include:

(1) Production or construction equipment;

(2) Computers when not used as production items; and

(3) Expansion, rebuilding or replacing plant facilities.

(b) *Rating authority for production or construction equipment.* (1) A request for priority rating authority for production or construction equipment must be submitted to the appropriate Delegate Agency. The Delegate Agency may establish particular forms to be used for these requests (*e.g.*, Department of Defense Form DD 691.)

(2) When the use of a priority rating is authorized for the procurement of production or construction equipment, a rated order may be used either to purchase or to lease such equipment. However, in the latter case, the equipment may be leased only from a person engaged in the business of leasing such equipment or from a person willing to lease rather than sell.

(c) *Rating authority in advance of a rated prime contract.* (1) In certain cases and upon specific request, Commerce, in order to promote the national defense, may authorize a person to place a priority rating on an order to a supplier in advance of the issuance of a rated prime contract. In these instances, the person requesting advance rating authority must obtain sponsorship of the request from the appropriate Delegate Agency. The person shall also assume any business risk associated with the placing of rated orders if these orders have to be cancelled in the event the rated prime contract is not issued.

(2) The person must state the following in the request:

It is understood that the authorization of a priority rating in advance of our receiving a rated prime contract from a Delegate Agency and our use of that priority rating with our suppliers in no way commits the Delegate Agency, the Department of Commerce or any other government agency to enter into a contract or order or to expend funds. Further, we understand that the Federal Government shall not be liable for any cancellation charges, termination costs, or other damages that may accrue if a rated prime contract is not eventually placed and, as a result, we must subsequently cancel orders placed with the use of the priority rating authorized as a result of this request.

(3) In reviewing requests for rating authority in advance of a rated prime contract, Commerce will consider, among other things, the following criteria:

(i) The probability that the prime contract will be awarded;

(ii) The impact of the resulting rated orders on suppliers and on other authorized programs;

(iii) Whether the contractor is the sole source;

(iv) Whether the item being produced has a long lead time;

(v) The political sensitivity of the project; and

(vi) The time period for which the rating is being requested.

(4) Commerce may require periodic reports on the use of the rating authority granted under paragraph (c) of this section.

(5) If a rated prime contract is not issued, the person shall promptly notify all suppliers who have received rated orders pursuant to the advanced rating authority that the priority rating on those orders is cancelled.

### § 350.52 Examples of assistance.

(a) While special priorities assistance may be provided for any reason in support of this regulation, it is usually provided in situations where:

(1) A person is experiencing difficulty in obtaining delivery against a rated order by the required delivery date; or

(2) A person cannot locate a supplier for an item needed to fill a rated order.

(b) Other examples of special priorities assistance include:

(1) Ensuring that rated orders receive preferential treatment by suppliers;

(2) Resolving production or delivery conflicts between various rated orders;

(3) Assisting in placing rated orders with suppliers;

(4) Verifying the urgency of rated orders; and

(5) Determining the validity of rated orders.

### § 350.53 Criteria for assistance.

Requests for special priorities assistance should be timely, *i.e.*, the request has been submitted promptly and enough time exists for the Delegate Agency or Commerce to effect a meaningful resolution to the problem, and must establish that:

(a) There is an urgent need for the item; and

(b) The applicant has made a reasonable effort to resolve the problem.

### § 350.54 Instances where assistance will not be provided.

Special priorities assistance is provided at the discretion of the Delegate Agencies and Commerce when it is determined that such assistance is

warranted to meet the objectives of this regulation. Examples where assistance will not be provided include situations when a person is attempting to:

(a) Secure a price advantage;

(b) Obtain delivery prior to the time required to fill a rated order;

(c) Gain competitive advantage;

(d) Disrupt an industry apportionment program in a manner designed to provide a person with an unwarranted share of scarce items; or

(e) Overcome a supplier's regularly established terms of sale or conditions of doing business.

### § 350.55 Assistance programs with Canada and other nations.

(a) To promote military assistance to foreign nations, this section provides for authorizing priority ratings to persons in Canada and in other foreign nations to obtain items in the United States in support of authorized programs. Although priority ratings have no legal authority outside of the United States, this section also provides information on how persons in the United States may obtain informal assistance in Canada.

(b) *Canada.* (1) The joint U.S.-Canadian military arrangements for the defense of North America and the integrated nature of their defense industries as set forth in the *U.S.-Canadian Statement of Principles for Economic Cooperation* (October 26, 1950) require close coordination and the establishment of a means to provide mutual assistance to the defense industries located in both countries.

(2) The Department of Commerce coordinates with the Canadian Department of Supply and Services on all matters of mutual concern relating to the administration of this regulation. A copy of the Memorandum of Understanding between the two departments is provided at Appendix IV.

(3) Any person in the United States ordering defense items in Canada should inform the Canadian supplier that the items being ordered are to be used to fill a rated order. The Canadian supplier should be informed that if production materials are needed from the United States by the supplier or the supplier's vendor to fill the order, they should contact the Canadian Department of Supply and Services for authority to place rated orders in the United States.

(4) Any person in Canada producing defense items for the Canadian government may also obtain priority rating authority for items to be purchased in the United States by applying to the Canadian Department of Supply and Services in accordance with procedures specified by that Department.

(5) Persons in Canada needing special priorities assistance in obtaining defense items in the United States may apply for such assistance to the Canadian Department of Supply and Services. The Department of Supply and Services will forward appropriate requests to Commerce.

(6) Any person in the United States requiring assistance in obtaining items in Canada must submit a request through the Delegate Agency to Commerce on Form ITA-999. Commerce will forward appropriate requests to the Canadian Department of Supply and Services.

(c) *Foreign nations.* (1) Any person in a foreign nation other than Canada requiring assistance in obtaining defense items in the United States or priority rating authority for defense items to be purchased in the United States, should apply for such assistance or rating authority to the U.S. Department of Defense. The request must be sponsored by the government of the foreign nation prior to its submission.

(2) If the Department of Defense endorses the request, it will be forwarded to Commerce for appropriate action.

## Subpart I—Official Actions

### § 350.60 General provisions.

(a) Commerce may, from time-to-time, take specific official actions to implement or enforce the provisions of this regulation.

(b) Several of these official actions (Rating Authorizations, Directives, and Letters of Understanding) are discussed in this Subpart. Other official actions which pertain to compliance (Administrative Subpoenas, Demands for Information, and Inspection Authorizations) are discussed in § 350.71(b).

### § 350.61 Rating Authorizations.

(a) A Rating Authorization is an official action granting specific priority rating authority that:

(1) Permits a person to place a priority rating on an order for an item not normally ratable under this regulation; or

(2) Authorizes a person to modify a priority rating on a specific order or series of contracts or orders.

(b) To request priority rating authority, see § 350.51.

### § 350.62 Directives.

(a) A Directive is an official action which requires a person to take or refrain from taking certain actions in accordance with its provisions.

(b) A person must comply with each Directive issued. However, a person may not use or extend a Directive to obtain any items from a supplier, unless expressly authorized to do so in the Directive.

(c) Directives take precedence over all DX rated orders, DO rated orders, and unrated orders previously or subsequently received, unless a contrary instruction appears in the Directive.

### § 350.63 Letters of Understanding.

(a) A Letter of Understanding is an official action which may be issued in resolving special priorities assistance cases to reflect an agreement reached by all parties (Commerce, the Delegate Agency, the supplier, and the customer).

(b) A Letter of Understanding is not used to alter scheduling between rated orders, to authorize the use of priority ratings, to impose restrictions under this regulation, or to take other official actions. Rather, Letters of Understanding are used to confirm production or shipping schedules which do not require modifications to other rated orders.

## Subpart J—Compliance

### § 350.70 General provisions.

(a) Compliance actions may be taken for any reason necessary or appropriate to the enforcement or the administration of the Defense Production Act, this regulation, or an official action. Such actions include audits, investigations, or other inquiries.

(b) Any person who places or receives a rated order should be thoroughly familiar with, and must comply with, the provisions of this regulation.

(c) Willful violation of any of the provisions of Title I or section 705 of the Defense Production Act, this regulation, or an official action of the Department of Commerce, is a criminal act, punishable as provided in the Defense Production Act and as set forth in § 350.74 of this regulation.

### §350.71 Audits and investigations.

(a) Audits and investigations are official examinations of books, records, documents, other writings and information to ensure that the provisions of the Defense Production Act, this regulation, and official actions have been properly followed. An audit or investigation may also include interviews and a systems evaluation to detect problems or failures in the implementation of this regulation.

(b) When undertaking an audit, investigation, or other inquiry, the Department of Commerce shall:

(1) Define the scope and purpose in the official action given to the person under investigation, and

(2) Have ascertained that the information sought or other adequate and authoritative data are not available from any Federal or other responsible agency.

(c) In administering this regulation, Commerce may issue the following documents which constitute official actions:

(1) *Administrative Subpoenas.* An Administrative Subpoena requires a person to appear as a witness before an official designated by the Department of Commerce to testify under oath on matters of which that person has knowledge relating to the enforcement or the administration of the Defense Production Act, this regulation, or official actions. An Administrative Subpoena may also require the production of books, papers, records, documents and physical objects or property.

(2) *Demand for Information.* A Demand for Information requires a person to furnish to a duly authorized representative of the Department of Commerce any information necessary or appropriate to the enforcement or the administration of the Defense Production Act, this regulation, or official actions.

(3) *Inspection Authorizations.* An Inspection Authorization requires a person to permit a duly authorized representative of Commerce to interview the person's employees or agents, to inspect books, records, documents, other writings and information in the person's possession or control at the place where that person usually keeps them, and to inspect a person's property when such interviews and inspections are necessary or appropriate to the enforcement or the administration of the Defense Production Act, this regulation, or official actions.

(d) The production of books, records, documents, other writings and information will not be required at any place other than where they are usually kept if, prior to the return date specified in the Administrative Subpoena or Demand for Information, a duly authorized official of Commerce is furnished with copies of such material that are certified under oath to be true copies. As an alternative, a person may enter into a stipulation with a duly authorized official of Commerce as to the content of the material.

(e) An Administrative Subpoena, Demand for Information, or Inspection Authorization, shall include the name, title or official position of the person to be served, the evidence sought to be adduced, and its general relevance to the scope and purpose of the audit, investigation, or other inquiry. If employees or agents are to be interviewed; if books, records, documents, other writings, or information are to be produced; or if property is to be inspected; the Administrative Subpoena, Demand for Information, or Inspection Authorization will describe them with particularity.

(f) Service of documents shall be made in the following manner:

(1) Service of a Demand for Information or Inspection Authorization shall be made personally, or by Certified Mail—Return Receipt Requested at the person's last known address. Service of an Administrative Subpoena shall be made personally. Personal service may also be made by leaving a copy of the document with someone of suitable age and discretion at the person's last known dwelling or place of business.

(2) Service upon other than an individual may be made by serving a partner, corporate officer, or a managing or general agent authorized by appointment or by law to accept service of process. If an agent is served, a copy of the document shall be mailed to the person named in the document.

(3) Any individual 18 years of age or over may serve an Administrative Subpoena, Demand for Information, or Inspection Authorization. When personal service is made, the individual making the service shall prepare an affidavit as to the manner in which service was made and the identity of the person served, and return the affidavit, and in the case of subpoenas, the original document, to the issuing officer. In case of failure to make service, the reasons for the failure shall be stated on the original document.

### § 350.72 Compulsory process.

(a) If a person refuses to permit a duly authorized representative of Commerce to have access to any premises or source of information necessary to the administration or the enforcement of the Defense Production Act, this regulation, or official actions, the Commerce representative may seek compulsory process. Compulsory process means the institution of appropriate legal action, including *ex parte* application for an inspection warrant or its equivalent, in any forum of appropriate jurisdiction.

(b) Compulsory process may be sought in advance of an audit, investigation, or other inquiry, if, in the judgment of the Director of the Office of Industrial Resource Administration, U.S. Department of Commerce, in consultation with the Assistant General Counsel for International Trade, U.S. Department of Commerce, there is reason to believe that a person will refuse to permit an audit, investigation, or other inquiry, or that other circumstances exist which make such process desirable or necessary.

### § 350.73 Notification of failure to comply.

(a) At the conclusion of an audit, investigation, or other inquiry, or at any other time, Commerce may inform the person in writing where compliance with the requirements of the Defense Production Act, this regulation, or an official action were not met.

(b) In cases where Commerce determines that failure to comply with the provisions of the Defense Production Act, this regulation, or an official action was inadvertent, the person may be informed in writing of the particulars involved and the corrective action to be taken. Failure to take corrective action may then be construed as a willfull violation of the Defense Production Act, this regulation, or an official action.

### § 350.74 Violations, penalties, and remedies.

(a) Willful violation of the provisions of Title I or Sections 705 or 707 of the Defense Production Act, this regulation, or an official action is a crime and upon conviction, a person may be punished by fine or imprisonment, or both. Except as provided in (b) below, the maximum penalties provided by the Defense Production Act are a $10,000 fine, or one year in prison, or both.

(b) Willful refusal to furnish any information or reports required by Commerce under Section 705 of the Defense Production Act, this regulation, or an official action, is a crime and upon conviction, a person may be punished by fine or imprisonment, or both. Maximum penalties provided by the Defense Production Act are a $1,000 fine, or one year in prison, or both.

(c) The government may also seek an injunction from a court of appropriate jurisdiction to prohibit the continuance of any violation of, or to enforce compliance with, the Defense Production Act, this regulation, or an official action.

(d) In order to secure the effective enforcement of the Defense Production Act, this regulation, and official actions, the following are prohibited (see Section 704 of the Defense Production Act; see also, for example, Sections 2 and 371 of Title 18, United States Code):

(1) No person may solicit, influence or permit another person to perform any act prohibited by, or to omit any act required by, the Defense Production Act, this regulation, or an official action.

(2) No person may conspire or act in concert with any other person to perform any act prohibited by, or to omit any act required by, the Defense Production Act, this regulation, or an official action.

(3) No person shall deliver any item if the person knows or has reason to believe that the item will be accepted, redelivered, held, or used in violation of the Defense Production Act, this regulation, or an official action. In such instances, the person must immediately notify the Department of Commerce that, in accordance with this provision, delivery has not been made.

**§ 350.75 Compliance conflicts.**

If compliance with any provision of the Defense Production Act, this regulation, or an official action would prevent a person from filling a rated order or from complying with another provision of the Defense Production Act, this regulation, or an official action, the person must immediately notify the Department of Commerce for resolution of the conflict.

## Subpart K—Adjustments, Exceptions, and Appeals

**§ 350.80 Adjustments or exceptions.**

(a) A person may submit a request to the Office of Industrial Resource Administration, U.S. Department of Commerce, for an adjustment or exception on the ground that:

(1) A provision of this regulation or an official action results in an undue or exceptional hardship on that person not suffered generally by others in similar situations and circumstances; or

(2) The consequence of following a provision of this regulation or an official action is contrary to the intent of the Defense Production Act or this regulation.

(b) Each request for adjustment or exception must be in writing and contain a complete statement of all the facts and circumstances related to the provision of this regulation or official action from which adjustment is sought and a full and precise statement of the reasons why relief should be provided.

(c) The submission of a request for adjustment or exception shall not relieve any person from the obligation of complying with the provision of this regulation or official action in question while the request is being considered unless such interim relief is granted in writing by the Office of Industrial Resource Administration.

(d) A decision of the Office of Industrial Resource Administration under this section may be appealed to the Assistant Secretary for Trade Administration, U.S. Department of Commerce. (For information on the appeal procedure, see § 350.81.)

**§ 350.81 Appeals.**

(a) Any person who has had a request for adjustment or exception denied by the Office of Industrial Resource Administration under § 350.80, may appeal to the Assistant Secretary for Trade Administration, U.S. Department of Commerce, who shall review and reconsider the denial.

(b) An appeal must be received by the Office of the Assistant Secretary for Trade Administration, International Trade Administration, U.S. Department of Commerce, Washington, D. C. 20230, Ref: DPAS, no later than 45 days after receipt of a written notice of denial from the Office of Industrial Resource Administration. After this 45-day period, an appeal may be accepted at the discretion of the Assistant Secretary for Trade Administration for good cause shown.

(c) Each appeal must be in writing and contain a complete statement of all the facts and circumstances related to the action appealed from and a full and precise statement of the reasons the decision should be modified or reversed.

(d) In addition to the written materials submitted in support of an appeal, an appellant may request, in writing, an opportunity for an informal hearing. This request may be granted or denied at the discretion of the Assistant Secretary for Trade Administration.

(e) When a hearing is granted, the Assistant Secretary for Trade Administration may designate an employee of the Department of Commerce to conduct the hearing and to prepare a report. The hearing officer shall determine all procedural questions and impose such time or other limitations deemed reasonable. In the event that the hearing officer decides that a printed transcript is necessary, all expenses shall be borne by the appellant.

(f) When determining an appeal, the Assistant Secretary for Trade Administration may consider all information submitted during the appeal as well as any recommendations, reports, or other relevant information and documents available to the Department of Commerce, or consult with any other persons or groups.

(g) The submission of an appeal under this section shall not relieve any person from the obligation of complying with the provision of this regulation or official action in question while the appeal is being considered unless such relief is granted in writing by the Assistant Secretary for Trade Administration.

(h) The decision of the Assistant Secretary for Trade Administration shall be made within a reasonable time after receipt of the appeal and shall be the final administrative action. It shall be issued to the appellant in writing with a statement of the reasons for the decision.

## Subpart L—Miscellaneous Provisions

**§ 350.90 Protection against claims.**

A person shall not be held liable for damages or penalties for any act or failure to act resulting directly or indirectly from compliance with any provision of this regulation, or an official action, notwithstanding that such provision or action shall subsequently be declared invalid by judicial or other competent authority.

**§ 350.91 Records and reports.**

(a) Persons are required to make and preserve for at least three years, accurate and complete records of any transaction covered by this regulation (OMB #0625–0107) or an official action.

(b) Records must be maintained in sufficient detail to permit the determination, upon examination, of whether each transaction complies with the provisions of this regulation or any official action. However, this regulation does not specify any particular method or system to be used.

(c) Records required to be maintained by this regulation must be made available for examination on demand by duly authorized representatives of Commerce as provided in § 350.71.

(d) In addition, persons must develop, maintain, and submit any other records and reports to Commerce that may be required for the administration of the Defense Production Act and this regulation.

(e) Section 705(e) of the Defense Production Act provides that information obtained under this section which the President deems confidential, or with reference to which a request for confidential treatment is made by the person furnishing such information, shall not be published or disclosed unless the President determines that the withholding of this information is contrary to the interest of the national defense. Information required to be submitted to Commerce in connection with the enforcement or administration

of the Act, this regulation, or an official action, is deemed to be confidential under section 705(e) of the Act and shall not be published or disclosed except as required by law.

**§ 350.92 Applicability of this regulation and official actions.**

(a) This regulation and all official actions, unless specifically stated otherwise, apply to transactions in any state, territory, or possession of the United States and the District of Columbia.

(b) This regulation and all official actions apply not only to deliveries to other persons but also include deliveries to affiliates and subsidiaries of a person and deliveries from one branch, division, or section of a single entity to another branch, division, or section under common ownership or control.

(c) This regulation and its schedules shall not be construed to affect any administrative actions taken by Commerce, or any outstanding contracts or orders placed pursuant to any of the regulations, orders, schedules or delegations of authority under the Defense Materials System and Defense Priorities System previously issued by Commerce. Such actions, contracts, or orders shall continue in full force and effect under this regulation unless modified or terminated by proper authority.

(d) The repeal of the regulations, orders, schedules and delegations of authority of the Defense Materials System (DMS) and Defense Priorities System (DPS) shall not have the effect to release or extinguish any penalty or liability incurred under the DMS/DPS. The DMS/DPS shall be treated as still remaining in force for the purpose of sustaining any action for the enforcement of such penalty or liability.

**§ 350.93 Communications.**

All communications concerning this regulation, including requests for copies of the regulation and explanatory information, requests for guidance or clarification, and requests for adjustment or exception shall be addressed to the Office of Industrial Resource Administration, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230, Ref: DPAS; telephone: (202) 377–4506.

**Schedule I to Part 350—Authorized Programs and Delegate Agencies**

The programs listed in this schedule have been authorized by the Federal Emergency Management Agency for priorities and allocations support under this regulation. They have equal preferential status.

The Department of Commerce has authorized the Delegate Agencies to use this regulation in support of those programs assigned to them, as indicated below.

| Program Identification Symbol | Authorized Program | Delegate Agency |
|---|---|---|
| | **Defense Programs** | |
| A1 | Aircraft | Department of Defense and Associated Agencies.[1] |
| A2 | Missiles | Do. |
| A3 | Ships | Do. |
| A4 | Tank—Automotive | Do. |
| A5 | Weapons | Do. |
| A6 | Ammunition | Do. |
| A7 | Electronic and communications equipment | Do. |
| B1 | Military building supplies | Do. |
| B8 | Production equipment (for defense contractor's account) | Do. |
| B9 | Production equipment (Government owned) | Do. |
| C2 | Department of Defense construction | Do. |
| C3 | Maintenance, repair and operating supplies (MRO) for Department of Defense facilities | Do. |
| C8 | Controlled materials for Defense Industrial Supply Center (DISC) | Do. |
| C9 | Miscellaneous | Do. |
| | **International Defense Programs** | |
| | Canada | |
| D1 | Canadian military programs | Department of Commerce. |
| D2 | Canadian production and construction | Do. |
| D3 | Canadian atomic energy program | Do. |
| | Other Foreign Nations | |
| G1 | Certain munitions items purchased by foreign governments through domestic commercial channels for export | Department of Commerce. |
| G2 | Certain direct defense needs of foreign governments other than Canada | Do. |
| G3 | Foreign nations (other than Canada) production and construction | Do. |
| | Co-Production | |
| J1 | F–16 Co-Production Program | Departments of Commerce and Defense. |
| | **Atomic Energy Programs** | |
| E1 | Construction | Department of Energy. |
| E2 | Operations—including maintenance, repair and operating supplies (MRO) | Do. |
| E3 | Privately owned facilities | Do. |
| | **Other Energy Programs** | |
| F1 | Exploration, production, refining and transportation | Department of Energy. |
| F2 | Conservation | Do. |
| F3 | Construction and Maintenance | Do. |
| | **Other Defense, Energy and Related Programs** | |
| H1 | Certain combined orders (see § 350.17(c)) | Department of Commerce. |
| H2 | Controlled materials producers | Do. |
| H3 | Further converters (controlled materials) | Do. |
| H4 | Distributors of controlled materials | Do. |
| H5 | Private domestic production | Do. |
| H6 | Private domestic construction | Do. |
| H7 | Maintenance, repair and operating supplies (MRO) | Do. |

| Program Identification Symbol | Authorized Program | Delegate Agency |
|---|---|---|
| K1 | Federal supply items | General Services Administration. |
| N1 | Approved civil defense programs | Federal Emergency Management Agency. |

[1] Department of Defense agencies are: Army, Navy (including Coast Guard), Air Force, Defense Logistics Agency, and National Security Agency. Associated Agencies of the Department of Defense include Central Intelligence Agency, Federal Aviation Administration, and National Aeronautics and Space Administration.

## SCHEDULE II TO PART 350—CONTROLLED MATERIALS

| Controlled Materials [1] | Minimum quantity* (net tons, except as specified) | | Minimum number of days** | | | |
|---|---|---|---|---|---|---|
| | Carbon [2] | Alloy [2] | Carbon | High-strength low-alloy | Stainless | Alloy [2] |
| **Steel** | | | | | | |
| Bar, bar shapes (including light shapes): | | | | | | |
| Bar, hot-rolled stock for projectile and shell bodies [4] | ([3]) | ([3]) | 45 | 75 | ..... | [5] 75 |
| Bar, hot-rolled, other (including light shapes): | | | | | | |
| Round bars up to and including 3 inches, and squares, hexagons, half rounds, ovals, etc., of approximately equivalent section area | 5 | ([3]) | [5] 45 | [5] 75 | 90 | [5] 75 |
| Round and square bars over 3 inches, but less than 6 inches | 15 | ([3]) | [5] 45 | [5] 75 | 90 | [5] 75 |
| Bar-size shapes (angles, tees, channels, and zees under 3 inches) | 5 | ([3]) | [5] 45 | [5] 75 | 90 | [5] 75 |
| Bar, reinforcing (straight lengths, as rolled) | 5 | ..... | 45 | ..... | ..... | 75 |
| Bar, cold finished | 5 | ([3]) | [5] 75 | [5] 105 | 105 | [5] 105 |
| Sheet, strip (uncoated and coated): | | | | | | |
| Sheet, hot-rolled | 5 | ([3]) | 45 | 75 | 90 | 75 |
| Sheet, cold-rolled | 5 | ([3]) | 45 | 75 | 105 | 90 |
| Sheet, galvanized | ([3]) | ..... | 45 | ..... | ..... | ..... |
| Sheet, all other coated | 5 | ..... | 45 | ..... | ..... | ..... |
| Sheet, enameling | 5 | ..... | 45 | ..... | ..... | ..... |
| Roofing, galvanized, corrugated, V-crimped channel drains | ([3]) | ..... | 45 | ..... | ..... | ..... |
| Ridge roll, valley, and flashing | ([3]) | ..... | 45 | ..... | ..... | ..... |
| Siding, corrugated and brick | ([3]) | ..... | 45 | ..... | ..... | ..... |
| Strip, hot-rolled | ([3]) | ([3]) | 45 | 75 | 90 | 75 |
| Strip, cold-rolled | ([3]) | ([3]) | 45 | 75 | 105 | 90 |
| Strip, galvanized | ([3]) | ..... | [5] 45 | ..... | ..... | ..... |
| Electrical sheet and strip | 5 | ..... | [7] 45 | ..... | ..... | ..... |
| Tin mill black plate (pounds) | 12,000 | ..... | 45 | ..... | ..... | ..... |
| Tin plate, hot-dipped (pounds) | 12,000 | ..... | 45 | ..... | ..... | ..... |
| Ternes, special coated manufacturing (pounds) | 10,000 | ..... | 45 | ..... | ..... | ..... |
| Tin plate, electrolytic (pounds) | 12,000 | ..... | ..... | ..... | ..... | ..... |
| Electrolytic chromium coated steel [8] | ([3]) | ..... | ..... | ..... | ..... | ..... |
| Plate: | | | | | | |
| Rolled armor | ([3]) | ([3]) | [5] 45 | [5] 75 | 90 | [5] 75 |
| Continuous strip mill production | 10 | ([3]) | [5] 45 | [5] 75 | 90 | [5] 75 |
| Sheared, universal, or bar mill production | 3 | ([3]) | [5] 45 | [5] 75 | 90 | [5] 75 |
| Structural shapes, piling | ([3]) | ([3]) | 45 | [9] 75 | [9] 150 | 90 |
| Pipe, tubing: | | | | | | |
| Standard pipe (including couplings furnished by mill) | ([10]) | ([10]) | 45 | ..... | 120 | ..... |
| Oil-country goods (casing, tubular goods, couplings furnished by mill) | ([10]) | ([10]) | 45 | ..... | ..... | 60 |
| Line pipe (including couplings furnished by mill) | ([10]) | ([10]) | 45 | 75 | ..... | ..... |
| Pressure and mechanical tubing (seamless and welded): | | | | | | |
| Seamless cold-drawn (pounds): | | | | | | |
| Under 20 pounds per foot | 5,000 | 5,000 | [5] 60 | ..... | 120 | 120 |
| 20 pounds per foot and over | 5,000 | 10,000 | [5] 60 | ..... | 120 | 120 |
| Seamless hot-rolled | ([3]) | ([3]) | [5] 60 | ..... | 120 | 120 |
| Welded | ([3]) | ([3]) | [5] 60 | ..... | [5] 120 | 120 |
| Wire, wire products: | | | | | | |
| Wire, drawn | ([3]) | ([3]) | 45 | 75 | 90 | 75 |
| Nails—bright steel wire, steel cut, galvanized, cement-coated and painted | [11] 5 | ..... | 45 | ..... | ..... | ..... |
| Spikes and brads—steel wire, galvanized, cement-coated | [11] 5 | ..... | 45 | ..... | ..... | ..... |
| Staples, bright and galvanized (farm and poultry) | [11] 5 | ..... | 45 | ..... | ..... | ..... |
| Wire rope and strand | ([3]) | ..... | 45 | ..... | 105 | ..... |
| Welded wire mesh | ([3]) | ..... | 45 | ..... | ..... | ..... |
| Woven wire netting | [11] 5 | ..... | 45 | ..... | ..... | ..... |
| Barbed and twisted wire | [11] 5 | ..... | 45 | ..... | ..... | ..... |
| Wire fence, woven and welded (farm and poultry) | [11] 5 | ..... | 45 | ..... | ..... | ..... |
| Bale ties | [11] 5 | ..... | 45 | ..... | ..... | ..... |
| Coiled automatic baler wire | [11] 5 | ..... | 45 | ..... | ..... | ..... |
| Tool steel (all forms including die blocks and tool steel forgings) (pounds) | 500 | 500 | [12] 60 | ..... | ..... | [12] 90 |
| Other mill forms and products (excluding castings and forgings): | | | | | | |
| Ingots | [13] 25 | ([14]) | 45 | 75 | 75 | 75 |
| Billets, projectile and shell stock | ([3]) | ([3]) | 45 | 75 | ..... | 75 |
| Blooms, slabs, other billets, tube rounds, sheet bars | [13] 25 | ([3]) | 45 | 75 | 75 | 75 |
| Skelp | 25 | ..... | 45 | ..... | ..... | ..... |
| Wire rod | ([3]) | ([3]) | 45 | 75 | 90 | 75 |
| Rail and track accessories | ([3]) | ([3]) | 45 | ..... | ..... | 90 |
| Wheels, rolled or forged (railroad) | ([3]) | ([3]) | 45 | ..... | ..... | 90 |
| Axles (railroad) | ([3]) | ([3]) | 45 | ..... | ..... | 90 |

| Controlled materials [1] | Minimum quantity* (pounds) | Minimum number of days** |
|---|---|---|
| **Copper** | | |
| Copper and copper-base alloy brass mill products: [15] | | |
| Copper (unalloyed): | | |
| Bar | 2,000 | 45 |
| Shapes, wire (except electrical wire) | 500 | 45 |

| Controlled materials[1] | Minimum quantity* (pounds) | Minimum number of days** |
|---|---|---|
| Rod | 2,000 | 45 |
| Sheet, plate (24 inches wide and over) | 2,000 | 45 |
| Rolls and strip (up to 24 inches wide) | 2,000 | 45 |
| Pipe, tube (seamless) | 2,000 | 45 |
| Copper-base alloy: | | |
| Bar | 2,000 | [16] 45 |
| Wire, shapes | 500 | [16] 45 |
| Free cutting brass rod | 2,000 | [16] 45 |
| Other rod | 1,000 | [16] 45 |
| Sheet, and plate (24 inches wide and over) | 2,000 | [16] 45 |
| Rolls and strip (up to 24 inches in width) | 2,000 | [16] 45 |
| Military ammunition cups and discs | 2,000 | [16] 45 |
| Circles | 1,000 | [16] 90 |
| Pipe, tube (seamless) | 2,000 | [16] 45 |
| Copper wire mill products: | | |
| Copper wire and cable: | | |
| Bare and tinned | [17] [18] | 35 |
| Weatherproof | [17] [18] | 40 |
| Magnet wire | [17] [18] | 35 |
| Insulated building wire | [17] [18] | 45 |
| Paper and lead power cable | [17] [18] | 75 |
| Paper and pulp telephone cable | [17] [18] | 45 |
| Plastic insulated telephone cable | [17] [18] | 45 |
| Asbestos cable | [17] [18] | 60 |
| Portable and flexible cord and cable | [17] [18] | 45 |
| Communication wire and cable | [17] [18] | 60 |
| Shipboard cable | [17] [18] | 75 |
| Automotive and aircraft wire and cable | [17] [18] | 45 |
| Insulated power cable | [17] [18] | 75 |
| Signal and control cable | [17] [18] | 75 |
| Coaxial cable | [17] [18] | 75 |
| Copper-clad steel wire containing over 20 percent copper by weight regardless of end use | [17] [18] | 35 |
| Copper-clad aluminum wire containing over 20 percent copper by weight regardless of end use | [17] [18] | 45 |
| Copper and copper-base alloy foundry products and powder: | | |
| Copper, brass, and bronze castings | | [19] [20] 14 |
| Copper, brass, and bronze powder (including copper powder, granular and flake, and copper-base alloy powder, granular and flake) | | 30 |

| Controlled materials[1] | Minimum quantity* (pounds) | Minimum number of days** |
|---|---|---|
| **Aluminum** | | |
| Ingot, granular or shot, and molten metal: | | |
| Extrusion ingot (billet) | [18] | 90 |
| Other ingot and molten metal, primary | [18] | 60 |
| Other ingot and molten metal, secondary | [18] | |
| Sheet and plate: | | |
| Sheet, non-heat treatable | [18] | 150 |
| Sheet, heat treatable | [18] | 150 |
| Plate, non-heat treatable | [18] | 150 |
| Plate, heat treatable | [18] | 150 |
| Welded tube | [18] | |
| Foil | [18] | 90 |
| Aluminum conductor: | | |
| ACSR and aluminum cable, bare | [18] | 60 |
| Wire and cable, insulated or covered | [18] | 60 |
| Rolled bar, rod and wire (continuous cast or rolled): | | |
| Conductor redraw rod | [18] | 60 |
| Non-conductor redraw rod | [18] | 60 |
| Other rod and bar | [18] | 120 |
| Wire, bare, conductor and non-conductor | [18] | 120 |
| Extruded bar, rod, shapes and drawn tube: | | |
| Extruded rod and bar—alloys other than 2000 and 7000 series | [18] | 60 |
| Extruded rod and bar—alloys in 2000 and 7000 series | [18] | 150 |
| Extruded pipe and tube—alloys other than 2000 and 7000 series | [18] | 60 |
| Extruded pipe and tube—alloys in 2000 and 7000 series | [18] | 150 |
| Extruded shapes—alloys other than 2000 and 7000 series | [18] | 60 |
| Extruded shapes—alloys in 2000 and 7000 series | [18] | 150 |
| Drawn tube—alloys other than 2000 and 7000 series | [18] | 60 |
| Drawn tube—alloys in 2000 and 7000 series | [18] | 120 |
| Powder, flake and paste | [18] | 60 |

| Controlled materials[1] | Minimum quantity* | Minimum number of days** | |
|---|---|---|---|
| | | Solid solution | Precipitation hardened |
| **Nickel Alloys** | | | |
| Rods and bars (except anode bars): | | | |
| Hot-rolled, including wire rod | [2] | 90 | 120 |
| Forging quality | [2] | 90 | 120 |
| Cold-finished | [2] | 120 | 165 |
| Sheet and strip: | | | |
| Hot-rolled | [2] | 90 | 120 |
| Cold-rolled | [2] | 120 | 165 |
| Foil | [2] | 120 | 165 |
| Plate | [2] | 90 | 120 |
| Pipe, tubing | [2] | 90 | 120 |
| Wire | [2] | 120 | 165 |

| Controlled materials[1] | Minimum quantity* | Minimum number of days** | |
|---|---|---|---|
| | | Solid solution | Precipitation hardened |
| Other mill forms: | | | |
| Ingots | ([2]) | 90 | 120 |
| Blooms, slabs, billets | ([2]) | 90 | 120 |
| Powder | ([2]) | 90 | 120 |
| Shapes and forms not listed above (including anode bars) | ([2]) | ([3]) | ([3]) |
| Castings (less gates and risers, rough as cast) | ([2]) | 90 | 120 |

([1]) See technical definitions in Schedule III.
([2]) All stainless steel products, certain other steel products and all nickel alloy products. By negotiation between the mill and its customer. If no acceptable arrangements are worked out, the Office of Industrial Resource Administration should be notified.
([3]) For clad products, add 45 days to lead time indicated.
([4]) Includes projectile body stock, sizes under 2⅞ inches.
([5]) If annealed or heat-treated, add an additional 15 days.
([6]) For welded tubing or high carbon spring steel strip, 75 days.
([7]) 60 days for high grade (AISI M15 and oriented).
([8]) Steel pipe or tubing exceeding 36 inches O.D. is not a controlled material.
([9]) Applies to special rolled shapes including angles and channels.
([10]) Published carload minimum (mixed sizes and grades).
([11]) Quantity refers to any assortment of wire merchant trade products.
([12]) If cold-finished, add an additional 15 days.
([13]) For forging quality, product of one heat.
([14]) Product of one heat.
([15]) Includes anodes—rolled, forged, or sheared from cathodes.
([16]) For refractory alloys, 60 days, except for tube over 5 inches in diameter, which should be 120 days.
([17]) Standard package quantities as published by each mill.
([18]) Standard minimum quantities as established by each mill.
([19]) Lead time applies to unmachined castings after approval of patterns for production.
([20]) Small simple castings to fit 12 x 16 inch flask, 7 days.

*Minimum quantity for each size and grade of any items for mill shipment at any one time to any one destination.
**Minimum number of days in advance of first day of month in which shipment is required.

NOTE.—Leaders in figure columns indicate not applicable.

## Schedule III to Part 350—Technical Definitions of Controlled Materials Products

### *Steel*

"Alloy steel"—Steel containing 50 percent or more of iron or steel and any one or more of the following elements in the following amounts: manganese, maximum of range in excess of 1.65 percent; silicon, maximum of range in excess of 0.60 percent (excepting electrical sheet and strip); copper, maximum of range in excess of 0.60 percent; aluminum, boron, chromium (less than 10 percent), cobalt, columbium, molybdenum, nickel, tantalum, titanium, tungsten, vanadium, zirconium, or any other alloying elements in any amount specified or known to have been added to obtain a desired alloying effect. Clad steels which have an alloy steel base or carbon steel base for which nickel and/or chromium is contained in the coating or cladding material (*e.g.*, nickel-copper alloy, nickel-chrome-iron alloy or stainless) are alloy steels.

"Alloy steel plate" includes the following specifications:

—0.180 inch or thicker, over 48 inches wide
—0.230 inch or thicker, over 8 inches wide
—7.53 pounds per square foot or heavier, over 8 inches wide

"Carbon steel"—Any steel (including wrought iron) customarily so classified and also includes: (a) ingot iron; (b) all grades of electrical sheet and strip; (c) high-strength low-alloy steels; (d) clad and coated carbon steels not included with alloy steels: *e.g.*, galvanized, tin, terne, copper (excluding copper wire mill products) or aluminum clad and/or coated carbon steels; and (e) leaded carbon steels.

"Carbon steel plate" includes the following specifications, plus floor plates of any thickness:

—0.180 inch or thicker, over 48 inches wide
—0.230 inch or thicker, over 8 inches wide
—7.53 pounds per square foot or heavier, over 48 inches wide
—9.62 pounds per square foot or heavier, over 8 inches wide

"High-strength low-alloy steels"—Only the proprietary grade promoted and sold for this purpose, and Navy high-tensile steel grade HT Specification Mil–S–16113 (Ships).

"Stainless steel"—Heat and corrosion resisting steel containing 50 percent or more of iron or steel and 10 percent or more of chromium whether with or without nickel, molybdenum, or other elements.

"Stainless steel plate" includes the following size specifications: 3/16 inch (0.1875) or thicker, over 10 inches wide.

"Standard steel pipe" includes the following:

Ammonia pipe
Bedstead tubing
Driven well pipe
Drive pipe
Dry kiln pipe
Dry pipe for locomotives
English gas and steam pipe
Fence pipe
Furniture pipe
Ice machine pipe
Mechanical service pipe
Nipple pipe
Pipe for piling
Pipe for plating and enameling
Pump pipe
Signal pipe
Standard pipe coupling
Structural pipe
Turbine pump pipe
Water main pipe
Water well casing
Water well reamed and drifted pipe

"Structural steel shapes"—Rolled flanged sections having at least one dimension of their cross section 3 inches or greater, commonly referred to as angles, channels, beams, and wide flange sections.

### *Copper*

"Brass-mill products"—Copper and copper-base alloys in the following forms: sheet, plate, and strip in flat lengths or coils; rod, bar, shapes, and wire (except copper wire mill products); anodes, rolled, forged, or sheared from cathodes; and seamless tube and pipe. Straightening, threading, chamfering, cutting to width or length, or reduction in gauge, do not constitute changes in form of brass mill products. The following related products which have been produced by a change in form of brass mill products are not included in the definition of brass mill products:

Circles, discs (except brass military ammunition discs)
Cups (except brass military ammunition cups)
Blanks and segments
Forgings (except anodes)
Welding rod, 3 feet or less in length
Rotating bands
Tube and nipple—welded, brazed, or mechanically seamed
Formed flashings
Engravers' copper

"Copper-base alloy"—Any alloy of which the percentage of copper metal equals or exceeds 40 percent by weight of the metallic content of the alloy. It does not include alloyed gold produced in accordance with U.S. Commercial Standard CS 67–38.

"Copper foundry products"—Cast copper and copper-based alloy shapes or forms suitable for ultimate use without remelting, rolling, drawing, extruding, or forging. The process of casting includes the removal of gates, risers, and sprues, and sandblasting, tumbling, and dipping, but does not include any machining or further processing. For centrifugal casting, the process includes the removal of the rough cut in the inner or outer diameter, or both, before delivery to a customer. Castings include anodes and shot cast in a foundry or by an ingot maker.

"Copper powder mill products"—Copper or copper-base alloy in the form of granular or flake powder.

"Copper raw materials" includes:

(a) "Refined copper"—Copper metal which has been refined by any process of electrolysis or fire-refined to a grade and in a form suitable for fabrication;

(b) "Blister copper"—High-grade crude copper in any form produced from converter operations and from which nearly all the oxidizable impurities have been removed by slagging and volatilization;

(c) "Copper and copper-base alloy scrap"—Including fired and demilitarized cartridge and artillery cases;

(d) "Brass mill casting"—From which brass mill or intermediate shapes may be rolled, drawn, or extruded, without remelting;

(e) "Copper-base alloy ingot"—To be used in remelting, alloying, or deoxidizing operations;

(f) "Copper or copper-base alloy shot and waffle"—To be used in remelting, alloying, deoxidizing, or chemical operations; and

(g) "Copper precipitates (or cement copper)"—Precipitated from mine water by contact with iron scrap, tin cans, or iron in other forms.

"Copper wire mill products"—Uninsulated or insulated wire and cable made from copper or copper-base alloy, used for transmission of electrical energy, whatever the outer protective coverings may be, and also copper-clad steel or aluminum wire containing over 20 percent copper by weight regardless of end use. Copper wire mill products shall be measured in terms of pounds of copper content.

*Aluminum*

"Foil"—A flat rolled product, rectangular in cross section, of thickness less than 0.006 inch.

"Ingot" includes:

(a) "Extrusion ingot (billet)"—A solid or hollow cast form, usually cylindrical, suitable for extruding;

(b) "Other ingot and molten metal, primary"—A cast form other than extrusion ingot (or molten metal), shipped by an integrated producer or nonintegrated fabricator from a company-owned facility not exclusively devoted to producing secondary ingot; and

(c) "Other ingot and molten metal, secondary"—A cast form other than extrusion ingot (or molten metal), principally produced from aluminum scrap to specification by secondary smelters (or others at a facility exclusively devoted to producing ingot from scrap for sale); excludes remelt scrap ingot (RSI) which is considered scrap until remelted and cast into specification ingot.

"Pipe and tube" includes:

(a) "Drawn tube"—A hollow wrought product that is long in relation to its cross section, which is round, square, rectangular, hexagonal, octagonal, or elliptical in shape, sharp or rounded corners, with a uniform wall thickness except as affected by corner radii, and brought to final dimensions by cold drawing through a die (includes tube that is sized);

(b) "Extruded pipe and tube"—A hollow wrought product formed by hot extruding with a uniform wall thickness (except as affected by corner radii) that is long in relation to its cross section, round, square, rectangular, hexagonal, octagonal, or elliptical in shape (excludes tube that is sized by cold drawing); and

(c) "Welded tube"—A hollow product that is long in relation to its cross section, which is round, square, rectangular, hexagonal, octagonal, or elliptical in shape, produced by forming and seam-welding sheet longitudinally.

"Plate" includes:

(a) "Plate, nonheat-treatable"—A flat rolled product, rectangular in cross section, 0.250 inch or greater in thickness, which can be strengthened only by cold work; and

(b) "Plate, heat-treatable"—A flat rolled product, in 2000, 6000, or 7000 alloy series (except 7072), rectangular in cross section, 0.250 inch or greater in thickness, which can be strengthened by a suitable thermal treatment.

"Powder"—An aggregate of discrete particles of aluminum, substantially all of which are finer than 1,000 microns (minus 18 mesh); and includes:

(a) "Atomized powder"—Powder produced by blowing or asperating molten metal through an orifice;

(b) "Flaked powder"—Powder consisting of flat or scale-like particles of a thickness small compared with other dimensions, produced by milling in the presence of a lubricant; and

(c) "Paste"—A blend of powder or flake with a thinner or plasticizer.

"Rod and bar" includes:

(a) "Conductor redraw rod (continuous-cast or rolled)"—A solid round product that is long in relation to cross section, 0.375 inch or greater in diameter, produced by continuous casting followed by size-rolling or by rolling from D.C. cast ingot, suitable for drawing into electrical conductor wire;

(b) "Nonconductor redraw rod (continuous-cast or rolled)"—A solid round product that is long in relation to cross section, 0.375 inch or greater in diameter, produced by continuous casting followed by size-rolling, or by rolling from D.C. cast ingot, suitable for drawing into nonconductor wire;

(c) "Other rod and bar (continuous-cast or rolled)"—A solid round, square, rectangular, hexagon, or octagon-shaped product, produced by continuous casting or rolling that is long in relation to cross section, 0.375 inch or greater in diameter or in at least one perpendicular distance between parallel faces, other than the redraw rod and D.C. cast ingot; and

(d) "Extruded rod and bar"—A solid product produced by extruding (sometimes brought to final dimensions by drawing) that is long in relation to cross section, which is round, square, rectangular, hexagonal, or octagonal in shape and 0.375 inch or greater in diameter or in at least one perpendicular distance between parallel faces.

"Shapes" includes:

(a) "Extruded shapes"—A product produced by extruding, that is long in relation to its cross-sectional dimensions and has a cross section other than that of rod and bar and pipe and tube; and

(b) "Rolled structural shapes"—A structural shape produced by hot rolling.

"Sheet" includes:

(a) "Sheet, nonheat-treatable"—A rolled product, flat or coiled, rectangular in cross section, of 0.006 inch thickness but under 0.250 inch thickness, which can be strengthened only by cold work; and

(b) "Sheet, heat-treatable"—A rolled product, in 2000, 6000, 7000 alloy series (except 7072), flat or coiled, rectangular in cross section, of 0.006 inch thickness but under 0.250 inch thickness, which can be strengthened by a suitable thermal treatment.

"Wire and cable" includes:

(a) "Wire, bare, conductor and nonconductor"—A solid wrought product that is long in relation to its cross section, which is square, round, rectangular, hexagonal, or octagonal in shape, whose diameter or greatest perpendicular distance between parallel faces (except for flattened wire) is less than 0.375 inch;

(b) "ACSR and aluminum cable, bare"—Aluminum stranded conductor reinforced by a core of steel (ACSR), or aluminum (ACAR), or any other bare stranded aluminum conductor; and

(c) "Wire and cable, insulated or covered"—Aluminum electrical conductor wire or stranded conductors that are insulated or covered.

*Nickel Alloys*

"Nickel alloys"—Those alloys for which the specified nickel content is 10 percent or more up to and including pure nickel, and which the iron content is nominally less than 50 percent of iron, and which does not contain as much as 40 percent of copper, nor as much as 50 percent of aluminum, in the shapes and forms shown in Schedule II. It also includes cast iron for which the specified nickel content is 5 percent or more. It does not include primary nickel in the forms of electrolytic cathodes, pigs, rondelles, cubes, pellets, shot, briquettes, oxide (including sintered oxide), salts, or chemicals; nor does it include primary nickel in the forms of ingots or powder for remelting.

**Schedule IV to Part 359—Copper Controlled Materials Producers' Set-aside Base and Percentages**

*Set-aside Base*—Average monthly shipments for a producer's own account during the previous calendar year.

| Product | Set-aside percentages[1] |
|---|---|
| Brass mill products: | |
| Unalloyed: | |
| Plate, sheet, strip, and rolls | 3 |
| Rod, bar, shapes, and wire | 3 |
| Seamless tube and pipe | 2 |
| Alloyed: | |
| Plate, sheet, strip, and rolls | 2 |
| Rod, bar, shapes, and wire | 2 |
| Seamless tube and pipe | 7 |
| Military ammunition cups and discs | 10 |
| Copper wire mill products: | |
| Bare and tinned | 2 |
| Weatherproof | 2 |
| Magnet wire | 2 |
| Paper and lead power cable | 2 |
| Paper and lead telephone cable | 2 |
| Asbestos cable | 2 |
| Portable and flexible cord | 2 |
| Communications wire and cable | 2 |
| Shipboard cable | 2 |
| Automotive and aircraft wire and cable | 2 |
| Insulated power cable | 2 |
| Signal and control cable | 2 |
| Coaxial cable | 2 |

| Product | Set-aside percentages[1] |
|---|---|
| Copper-clad steel wire containing over 20 percent copper by weight regardless of end use | 2 |
| Copper foundry products | 2 |
| Copper and copper-base alloy powder mill products | [2] |

[1] Applies to metal weight, except copper wire mill products, which are by copper content.
[2] No reserve space required. Producers of these products are nevertheless required to accept rated orders for such products in accordance with the provisions of this regulation.

**Schedule V to Part 350—Nickel Alloys Controlled Materials Producers' Set-aside Base and Percentages**

*Set-aside Base*—Average monthly shipments, by each producer, during the previous calendar year.

| Product | Set-aside percentages |
|---|---|
| Rod and bars (except anode bars): | |
| Hot-rolled, including wire rod | 10 |
| Forging quality | 10 |
| Cold-finished | 10 |
| Sheet and strip: | |
| Hot-rolled | 10 |
| Cold-rolled | 10 |
| Foil | 10 |
| Plate | 10 |
| Pipe, tubing | 10 |
| Wire | 10 |
| Other mill forms: | |
| Ingots | 10 |
| Blooms, slabs, billets | 10 |
| Powder | 10 |
| Shapes and forms not listed above (including anode bars) | 10 |
| Castings (less gates and risers, rough as cast) | 10 |

**Appendix I to Part 350—Delegations of Authority**

*DPAS DEL. 1—Delegation of Authority to the Secretary of Defense; Defense Priorities and Allocations System (15 CFR Part 350)*

1. *Authority.*

Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, *et seq.*); Executive Order 10480, 18 FR 4939, 3 CFR 1949–1953 Comp., p. 962, as amended; and Defense Mobilization Order (DMO) 3, 44 CFR 322.

2. *Purpose.*

(a) This document delegates certain authority to the Secretary of Defense necessary to the effective implementation of the Defense Priorities and Allocations System (DPAS) regulation (15 CFR Part 350).

(b) Certain specifics concerning the implementation of this delegated authority are contained in a Statement of Conditions to this delegation issued by the Office of Industrial Resource Administration (OIRA), Department of Commerce (DOC).

3. *Rating Authority.*

(a) The Secretary of Defense is delegated the authority to place rated contracts and orders in support of Department of Defense (DOD) programs authorized by the Director, Federal Emergency Management Agency.

(b) The Secretary of Defense is delegated the authority to use the DX rating symbol in placing rated orders for those authorized programs determined by the President to be of the Highest National Priority as described in the DOD Master Urgency List.

4. *Co-production Programs.*

(a) The Secretary of Defense may request priority rating authority from DOC for specific co-production programs, and if granted, may authorize only those foreign firms which have entered into a formal co-production agreement with a U.S. producer to use priority ratings.

(b) DOC may authorize the use of priority ratings by other foreign firms providing items necessary to the co-production activity on a case-by-case basis.

5. *Production and Construction Equipment.*

(a) The Secretary of Defense may authorize persons to place rated orders for delivery of production equipment required to support authorized programs of DOD, when the equipment is necessary for the timely performance of rated orders and timely delivery of the equipment cannot be obtained otherwise.

(b) The Secretary of Defense may authorize persons to place rated orders for delivery of construction equipment, when the equipment is to be used for authorized construction projects and when timely delivery of the equipment cannot be obtained otherwise.

6. *Delivery Scheduling.*

The Secretary of Defense is delegated the authority to reschedule deliveries of materials which are required in support of DOD programs, provided that such authority shall be used (1) only to reschedule deliveries among contracts or orders assigned priority ratings by DOD, and (2) only to the extent that such rescheduling of deliveries requires no change in production schedules of other rated orders.

7. *Special Priorities Assistance.*

The Secretary of Defense may sponsor requests by persons for special priorities assistance upon determining the defense urgency of the requested assistance. DOD will: (1) serve as the initial point of contact for persons needing assistance, (2) verify the accuracy of the information provided and make reasonable efforts to resolve the issues, and, when necessary, (3) expeditiously forward the request through established DOD channels to DOC to facilitate timely resolution. Upon receipt of the request for special priorities assistance, DOC will take immediate action to effect resolution and will keep DOD advised of progress.

8. *Controlled Materials.*

The Secretary of Defense is delegated the authority to make allotments of controlled materials to other agencies in support of authorized defense programs.

9. *Compliance, Audits, and Training.*

In exercising this delegation, the Secretary of Defense should ensure that both DOD personnel and defense contractors are in full compliance with the provisions of the DPAS regulation. Accordingly:

(a) The Secretary of Defense is delegated the authority to review the implementation of the DPAS by all persons who are in receipt of rated orders supporting DOD programs. However, this review shall not include inquiries into any unrated activities of these persons.

(b) The Secretary of Defense shall notify DOC of any alleged violations of the priorities and allocations provisions of the Defense Production Act or the DPAS regulation.

(c) The Secretary of Defense should conduct a continuing training program to ensure that appropriate DOD and contractor personnel are thoroughly familiar with the provisions of the DPAS and this delegation.

10. *Limitations of Authority.*

(a) This delegated authority shall not be used for (1) civilian items for resale in Military Exchanges or the packaging for such items; (2) material purchased from exclusively retail establishments; (3) procurement of items to be used primarily for administrative purposes, such as for personnel or financial management; or (4) direct procurement by or for DOD of any items specifically set forth in the Statement of Conditions to this delegation (not published).

(b) This delegation shall be implemented in accordance with the DPAS regulation, the Statement of Conditions to this delegation (not published), and any other regulations or official actions issued by DOC. It does not limit the authority of the Secretary of Commerce under Executive Order 10480 or other authority.

11. *Redelegations of Authority.*

The authority granted by this delegation may be redelegated within DOD and to other agencies of the United States administering DOD programs. Any redelegations of such authority shall be made in writing with a copy furnished to DOC. No other redelegations of such authority shall be made without the prior written approval of DOC.

12. *Effective Date and Revocation of Previous Delegations.*

This delegation of authority shall take effect thirty (30) days after publication in the Federal Register revoking all previous delegations issued by DOC to DOD relating to these authorities.

Dated: June 21, 1984.

Walter J. Olson,

*Deputy Assistant Secretary of Commerce for Export Administration.*

*DPAS DEL. 2—Delegation of Authority to the Secretary of Energy; Defense Priorities and Allocations System (15 CFR Part 350)*

1. *Authority.*

Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, *et seq.*); Executive Order 10480, 18 FR 4939, 3 CFR 1949–1953 Comp., p. 962, as amended; Executive Order 11912, 41 FR 15825, 3 CFR 1976 Comp., p. 114, as amended; Executive Order 12148, 44 FR 43239, 3 CFR 1979 Comp., p. 393, as amended; Defense Mobilization Order (DMO) 3, 44 CFR 322; and DMO–13, 44 CFR 330.

2. *Purpose.*

(a) This document delegates certain authority to the Secretary of Energy necessary to the effective implementation of the Defense Priorities and Allocations System (DPAS) regulation (15 CFR Part 350).

(b) Certain specifics concerning the implementation of this delegated authority are contained in a Statement of Conditions to this delegation issued by the Office of

Industrial Resource Administration (OIRA), Department of Commerce (DOC).

3. *Rating Authority.*

(a) The Secretary of Energy is delegated the authority to place rated contracts and orders in support of Department of Energy (DOE) programs for national defense authorized by the Director, Federal Emergency Management Agency.

(b) The Secretary of Energy, in accordance with Executive Order 11912, is delegated the authority to make the findings required by Section 101(c) of the Defense Production Act of 1950, as amended, that specified material or equipment is critical and essential:

(1) To maintain or further domestic exploration, production, or refining;

(2) To conserve energy supplies; or

(3) To construct or maintain energy facilities.

(c) The Secretary of Energy is delegated the authority to use the DX rating symbol in placing rated orders for those authorized programs determined by the President to be of the Highest National Priority as described in the DOD Master Urgency List.

4. *Production and Construction Equipment.*

(a) The Secretary of Energy may authorize persons to place rated orders for delivery of production equipment required to support authorized atomic energy programs, when the equipment is necessary for the timely performance of rated orders and timely delivery of the equipment cannot be obtained otherwise.

(b) The Secretary of Energy may authorize persons to place rated orders for delivery of construction equipment, when the equipment is to be used for authorized atomic energy construction projects and timely delivery of the equipment cannot be obtained otherwise.

5. *Delivery Scheduling.*

The Secretary of Energy is delegated the authority to reschedule deliveries of materials which are required in support of DOE programs, provided that such authority shall be used (1) only to reschedule deliveries among contracts or orders assigned priority ratings by DOE, and (2) only to the extent that such rescheduling of deliveries requires no change in production schedules of other rated orders.

6. *Special Priorities Assistance.*

The Secretary of Energy may sponsor requests by persons for special priorities assistance upon determining the defense or energy-related urgency of the requested assistance. DOE will: (1) serve as the initial point of contact for persons needing assistance, (2) verify the accuracy of the information provided and make reasonable efforts to resolve the issues, and when necessary, (3) expeditiously forward the request through established DOE channels to DOC to facilitate timely resolution. Upon receipt of the request for special priorities assistance, DOC will take immediate action to effect resolution and will keep DOE advised of progress.

7. *Compliance, Audits, and Training.*

In exercising this delegation, the Secretary of Energy should ensure that both DOE personnel and defense contractors are in full compliance with the provisions of the DPAS regulation. Accordingly:

(a) The Secretary of Energy is delegated the authority to review the implementation of the DPAS by all persons who are in receipt of rated orders supporting DOE programs. However, this review shall not include inquiries into any unrated activities of these persons.

(b) The Secretary of Energy shall notify DOC of any alleged violations of the priorities and allocations provisions of the Defense Production Act or of the DPAS regulation.

(c) The Secretary of Energy should conduct a continuing training program to ensure that appropriate DOE and contractor personnel are thoroughly familiar with the provisions of the DPAS and this delegation.

8. *Limitations of Authority.*

(a) This delegated authority shall not be used for (1) material purchased from exclusively retail establishments; (2) procurement of items to be used primarily for administrative purposes, such as for personnel or financial management; or (3) direct procurement by or for DOE of any items specifically set forth in the Statement of Conditions to this delegation (not published).

(b) Priority ratings to support the maximization of domestic energy supplies provided by Section 101(c) of the Defense Production Act of 1950, as amended, may only be used after the findings required by Section 101(c) have been made:

(1) The Secretary of Energy must determine that the energy program involved maximizes domestic energy supplies; and find that the specific material or equipment is critical and essential.

(2) The Secretary of Commerce must find that the specific material or equipment is scarce; and that there is a reasonable need to use the priorities and allocations authorities.

(c) This delegation shall be implemented in accordance with the DPAS regulation, the Statement of Conditions to this delegation (not published), and any other regulations and official actions issued by DOC. It does not limit the authority of the Secretary of Commerce under Executive Order 10480 or other authority.

9. *Redelegations of Authority.*

The authority granted by this delegation may be redelegated within DOE and to other agencies of the United States administering DOE programs. Any redelegations of such authority shall be made in writing with a copy furnished to DOC. No other redelegations of such authority shall be made without the prior written approval of DOC.

10. *Effective Date and Revocation of Previous Delegations.*

This delegation of authority shall take effect thirty (30) days after publication in the **Federal Register**, revoking all previous delegations issued by DOC relating to these authorities.

Dated: June 21, 1984.

Walter J. Olson,

*Deputy Assistant Secretary of Commerce for Export Administration.*

*DPAS DEL. 3—Delegation of Authority to the Administrator of General Services; Defense Priorities and Allocations System (15 CFR Part 350)*

1. *Authority.*

Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, *et seq.*); Executive Order 10480, 18 FR 4939, 3 CFR 1949–1953 Comp., p. 962, as amended; and Defense Mobilization Order (DMO) 3, 44 CFR 322.

2. *Purpose.*

(a) This document delegates certain authority to the Administrator of General Services necessary to the effective implementation of the Defense Priorities and Allocations System (DPAS) regulation (15 CFR Part 350).

(b) Certain specifics concerning the implementation of this delegated authority are contained in a Statement of Conditions to this delegation issued by the Office of Industrial Resource Administration (OIRA), Department of Commerce (DOC).

3. *Rating Authority.*

The Administrator of General Services is delegated the authority to place DO rated contracts and orders in support of the General Services Administration's (GSA) Supply Distribution Program for items acquired for authorized programs of the Departments of Defense and Energy. In placing rated orders, GSA is to use the program identification symbol K1.

4. *Special Priorities Assistance.*

The Administrator of General Services may sponsor requests by persons for special priorities assistance upon determining the defense urgency of the requested assistance. GSA will: (1) serve as the initial point of contact for persons needing assistance, (2) verify the accuracy of the information provided and make reasonable efforts to resolve the issues, and when necessary, (3) expeditiously forward the request through established GSA channels to DOC to facilitate timely resolution. Upon receipt of the request for special priorities assistance, DOC will take immediate action to effect resolution and will keep GSA advised of progress.

5. *Compliance, Audits, and Training.*

In exercising this delegation, the Administrator of General Services should ensure that both GSA personnel and defense contractors are in full compliance with the provisions of the DPAS regulation. Accordingly:

(a) The Administrator of General Services is delegated the authority to review the implementation of the DPAS by all persons who are in receipt of rated orders supporting the GSA Supply Distribution Program. However, this review shall not include inquiries into any unrated activities of these persons.

(b) The Administrator of General Services shall notify DOC of any alleged violations of the priorities and allocations provisions of the Defense Production Act or the DPAS regulation.

(c) The Administrator of General Services should conduct a continuing training program to ensure that appropriate GSA and contractor personnel are thoroughly familiar with the provisions of the DPAS and this delegation.

6. *Limitations of Authority.*

(a) This delegation is restricted to the GSA Supply Distribution Program and shall be implemented in accordance with the DPAS regulation, the Statement of Conditions to

this delegation (not published), and any other regulations and official actions issued by DOC. It does not limit the authority of the Secretary of Commerce under Executive Order 10480 or other authority.

(b) This delegated authority shall not be used for (1) material purchased from exclusively retail establishments; (2) procurement of items to be used primarily for administrative purposes, such as for personnel or financial management; or (3) direct procurement by or for GSA of any items specifically set forth in the Statement of Conditions to this delegation (not published).

7. *Redelegations of Authority.*

The authority granted by this delegation may be redelegated within GSA. Any redelegations of such authority shall be made in writing with a copy furnished to DOC. No other redelegations of such authority shall be made without the prior written approval of DOC.

8. *Effective Date and Revocation of Previous Delegations.*

This delegation of authority shall take effect thirty (30) days after publication in the Federal Register, revoking all previous delegations issued by DOC to GSA relating to these authorities.

Dated: June 21, 1984.

Walter J. Olson,

*Deputy Assistant Secretary of Commerce for Export Administration.*

*DPAS DEL. 4—Delegation of Authority to the Director of the Federal Emergency Management Agency; Defense Priorities and Allocations System (15 CFR Part 350)*

1. *Authority.*

Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, *et seq.*); Executive Order 10480, 18 FR 4939, 3 CFR 1949–1953 Comp., p. 962, as amended; and Defense Mobilization Order (DMO) 3, 44 CFR 322.

2. *Purpose.*

(a) This document delegates certain authority to the Director, Federal Emergency Management Agency (FEMA), necessary to the effective implementation of the Defense Priorities and Allocations System (DPAS) regulation (15 CFR Part 350).

(b) Certain specifics concerning the implementation of this delegated authority are contained in a Statement of Conditions to this delegation issued by the Office of Industrial Resource Administration (OIRA), Department of Commerce (DOC).

3. *Rating Authority.*

The Director of FEMA is delegated the authority to place, and upon application, to authorize state and local governments to place, DO rated contracts and orders in support of federal, state, and local civil defense programs or projects approved by FEMA as directly related to programs for the national defense. In placing rated orders, FEMA and the state and local governments are to use the program identification symbol N1.

4. *Special Priorities Assistance.*

The Director of FEMA may sponsor requests by persons for special priorities assistance upon determining the defense urgency of the requested assistance. FEMA will: (1) serve as the initial point of contact for persons needing assistance, (2) verify the accuracy of the information provided and make reasonable efforts to resolve the issues, and when necessary, (3) expeditiously forward the request through established FEMA channels to DOC to facilitate timely resolution. Upon receipt of the request for special priorities assistance, DOC will take immediate action to effect resolution and will keep FEMA advised of progress.

5. *Compliance, Audits, and Training.*

In exercising this delegation, the Director of FEMA should ensure that FEMA personnel, federal, state, and local officials, and defense contractors are in full compliance with the provisions of the DPAS regulation. Accordingly:

(a) The Director of FEMA is delegated the authority to review the implementation of the DPAS by all persons who are in receipt of, or authorized to place, rated orders supporting the FEMA approved federal, state and local civil defense programs or projects. However, this review shall not include inquiries into any unrated activities of these persons.

(b) The Director of FEMA shall notify DOC of any alleged violations of the priorities and allocations provisions of the Defense Production Act or the DPAS regulation.

(c) The Director of FEMA should conduct a continuing training program to ensure that appropriate FEMA personnel, federal, state, and local officials, and contractor personnel are thoroughly familiar with the provisions of the DPAS and this delegation.

6. *Limitations of Authority.*

(a) This delegation is restricted to federal, state, and local civil defense programs and projects approved by FEMA as directly related to programs for the national defense, and shall be implemented in accordance with the DPAS regulation, the Statement of Conditions to this delegation (not published), and any other regulations and official actions issued by DOC. It does not limit the authority of the Secretary of Commerce under Executive Order 10480 or other authority.

(b) This delegated authority shall not be used for (1) material purchased from exclusively retail establishments; (2) procurement of items to be used primarily for administrative purposes, such as for personnel or financial management; or (3) direct procurement by or for FEMA of any items specifically set forth in the Statement of Conditions to this delegation (not published).

7. *Redelegations of Authority.*

The authority granted by this delegation may be redelegated within FEMA. Any redelegations of such authority shall be made in writing with a copy furnished to DOC. No other redelegations of such authority shall be made without the prior written approval of DOC.

8. *Effective Date of Delegation.*

This delegation of authority shall take effect thirty (30) days after publication in the Federal Register.

Dated: June 21, 1984.

Walter J. Olson,

*Deputy Assistant Secretary of Commerce for Export Administration.*

**Appendix II to Part 350—Interagency Memorandum of Understanding**

*Departments of Agriculture and Commerce—Memorandum of Understanding Between the Departments of Agriculture and Commerce Concerning Priorities and Allocations Jurisdiction and Responsibilities for Foods Which Have Industrial Uses*

*A. Purpose*

This Understanding sets forth the priorities and allocations jurisdiction and responsibilities of the Department of Agriculture (Agriculture) and the Department of Commerce (Commerce) for defense mobilization in the event of a national emergency, and for emergency preparedness functions, as they relate to foods which have industrial uses.

*B. Authority*

1. Section 201(a) of Executive Order 10480, as amended (E.O. 10480), and Defense Mobilization Order 3 (DMO 3) (44 CFR 322) provide for the delegation of authority for the administration of priorities and allocations functions under the Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, *et seq.*), to the Secretary of Agriculture with respect to food; and to the Secretary of Commerce with respect to all other materials and facilities not specifically delegated to other agencies.

2. Section 901 *et seq.* of Executive Order 11490, as amended (E.O. 11490), delegates to the Secretary of Commerce the authority for preparing national emergency plans and developing preparedness programs covering the production and distribution of all materials and the use of all production facilities, except those that are specifically assigned to, or under the jurisdiction of other agencies. Section 801 *et seq.* of E.O. 11490 provides for the delegation of authority with respect to the production, processing, distribution, and storage of food resources, and the use of food resource facilities, to the Secretary of Agriculture.

3. Section 601(h) of E.O. 10480 defines the term "food" as:

* * * all commodities and products, simple, mixed, or compound or complements to such commodities or products, that are capable of being eaten or drunk by either human beings or animals, irrespective of other uses to which such commodities or products may be put, at all stages of processing from the raw commodity to the products thereof in vendible form for human or animal consumption * * *. The term "food" shall also include all starches, sugars, vegetable and animal fats and oils, cotton, tobacco, wool, mohair, hemp, flax fiber, and naval stores, but shall not include any such material after it loses its identity as an agricultural commodity or agricultural product.

Section 802(1) of E.O. 11490 defines the term "food resources" in the same language.

Accordingly, these terms are used interchangeably in this Understanding.

4. The functions delegated by these authorities to the Secretaries of Agriculture and Commerce have been redelegated by the Secretary of Agriculture to the Administrator, Agricultural Stabilization and Conservation Service (ASCS), and by the Secretary of Commerce to the Director, Office of Industrial Resource Administration (OIRA).

*C. General Provisions*

1. This Understanding covers only food and agricultural commodities and products which have industrial uses. Jurisdiction over such commodities will normally pass to Commerce at the point where the foods are no longer capable of being eaten or drunk, except as otherwise provided.

2. The provisions of this Understanding covering fibers are limited to those specifically mentioned in E.O. 10480 and 11490 (*i.e.*, cotton, wool, mohair, hemp and flax fiber), and have the purpose of defining the points at which these fibers lose their identity as agricultural commodities or agricultural products.

3. Both Agriculture and Commerce have jurisdiction over the major food commodities listed in section D of this Understanding. For each of these commodities, the point at which the jurisdiction of Agriculture will end is indicated and, except as otherwise provided, the jurisdiction of Commerce will begin at that point.

(a) The points at which the jurisdiction of Agriculture will terminate are expressed in terms of a particular stage of production or processing pursuant to the authority provided in E.O. 10480 and 11490, and at a point considered to be most administratively feasible.

(b) Consideration is given wherever possible to the structure of an industry. The wet-milling industry, for example, is large and integrated and it is desirable that Agriculture have jurisdiction over the raw products while they are a part of this industry and until they enter the processes of other industries which result in their becoming nonfood or nonagricultural products. As an illustration, corn starch for textile sizing would be under the jurisdiction of Agriculture while it is being extracted from the corn and prepared for use by the textile industry. It would still be under the jurisdiction of Agriculture until it enters the textile manufacturing process. At this point, jurisdiction over this commodity shifts to Commerce.

(c) Commodities such as fats and oils, grain products, egg products, starch from all sources, spices, and tartaric acid are used for the manufacture of so many nonfood or nonagricultural products that it is not practical to enumerate all of these products in section D and to identify in each case the exact beginning process. Consequently, the principle for determining the respective jurisdiction of the two Departments in cases of this type is expressed broadly and supplemented by a few examples of nonfood and nonagricultural products so as to clarify the application of the principle. These examples are not intended to be all-inclusive.

4. Imports and exports of food and agricultural commodities and products in any form prior to industrial uses are within the jurisdiction of Agriculture, subject to meeting requirements that may be imposed by any other agency in the exercise of its authority.

5. Agriculture will, with noted exceptions, allocate and exercise priority controls on food and agricultural commodities and products, taking into account claims presented by Commerce. However, the suballocation of food and agricultural commodities or products for conversion into non-food and non-agricultural commodities or products will be made in accordance with the recommendations of Commerce.

6. It is understood that relationships between Agriculture and Commerce involving jurisdiction over particular functions and particular commodities may have to be amplified at a later time. It is also recognized that there will be situations in which operations of the same person, as defined in Section 702(a) of the Defense Production Act of 1950, as amended (50 U.S.C. app. 2152(a)), will be affected by the exercise of the respective authorities of the two Departments under this Understanding. To avoid overlapping and duplication of reporting and related operations in such situations, it is agreed that the two Departments will work out specific cooperative arrangements whereby the facilities of one shall be utilized by the other and that efforts will be made to provide the most feasible arrangements for administering necessary program controls.

7. To assure that both Agriculture and Commerce have full authority to implement their respective responsibilities under E.O. 10480 and 11490, and DMO 3, as well as to effectuate the provisions of this Understanding, each Department delegates to the other the requisite authority for the exercise of priorities and allocations functions as set forth in this Understanding.

*D. Particular Commodities*

The following list identifies some major food and agricultural commodities and commodity groups in which both Agriculture and Commerce have an interest and provides the point at which Agriculture's jurisdiction ends and Commerce's jurisdiction begins. This list is not all-inclusive but it does cover the major items for which jurisdiction might become an issue.

1. Agriculture shall have jurisdiction over the following commodities until they enter any manufacturing process and lose their identity as food or as agricultural commodities or products (examples are set forth in parentheses after the name of the commodity):

(a) Egg products. (Shampoos, products used in printing, pharmaceuticals)

(b) Fats and oils. (Paints, soap, varnishes, lacquers, printer's ink, cosmetics, pharmaceuticals)

(c) Fatty acids. (Paints, soap, cosmetics, chemicals, pharmaceuticals)

(d) Grain and grain products, including dextrin, corn syrups, grain sugars, lactic acid, gluten, and low-grade wheat flour. (Textiles, adhesives, leather, core binders, pharmaceuticals, nonbeverage alcohol)

(e) Molasses, including blackstrap and high-test, and potatoes. (Nonbeverage alcohol)

(f) Spices, essential oils. (Cosmetics)

(g) Starches. (Adhesives, asbestos, textiles, explosives)

(h) Sugars. (Insecticides, plasticizing agents, adhesives)

(i) Tartaric acid. (Products used in photography, dyeing, textile printing)

2. Agriculture shall have jurisdiction over the following commodities until the specifically designated point in their processing, except as otherwise provided:

(a) Cotton lint and linters, hemp and flax fiber—When the bale is opened for the purpose of processing in the mill in which it is opened. This authority shall extend to the delivery and distribution of soft types of cotton waste but shall not include control over the use of such waste in the mill producing it.

(b) Milk and milk products—When the milk and milk products enter a plant where they are to be used or processed for industrial purposes as distinct from use as human food or animal feed. Agriculture shall have jurisdiction over imports of milk and milk products intended for use as human food or animal feed, while Commerce shall have jurisdiction over imports intended for industrial purposes only.

(c) Wool and mohair—When the wool and mohair (grease and scoured, shorn and pulled) enter a plant where they are to be used, or manufactured into a final product. Inventories of scoured wool or scoured mohair held by manufacturers for their use in producing other products, whether by incorporation into such products or otherwise, shall be controlled by Commerce. The jurisdiction of Agriculture shall extend to the delivery and distribution of noils but shall not include control over the use of noils by the mill producing them.

(d) Naval stores:

(1) Tall oil (sulfate naval stores). Commerce shall have jurisdiction over the production, distribution, processing, and allocation. The distribution of tall oil fatty acids shall be under the jurisdiction of Agriculture.

(2) Wood. Commerce shall have jurisdiction over production, distribution, processing, and allocation.

(3) Gum. Agriculture shall have jurisdiction over production through the first processing of the gum. Commerce shall have jurisdiction over allocation.

(4) Commerce will consult with Agriculture before allocating naval stores in order to avoid conflict with programs administered by Agriculture.

3. The following commodities are under the jurisdiction of the designated Department:

(a) Ice—Agriculture.

(b) Tobacco and tobacco products—Agriculture.

(c) Hides and leather, hair and bristles, feathers, soap, detergents, beeswax, pharmaceuticals (including medicines and vitamins), acetic acid, chemical leavening compounds and salt—Commerce.

4. In order to further clarify the division of authority for fats and oils, Schedule A to this Understanding lists major fats and oils, and fat and oil products, over which Agriculture has jurisdiction and the major products of

fats and oils, and products produced using fats and oils, over which Commerce has jurisdiction.

5. It is recognized that quantities of certain commodities may be needed for food use which are under the jurisdiction of Commerce. Conversely, raw materials for manufacturing may be needed which are under the jurisdiction of Agriculture. In situations of this kind and for other similar commodities not listed in this section, working arrangements will be developed between ASCS and OIRA as the need arises pursuant to the principles set forth in this Understanding.

*E. Effective Date*

This Memorandum of Understanding supersedes the Memorandum of Agreement between the Administrators of the Agricultural Marketing Service and the ASCS of the Department of Agriculture, and the Acting Deputy Assistant Secretary for Competitive Assessment and Business Policy of the Department of Commerce, concerning foods which have industrial uses, and signed by them on November 2, 7, and 10, 1973, respectively (38 FR 33504, December 5, 1973); and shall take effect thirty (30) days after publication in the **Federal Register**.

Department of Agriculture

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service

Date: June 15, 1984.

Department of Commerce

John A. Richards,

Director, Office of Industrial Resource Administration

Date: June 14, 1984

**Schedule A—Jurisdiction Over Fats and Oils**

I. Fats and oils and fats and oils products under the jurisdiction of Agriculture:

A. Animal and marine.

**1. Animal fats**

| | |
|---|---|
| Lard | Wool grease and lanoline |
| Marrow | |
| Tallows and greases | Neats foot oil |

**2. Marine oils**

| | |
|---|---|
| Cod | Salmon |
| Dogfish | Sardine |
| Fulachon | Seal |
| Herring | Shark |
| Menhaden | Whale |
| Pilchard | |

**3. Marine liver oils**

| | |
|---|---|
| Cod | Swordfish |
| Dogfish | Tuna fish |
| Shark | |

**4. Other animal and marine fats and oils**

| | |
|---|---|
| Fatty acids | Oleo oil and oleo searin |
| Foots | Soap stocks |

B. Vegetable.

**1. Vegetable fats and oils**

| | |
|---|---|
| Cocoa butter | Olive residue |
| Fatty acids | Soap stocks |
| Lecithin | Tallows and greases |
| Oiticic | |

**2. Major vegetable oils**

| | |
|---|---|
| Babassu nut | Palm kernel |
| Castor | Peanut |
| Corn | Rapeseed |
| Coconut | Safflower seed |
| Cottonseed | Sesame |
| Linseed | Soybean |
| Olive | Sunflower seed |
| Palm | Tung |

**3. Other vegetable oils**

| | |
|---|---|
| Cashew nut | Ouricury |
| Cohune | Perilla |
| Colza | Poppy seed |
| Hemp seed | Rubber seed |
| Kapok seed | Tea seed |
| Murumuru | Tucum |
| Mustard | |

C. Edible fats and oils products, including:

| | |
|---|---|
| Butter | Margarine |
| Cooking oil and compounds | Salad oils |
| Lard compounds | Shortenings |

D. Combinations and mixtures of animal, marine, vegetable, nut and seed fats and oils, or any of them.

II. Products of fats and oils and products produced using fats and oils under the jurisdiction of Commerce:

Coated fabrics and floor coverings
Glycerine
Inedible products of fats and oils
Paints, varnishes, lacquers
Printer's ink
Soap

**Departments of Agriculture and Commerce—Memorandum of Understanding Between the Departments of Agriculture and Commerce Concerning Priorities and Allocations Jurisdiction and Responsibilities for Farm Equipment**

*A. Purpose*

This Understanding sets forth the priorities and allocations jurisdiction and responsibilities of the Department of Agriculture and the Department of Commerce for defense mobilization in the event of a national emergency, and for emergency preparedness functions, as they relate to the domestic distribution of farm equipment.

*B. Authority*

1. Section 201(a) of Executive Order 10480, as amended (E.O. 10480), and Defense Mobilization Order 3 (DMO 3) (44 CFR 322) provide for the delegation of authority for the administration of priorities and allocations functions under the Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, *et seq.*), to the Secretary of Agriculture with respect to the domestic distribution of farm equipment; and to the Secretary of Commerce with respect to all other materials and facilities not specifically delegated to other agencies.

2. Section 601(i) of E.O. 10480 defines the term "farm equipment" to mean equipment manufactured for use on farms in connection with the production or processing of food.

3. Section 901 *et seq.* of Executive Order 11490, as amended (E.O. 11490), delegates to the Secretary of Commerce the authority for preparing national emergency plans and developing preparedness programs covering the production and distribution of all materials and the use of all production facilities, except those that are specifically assigned to, or under the jurisdiction of other agencies. Section 801 *et seq.* of E.O. 11490 provides for the delegation of this authority with respect to the domestic distribution of farm equipment to the Secretary of Agriculture.

4. The functions delegated by these authorities to the Secretaries of Agriculture and Commerce have been redelegated by the Secretary of Agriculture to the Administrator, Agricultural Stabilization and Conservation Service (ASCS), and by the Secretary of Commerce to the Director, Office of Industrial Resource Administration (OIRA).

*C. General Provisions*

1. The term "farm equipment" as used in E.O. 10480 and 11490, for the purposes of this Understanding, includes only those items of machinery, equipment, attachments, and repair or replacement parts identified in Schedule A to this Understanding.

2. In a national emergency or mobilization situation, OIRA may request ASCS to make special distribution of the farm equipment items listed in Schedule A that can be used off the farm for civil defense and life saving purposes. ASCS will give full consideration to these requests in accordance with the priorities and allocations policies of the Federal Government in effect at that time.

*D. Effective Date*

This Memorandum of Understanding supersedes the Memorandum of Understanding and Agreement between the Administrator of the ASCS of the Department of Agriculture, and the Acting Deputy Assistant Secretary for Competitive Assessment and Business Policy of the Department of Commerce, concerning the scope of the term "Farm Equipment", and signed by them on November 7 and 10, 1973, respectively (38 FR 34749, December 5, 1973); and shall take effect thirty (30) days after publication in the **Federal Register**.

Department of Agriculture

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service

Date: June 15, 1984.

Department of Commerce

John A. Richards,

Director, Office of Industrial Resource Administration

Date: June 14, 1984.

**Schedule A—Farm Equipment**

*Tractors, Wheel, Manufactured Specifically for Farm Use*

Farm Tractors, 2-Wheel Drive, 20 to 39 PTO HP
Farm Tractors, 2-Wheel Drive, 40 to 99 PTO HP
Farm Tractors, 2-Wheel Drive, Over 100 PTO HP
Farm Tractors, 4-Wheel Drive,

*Tillage Equipment*

Bedders, Bed Levelers, Shapers, and Splitters
Blockers and Thinners, row crop

Cultivators, Field, Row Crop, Tobacco and Vineyard, mounted and pull type
Harrows, including: spike-tooth, spring-tooth, tine-tooth, disk, rotary, offset, knife, oscillating, bush and bog, and tandem disk
Land Levelers
Middlebusters, Ridgebusters, and Clodbusters
Mulch Tillage Implements
Plows, including: moldboard, chisel, ditching, terracing, and one-way disk
Pulverizers, stalk
Ridgelevelers
Rod Weeders
Rotary Hoes and Tillers, field type
Rollers and Cultipackers, including combination harrow-packers
Shredders, brush and stalk, bush hog
Stubble Shavers, cane
Subsoilers, Tractor mounted and pull-type
Tillers, basin and disk
Tool bars and carriers
Transport carriers, farm implement

*Fertilizing and Liming Equipment*

Anhydrous Ammonia Applicators, Pumps, Tanks and Tank Wagons
Dry and Liquid Fertilizer Attachments for Drills and Planters
Fertilizer Distributors and Applicators
Fertilizer storage bins and tanks
Pumps, Liquid Fertilizer
Side-Dressing attachments
Spreaders, Lime and Fertilizer, Tractor or Truck mounted and pull type
Sprayers, Liquid fertilizer, Truck mounted and pull type

*Planting Equipment*

Drills and Planters, including fertilizer attachments
Grass Seeder, Broadcast-type, Tractor mounted or pull type
Grass Seeder attachments, Drill and Tillage equipment
Listers
Planters, Minimum or no Tillage, Tractor mounted or pull type
Potato Planters, Brushers, Cutters, and Desprouters
Seeders
Transplanters

*Agricultural Dusters and Sprayers*

Dusters, Crop, Field, Livestock, Poultry, Orchard, and Vineyard
Foggers and Mist Blowers
Granular Chemical Applicators, Broadcast and Band-type
Herbicide Applicators, Low Volume
Sprayers, Field, Livestock, Poultry, Orchard, and Vineyard, Air Mist, Boomtype and Boomless, Trailer or Tractor mounted and self-propelled

*Harvesting Equipment*

Augers, Conveyors and Elevators, farm type, portable and stationary, with or without wheels
Bunchers and Tiers, Vegetable, farm type
Combines, Harvester-thresher, self-propelled and pull type, including corn head and windrow attachments
Corn Cribs
Corn Pickers and Picker-shellers, self-propelled, pull type, and semi-mounted
Cotton Pickers and Strippers, self-propelled, Tractor mounted and pull type
Crop and Grain Dryers and Fans, batch, bin, and continuous operation types
Curers, Tobacco
Grain Bins, including: perforated floors, ladders, spreaders, stirring devices, unloaders, and ventilation equipment
Grain Blowers
Harvesters, Harvesting and Handling Equipment for Corn, Grain, Vegetables, Peanuts, Tobacco, Onions and Nuts
Hullers, Graders, Sorters, Sackers, Conveyors, farm type for Potatoes, Fruit, Vegetables, Grain, Seed and Nuts
Orchard and Vineyard Pruning Equipment, power
Peanut Drying Equipment
Potato Diggers, Pickers and Baggers
Power Units for Harvesting Equipment, self-propelled
Sugar Beet Harvesters, Toppers, Lifters, and Loaders
Sugar Cane Harvesting Equipment
Toppers, Crop and Vegetable
Windrowers and Swathers, Dry Edible Beans and Pea Vine

*Hay and Forage Harvesting Equipment*

Balers, Twine, and Wire, self-propelled and pull type, including round bale type
Forage Blowers and Cutter Blowers, Pipe, and Spouts
Forage Harvesters, self-propelled, Tractor mounted and pull type
Forage Wagons and Boxes, running gear and truck mounted
Giant Hay Balers, Stackers and Transportation Equipment
Hay Tedders
Hay Wafering and Cubing Machines
Mowers, Choppers, conditioners, Mower-conditioners, and Windrowers, field, flail, rotary, or sickle bar, mounted or pull type
Rakes, side delivery
Loaders, loose hay
Loaders, Stackers and Bale Throwers

*Dairy, Poultry and Livestock Equipment*

Barn Manure Cleaners, dairy, livestock and poultry types
Bale Feeders, giant-size Bale and Stack types
Brooders, poultry and hog
Bunk Feeder Systems, including: Wagon or truck-mounted feeder boxes
Carriers, Hay, Litter and Feed, overhead and track type
Dairy Barn Equipment, including: pens, stanchions and stalls
Egg Gathers and Collecting Systems, automatic
Egg Room Coolers and Humidifiers
Egg Graders, Candlers and Washers
Feed Mills, Grinder-mixers, Roller Mills, and Mixers, stationary and portable
Feed Storage Bins and Tanks, elevated, bulk
Feed and Grain Metering Devices
Feeders and Waterers, cattle, sheep, hog and poultry, automatic and manual
Hog Confinement Systems, Farrowing Stalls and Feeding Systems
Incubators, poultry
Livestock Confinement Buildings, including: feeding, watering, ventilation and cleaning systems
Livestock Handling Gates, Pens and Chutes
Liquid Manure Pumps and Tanks
Manure Loaders, Tractor mounted
Milk Cooling Tanks, bulk and can type
Milking Machines, Pipelines and Transfer Stations
Milk Room Equipment, including: water heaters, sterilizing and washing tanks
Milking Parlor Stalls, including: feeding systems
Poultry Cages, Feed and Water Systems
Silo, upright and concrete trench-type
Silo Unloaders, upright and trench-type, top or bottom
Silo-filling Equipment, including: pipe and distribution equipment
Spreaders, Barn and Liquid Manure
Tanks, Livestock, Dipping and Stock Water
Ventilation Systems, automatic, electric

*Water Supply Equipment*

Jacks, Pump
Pumps, Hand, Windmill, electric, PTO and motor-powered
Water Systems including: storage and/or pressure tanks, domestic and farmstead, deep and shallow well, jet and non-jet

*Irrigation Equipment*

Ditch Gates, Furrow Openers, Levee Plows
Pipe, Couplers, Valves and Sprinkler Heads
Systems Controls, automatic and center pivot
Systems Pumps, deep well, shallow well and surface water supply type

*Other Farm Equipment, N.E.C.*

Alcohol Distilling Plants, farm type
Chain Saws
Cleaners and Graders, farm type, grain and seed
Diggers, post-hole, Tractor mounted, farm type
Electric Generating Plants, farm type, continuous duty and standby, Tractor or motor powered
Fencing Materials
Log Skidders and Splitters
Post Drivers and Pullers, power, farm type
Tracks, Crawler, combine and wheel Tractor
Wagon Running Gears, farm type
Wagon Boxes, including: Auger unloading, barge and flare, bunk feeding, forage, feed-mixing, gravity and hydraulic dump
Windmill Towers and Heads

*Repair and Replacement Parts*

Parts manufactured specifically for use in the maintenance and repair of the farm equipment (including plowshares and disk blades) listed in this Schedule.

*Departments of Energy and Commerce—Memorandum of Understanding Between the Departments of Energy and Commerce Concerning the Jurisdiction and Responsibilities for Products and Equipment Associated with the Production of Petroleum and Gas for Emergency Preparedness and Mobilization*

*A. Purpose*

This Understanding sets forth the jurisdiction and responsibilities of the Department of Energy (DOE) and the Department of Commerce (DOC) for defense mobilization, emergency preparedness, and resource management programs under the

authorities listed in section B, in the event of a national emergency, as such programs relate to the production and distribution of: (1) chemicals and fluids made especially for use in the petroleum and gas industry; (2) oil and gas field machinery and equipment; and (3) petrochemicals derived from oil, gas, and natural gas liquids.

*B. Authority*

1. Pursuant to section 201(a) of Executive Order 10480, as amended (E.O. 10480), Defense Mobilization Order 3 (DMO 3) (44 CFR 322) delegates authority for the administration of priorities and allocations functions under the Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, *et seq.*), to the Secretary of Energy with respect to petroleum, gas, solid fuels, and electric power; and to the Secretary of Commerce with respect to all other materials and facilities not specifically delegated to other agencies.

2. Executive Order 11490, as amended (E.O. 11490), delegates to the Secretary of Commerce the authority for preparing national emergency plans and developing preparedness programs covering the production and distribution of all materials, and the use of all production facilities except those that are specifically assigned to, or under the jurisdiction of, other agencies. Such an exception is provided for the production and distribution of, and the use of facilities for, petroleum and gas. E.O. 11490 provides for the delegation of this authority to the Secretary of Energy.

3. The functions delegated by these authorities to the Secretaries of Energy and Commerce have been redelegated by the Secretary of Energy to the Assistant Secretary for Environmental Protection, Safety, and Emergency Preparedness, and by the Secretary of Commerce to the Director, Office of Industrial Resource Administration (OIRA).

*C. Departmental Jurisdiction*

The primary use of a product or material is the basis for the division of Departmental jurisdiction set forth below. Any product or material not specifically identified in this Understanding which is used primarily as a fuel or in a primary manufacturing process to produce fuel, is under the jurisdiction of DOE. Generally, any non-fuel product or material, or any product or material which is used primarily as an industrial raw material, is under the jurisdiction of DOC. In the event that questions arise with respect to jurisdiction over particular products, materials, or production facilities, it is agreed that the two Departments will resolve these questions in such a manner as to provide the most feasible arrangements for program administration.

*1. Production.*

*Department of Energy:* DOE has jurisdiction over the production of: (a) petroleum and gaseous fuels, natural gas liquids, and petroleum lubricants, including "refinery finished products," "unfinished oils," and "petrochemical feedstocks"; (b) "petrochemicals" from processing units located within a petroleum refinery where the weight of "petrochemicals" in the output of the processing unit constitutes less than 30 percent by weight of the net input to the unit; (c) n-paraffin "petrochemical intermediates"; (d) "special petroleum chemical supplies"; and (e) any fossil fuel or synthetic product not specifically indentified which is or can be used as a fuel or lubricant.

*Department of Commerce:* DOC has jurisdiction over the production of: (a) all "chemicals" including "petroleum processing catalysts" and "fuel combustion improvers"; and (b) "petrochemicals" including those from processing units located within a petroleum refinery where the weight of "petrochemcials" in the output of the processing unit constitutes 30 percent or more by weight of the net input to the unit; and (c) oil and gas field machinery and equipment as identified in Schedule A to this Understanding, as well as any machinery, equipment, and technologies not yet developed for obtaining petroleum and natural gas.

*2. Facilities.*

*Department of Energy:* DOE has jurisdiction over all facilities for which production jurisdiction has been assigned to it by this Understanding.

*Department of Commerce:* DOC has jurisdiction over all facilities for which production jurisdiction has been assigned to it by this Understanding.

*3. Distribution.*

*Department of Energy:* DOE has jurisdiction over the distribution of: (a) all petroleum, gaseous fuels (when such jurisdiction as authorized by E.O. 11490 is not exercised by the Federal Energy Regulatory Commission), natural gas liquids, and petroleum lubricants; (b) all "special petroleum chemical supplies," "petroleum processing catalysts," and "fuel combustion improvers"; (c) "petrochemical feedstocks" except those produced or gathered specifically for a chemical operation; (e) any other fossil fuel or synthetic product which is or can be used as a fuel; and (f) oil and gas field machinery and equipment as identified in Schedule A to this Understanding, as well as any machinery, equipment, and technologies not yet developed for obtaining petroleum and natural gas.

*Department of Commerce:* DOC has jurisdiction over the distribution of: (a) all "chemicals" including "petrochemicals" but excluding those chemical product groups assigned to DOE; (b) "petrochemical feedstocks" specifically produced or gathered for a chemical operation; and (c) "non-fuel or non-lubricant petroleum products."

*D. Definitions*

Under this Understanding, the term "petroleum" means crude oil, synthetic liquid fuel, their products and associated hydrocarbons, including pipelines for their movement and facilities specially designed for their storage; and the term "gas" means natural gas (excluding helium) and manufactured gas (but not industrial gases), including pipelines for their movement and facilities specially designed for their storage, when such juridiction as authorized by E.O. 11490 is not exercised by the Federal Energy Regulatory Commission. For the purpose of assigning jurisdiction under this Understanding, the following additional definitions shall apply:

1. "Petrochemical Feedstocks"

Includes hydrocarbon materials obtained from petroleum and natural gas when used as "feedstock" or raw material for the production of "primary petrochemicals" or "petrochemical intermediates." These materials also include:

- *Natural gas* (methane) processed to a quality suitable for pipeline transmission;
- *Natural gas liquids* which are the several low boiling point, lower molecular weight hydrocarbons that include ethane, propane, butanes, pentanes, and liquified petroleum gases obtained from the processing of natural gas;
- *Naphtha* (light petroleum liquids) which is a medium boiling point range mixture of hydrocarbons obtained from the processing of natural gas, crude oil, or petroleum refining. Naphtha is the major component of gasoline. The usual distillation range of naphtha feedstock is 100–400°F; and
- *Gas oil* (heavy petroleum liquids) which is a high boiling point mixture of hydrocarbons obtained from the processing of crude oil or petroleum refining. Gas oil is the major component of distillate grades of fuel oil. Atmospheric gas oil may comprise hydrocarbons in the distillation range 400–650°F; vacuum gas oil may comprise higher boiling materials in the distillation range 650–1000°F.

2. "Chemicals"

For the purpose of this Understanding, "chemicals" shall comprise those products listed under Major Group 28, Chemical and Allied Products, Standard Industrial Classification Manual, 1977 Edition; and shall specifically include "petrochemicals," "petroleum processing catalysts," "fuel combustion improvers"; but shall exclude "special petroleum chemical supplies."

3. "Petrochemicals"

Chemical materials which, directly or indirectly, are manufactured from petrochemical feedstock hydrocarbons. These materials include:

- *Primary petrochemicals* produced directly from feedstocks by chemical conversion or breakdown and mainly used for the production of "intermediates" or petrochemical "products";
- *Petrochemical intermediates* generally produced by chemical converson of primary petrochemicals to form more complicated derived compounds. Such compounds serve as the raw material for synthesis of petrochemical "products," and for numerous other materials; and
- *Petrochemical products* which are end products of the chemical industry produced by chemical conversion of "primary" petrochemicals or petrochemical "intermediates."

4. "Refinery Finished Products"

Any one of the petroleum oils or mixtures of oils which can be used without further processing, including:

- Liquified petroleum gases (LPG);
- Gasoline;
- Jet fuel;
- Naphtha;
- Distillate fuel oils;

- Lubricating oils and greases;
- Residual fuel oils;
- Asphalt; and
- Natural gas products—natural gasoline.

5. "Unfinished Oils"

Semi-finished refinery products, or unseparated mixtures of refinery products, which are further processed for production of "refinery finished products."

6. "Special Petroleum Chemical Supplies"

Products made especially for use in the production, refining and compounding of petroleum fuels and lubricants, including:

- Hydrogen produced in a refinery for use in petroleum processing; and
- Special additives:

—for fuels and lubricants;
—to facilitate the drilling of oil and gas wells;
—to stimulate the production of oil and gas for enhanced oil recovery; and
—to facilitate the pipeline transmission of petroleum.

7. "Non-fuel or Non-lubricant Petroleum Products"

Certain products produced in the course of the refining of petroleum whose primary uses are other than as fuels or lubricants, such as:

- Asphalts;
- Coke, petroleum—green and calcined;
- Cresylic acids;
- Naphthenic acids;
- Oils, rubber extending;
- Solvents—aliphatic and aromatic hydrocarbons;
- Waxes, refined—paraffin and micro-crystalline; and
- White oils, petrolatums, and other oils for medicinal, pharmaceutical and cosmetic purposes.

8. "Petroleum Processing Catalysts"

Solid inorganic compositions used in petroleum refining to facilitate the conversion of hydrocarbons by chemical reaction, including:

- Catalytic cracking;
- Hydrocracking;
- Reforming;
- Isomerization;
- Desulfurization; and
- Hydrotreating.

9. "Fuel Combustion Improvers"

Chemical compostions added to liquid petroleum fuels to improve combustion characteristics, including:

- Ethanol (ethyl alcohol);
- Methanol (methyl alcohol);
- Methyl tertiary butyl ether;
- Tertiary butyl alcohol;
- Tetraethyl lead and tetramethyl lead, and their blends for use as anti-knock materials; and
- Other products such as amyl nitrate, hexyl nitrate, n-methyl aniline, and the manganese-methyl cyclopentadiene complexes.

*E. Delegation of Authority*

To ensure that DOE and DOC have the requisite authority to implement their responsibilities under E.O. 10480 and 11490, and DMO 3, as well as to effectuate the provisions of this Understanding, each Department delegates to the other its authority for the exercise of priorities and allocations functions under Section 101(a) of the Defense Production Act of 1950, as amended, with respect to the facilities, materials, and products specified in this Understanding.

*F. Effective Date*

This Memorandum of Understanding shall take effect thirty (30) days after publication in the **Federal Register**, superseding the Memorandum of Agreement between the Department of the Interior and the Department of Commerce that became effective on October 30, 1973 (38 FR 30896, November 8, 1973). The Department of the Interior's authority under this Memorandum of Agreement was transferred to the Department of Energy effective October 1, 1977, by Executive Order 12038 (43 FR 4957, February 7, 1978).

Department of Energy

H. A. Merklein

Assistant Secretary, International Affairs and Energy Emergencies

Date: July 10, 1984

Department of Commerce

John A. Richards,

Director, Office of Industrial Resource Administration

Date: June 20, 1984

**Schedule A—Machinery and Equipment Required for the Discovery, Development, or Completion of Oil and Gas Wells**

*Exploration and Development Drilling*

- Transportation (trucks, boats, helicopters)
- Drilling (rigs, pipes, pumps, engines, tanks, etc.)
- Drilling Fluids (weighting materials, chemicals, clays, etc.)
- Well Equipment (casing, carbon and alloy steel wellheads)

*Completion*

- Well Equipment (Christmas trees, tubing, liners, safety valves, etc.)
- Completion Equipment (workover or drilling rig, wireline unit)
- Well Services (sand control, acidizing, fracturing, cleanout)

*Oil Production Facilities*

- Pipe
- Structures
- Vessels
- Instruments
- Hardware and Accessories
- Associated Gas Facilities

*Gas Production Facilities*

- Field Gathering System
- Compression Facilities
- Processing Facilities

*Artificial Lift Facilities*

- Rod Pump
- Gas Lift
- Submersible Pumps
- Maintenance

*Well Servicing*

- Well Equipment
- Well Servicing Equipment
- Well Services
- Materials

*Enhanced Recovery*

- Waterflooding
- Gas Injection
- Tertiary Processes

**Departments of the Interior and Commerce—Memorandum of Understanding Between the Departments of the Interior and Commerce Concerning the Jurisdiction and Responsibilities for Certain Minerals, Facilities and Materials; and Delegation of Authority**

*A. Purpose*

This Understanding sets forth the jurisdiction and responsibilities of the Department of the Interior and the Department of Commerce for defense mobilization, emergency preparedness programs, and resource management in the event of a national emergency as they relate to stages of processing and types of facilities concerning certain minerals. This Understanding also provides for a delegation of certain authority to the Secretary of the Interior which is presently assigned to the Secretary of Commerce.

*B. Authority*

1. Section 201(a) of Executive Order 10480, as amended (E.O. 10480), and Defense Mobilization Order 3 (DMO 3) (44 CFR 322), provide for the delegation of authority to the Secretary of Commerce for administration of priorities and allocations functions under the Defense Production Act of 1950, as amended (50 U.S.C. app. 2061, *et seq.*), for materials and facilities not specifically delegated to other agencies. Section 602 of E.O. 10480 provides for redelegation of this authority.

2. Section 901 *et seq.* of E.O. 11490 provides for the delegation of authority to the Secretary of Commerce for preparing national emergency plans and developing preparedness programs covering the production and distribution of all materials and the use of all production facilities, except those that are specifically assigned to, or under the jurisdiction of, other agencies. Such an exception is provided for the production and related distribution of minerals. Section 701 *et seq.* of E.O. 11490 provides for the delegation of this authority to the Secretary of the Interior.

3. Section 702(5) of E.O. 11490 defines the term "minerals" to mean:

* * * all raw materials of mineral origin * * * obtained by mining and like operations and processed through the stages specified and at the facilities designated in an agreement between the Secretary of Commerce as being within the emergency preparedness responsibilities of the Secretary of the Interior.

This Understanding implements this requirement.

4. The functions delegated by these authorities to the Secretaries of Commerce and the Interior have been redelegated by the Secretary of Commerce to the Director, Office of Industrial Resource Administration (OIRA), and by the Secretary of the Interior to the Director, Bureau of Mines.

*C. Departmental Responsibilities*

1. *Department of the Interior.* Schedule A to this Understanding contains a listing of mineral commodities and related facilities and materials. With respect to the mineral commodities listed in Column 1 of Schedule A, the Secretary of the Interior shall have emergency preparedness and mobilization responsibilities for the facilities listed in Column 2 of the Schedule, the production of materials by these facilities, and the distribution of the materials listed in Column 3 of the Schedule.

2. *Department of Commerce.* With respect to the mineral commodities listed in Column 1 of Schedule A, the Secretary of Commerce shall have emergency preparedness and mobilization responsibilities for all facilities other than those listed in Column 2 of the Schedule, for the production of materials by these other facilities, and for distribution of all materials not listed in Column 3 of the Schedule.

*D. Delegation of Authority*

1. Pursuant to the authority of section 602(b) of E.O. 10480, the Secretary of Commerce hereby delegates to the Secretary of the Interior with respect to the facilities and materials listed in Columns 2 and 3 of Schedule A, all the functions under the Defense Production Act of 1950, as amended (DPA), which are delegated or assigned to the Secretary of Commerce by or pursuant to the following sections of E.O. 10480:

(a) Section 201(a), as implemented by section 3(a) of DMO 3 (relating to exercise of priorities and allocations authority under Title I of the DPA);

(b) Section 301 (relating to development of measures for expansion of production of materials necessary for the national defense);

(c) Section 302 (relating to guarantees of loans or contracts in connection with the expediting of production and deliveries or services under Government contracts for the procurement of materials or the performance of services for the national defense, etc.);

(d) Section 312 (relating to recommendations for action under sections 302 and 303 of the DPA);

(e) Section 501 (relating to consultation with industry and making recommendations to the Director of the Federal Emergency Management Agency respecting voluntary agreements under section 708 of the DPA); and

(f) Section 602 (relating to the exercise of various general administrative functions under Title VII of the DPA).

2. This delegation shall be effective only with respect to the facilities and materials listed in Columns 2 and 3 of Schedule A.

*E. Effective Date*

This Memorandum of Understanding and Delegation of Authority supersedes the Agreement between the Secretary of the Interior and the Secretary of Commerce and signed by them on June 21, 1962, and the Delegation of Authority from the Secretary of Commerce to the Secretary of the Interior published in 32 FR 2462 on February 4, 1967; and shall take effect thirty (30) days after publication in the **Federal Register.**

Department of the Interior

Robert C. Horton,

Director, Bureau of Mines

Date: June 21, 1984.

Department of Commerce

John A. Richards,

Director, Office of Industrial Resource Administration

Date: June 20, 1984.

SCHEDULE A.—MINERAL COMMODITIES AND RELATED FACILITIES AND MATERIALS

| 1<br>Commodity | 2<br>Facilities | 3<br>Materials |
|---|---|---|
| Abrasives: | | |
| Alumina: | | |
| Fused | Processing plants | Ores. |
| Zirconia | Do | Do. |
| Corundum | Mines; crushing, sizing, washing, grading and concentrating plants | Do. |
| Diamond: | | |
| Industrial | Mines; concentrating plants | Do. |
| Synthetic | Processing plants | Carbon. |
| Emery | Mines; beneficiation plants | Ores. |
| Garnet | Do | Do. |
| Grinding pebbles | Do | Do. |
| Grinding stones | Quarries; cutting plants | Crude stone. |
| Silicon carbide | Processing plants | Ores. |
| Tripoli and rottenstone | Mines; crushing, grinding, and grading plants | Crude tripoli, amorphous silica, rottenstone. |
| Aluminum | Bauxite mines; drying and calcining plants; alumina plants; reduction plants; secondary smelters; processing plants. | Crude, dried and calcined bauxite, alumina, aluminum-base scrap. |
| Antimony | Mines; concentrating plants; primary smelters; refineries; leaching plants | Ores, concentrates, residues, scrap. |
| Arsenic | Mines; concentrating plants; smelters; refineries | Do. |
| Asbestos | Mines; separation and classification plants | Ores. |
| Barium | Mines; beneficiating, grinding and grading plants | Ores, concentrates. |
| Beryllium | Mines; concentrating and grinding plants; refineries | Do. |
| Bismuth | Mines; concentrating plants; smelters; refineries | Ores, concentrates, base bullion, residues. |
| Boron | Mines; wells; refineries | Ores, brines. |
| Bromine | Plants recovering bromine | Bitterns, brines. |
| Brucite | Mines; magnesium compound recovery and burning plants | Ores. |
| Cadmium | Concentrating plants; smelters; refineries | Ores, concentrates, residues. |
| Calcium: | | |
| Compounds | Brines and synthetic chemical processing plants | Brines. |
| Metal | Processing plants | Crude materials. |
| Cement | Blending, sintering, and grinding plants | Limestone, clay, sand, gypsum, iron-containing materials. |
| Cesium | Mines; concentrating plants; extraction plants | Ores, concentrates, residues, solutions. |
| Chromium | Mines; processing plants | Ores, concentrates, additives. |
| Clays: | | |
| Kaolin | Mines; drying, grinding, calcining and concentrating plants | Ores. |
| Ball clay | Mines; drying, calcining, shredding and grinding plants | Do. |
| Bentonite | Mines; drying, activating, grinding, concentrating and sizing plants | Do. |
| Fuller's earth | Mines; drying, calcining, activating, grinding and screening plants | Do. |
| Fire clay | Mines; drying, calcining, concentrating and grinding plants | Do. |
| Common clay and shales | Mines; beneficiation plants; expanding plants | Crude common clay, shale. |
| Cobalt | Mines; concentrating plants; leaching plants; refineries | Ores, concentrates, matte, slurries, in-process oxides, smelter anodes. |
| Columbium | Mines; dredges; processing plants | Ores, slags, additives. |
| Copper | Mines; concentrating plants; leaching plants; electrowinning plants; smelters; refineries | Ores, scrap, concentrates, precipitates, matte, speiss, blister, smelter anodes. |
| Cryolite | Mines; concentrating and grading plants | Ores, concentrates. |
| Diatomite | Mines; beneficiation plants | Crude materials. |
| Dolomite | Mines; compounds recovery and burning plants | Ores. |
| Feldspar | Mines; grinding, concentrating and grading plants | Do. |
| Ferroalloys | Plants; furnaces | Ores, concentrates, metallic additives. |
| Fluorspar, natural and synthetic | Mines; processing plants | Ores, concentrates, hydrofluosilicic acid. |
| Gallium | Refineries; processing plants | Concentrates, residues. |

SCHEDULE A.—MINERAL COMMODITIES AND RELATED FACILITIES AND MATERIALS—Continued

| 1<br>Commodity | 2<br>Facilities | 3<br>Materials |
|---|---|---|
| Gem stones | Mines; concentrating plants | Ores. |
| Germanium | Refineries | Concentrates, residues. |
| Gold | Mines; concentrating plants; leaching and precipitation plants; smelters; refineries | Ores, concentrates, intermediate smelter products, scrap. |
| Graphite, natural and synthetic | Mines; beneficiating and processing plants | Ores, carbon. |
| Greensand | Mines; concentrating plants | Ores. |
| Gypsum | Mines; crushing and calcining plants | Crude gypsum. |
| Hafnium | Mines; concentrating plants; reduction plants | Ores. |
| Helium | Processing plants | Helium-rich natural gas. |
| Ilmenite | Mines; concentrating plants; processing plants; grinding plants | Ores, concentrates. |
| Indium | Refineries; leaching plants | Concentrates, fume, dusts, residues, slags. |
| Iodine | Mines; concentrating plants; wells | Ores, brines. |
| Iron | Mines; concentrating plants; agglomerating plants; prereduction plants; blast furnaces; crude steelmaking facilities. | Ores, concentrates, direct-reduced materials, scrap, pig iron, additives. |
| Iron oxide pigments, natural and synthetic | Mines; beneficiating and processing plants | Ores, additives. |
| Kyanite, andalusite, sillimanite, and dumortierite | Mines; concentrating and calcining plants | Do. |
| Lead | Mines; concentrating plants; smelters; refineries; leaching plants | Ores, concentrates, base bullion, residues, scrap. |
| Limestone (lime) and marl | Mines; quarries; crushing and grinding plants; kilns and lime plants | Crushed limestone, marl. |
| Lithium | Mines; concentrating plants; brine-processing plants | Ores, brines. |
| Magnesium | Mines; processing plants | Do. |
| Manganese | Mines; concentrating plants; agglomerating plants; leaching plants | Ores, concentrates, agglomerates. |
| Mercury | Mines; concentrating plants; leaching plants; electrolytic plants; retorts and furnaces | Ores, concentrates, scrap. |
| Mica | Mines; beneficiation plants | Crude mica. |
| Molybdenum | Mines; concentrating plants; processing plants | Ores, concentrates. |
| Nickel | Mines; concentrating plants; leaching plants; smelters; refineries | Ores, concentrates, matte, slurries, in-process oxides, smelter anodes. |
| Nitrogen (fixed) | Processing plants | |
| Olivine | Mines; concentrating plants | Ores, concentrates. |
| Perlite | Mines; grinding and screening plants; expanding plants | Crude perlite. |
| Phosphate rock | Mines; beneficiation plants | Ores, concentrates. |
| Platinum-group metals | Mines; concentrating plants; refineries | Ores, concentrates, residues. |
| Potash | Mines; concentrating plants; processing plants; refineries | Ores, concentrates, brines. |
| Pumice | Mines; crushing, drying, screening and grading plants | Ores. |
| Quartz crystal | Mines; grading plants | Do. |
| Rare-earth metals | Mines; beneficiating and processing plants | Ores, concentrates. |
| Refractories | Processing plants | Ores. |
| Rhenium | Refineries; processing plants | Ores, concentrates. |
| Rubidium | Mines; concentrating plants; extraction plants | Ores, concentrates, residues. |
| Rutile | Mines; concentrating plants | Ores, concentrates. |
| Salt | Mines; salt wells; processing plants | Crude materials. |
| Sand and gravel | Pits; washing and grading plants | Crude sand and gravel. |
| Selenium | Refineries | Residues, slimes, scrap. |
| Silicon | Furnaces; metal plants | Metallic additives, silica. |
| Silver | Mines; concentrating plants; smelters; refineries; leaching plants | Ores, concentrates, intermediate smelter products, scrap. |
| Slag (iron and steel) | Slag processing facilities | Furnace wastes. |
| Slate | Quarries; splitting, milling, crushing and grading plants | Crude slate. |
| Sodium compounds | Mines; brine wells; refineries; synthetic soda ash plants | Natural and synthetic minerals, brines. |
| Stone: | | |
| Crushed | Quarries; crushing and grading plants | Broken stone. |
| Dimension | Quarries; milling and grading | Block stone. |
| Staurolite | Mines; concentrating plants | Ores. |
| Strontium | Do | Do. |
| Sulfur | Mines; wells; processing plants | Ores, gases. |
| Talc, soapstone and pyrophyllite | Mines; crushing, grinding, screening and concentrating plants | Ores. |
| Tantalum | Mines; dredges; concentrating plants; processing plants | Ores, concentrates, slags, scrap, residues. |
| Tellurium | Refineries | Residues, slimes. |
| Thallium | Do | Concentrates, residues. |
| Tin | Mines; concentrating plants; smelters; refineries; processing plants | Ores, concentrates, residues, scrap. |
| Titanium | Mines; concentrating plants; processing plants | Do. |
| Thorium | Non-energy processing plants | Ores and compounds. |
| Tungsten, metal and compounds | Mines; concentrating plants; reduction plants; processing plants | Ores, concentrates, brines, scrap. |
| Vanadium | Mines; concentrating plants; leaching plants; reduction plants | Ores, concentrates, residues, slags, metallic additives. |
| Vermiculite | Mines; beneficiating plants; processing plants | Crude vermiculite. |
| Wollastonite | Mines; concentrating plants | Ores. |
| Zeolites | Mines; processing plants | Do. |
| Zinc | Mines; concentrating plants; roasting plants; smelters; electrolytic plants | Ores, concentrates, calcines, scrap, fume, residues. |
| Zirconium | Mines; concentrating and reduction plants | Ores, scrap. |

## Appendix III to Part 350—Form ITA–999; Request for Special Priorities Assistance

OMB No. 0625-0015

FORM ITA-999 (REV. 7-84)

U.S. DEPARTMENT OF COMMERCE
INTERNATIONAL TRADE ADMINISTRATION

**REQUEST FOR SPECIAL PRIORITIES ASSISTANCE**
**(TO BE FILED WITH SPONSORING GOVERNMENT AGENCY)**
**READ INSTRUCTIONS ON REVERSE SIDE**
**(Typewrite or print in ink)**

No priorities assistance may be granted unless a completed application form has been received (50 U.S.C. App. Sec. 2155). Any information furnished is deemed confidential pursuant to 50 U.S.C. App. Sec 2155(e).

**FOR ITA USE ONLY**

Case No.

Received

Routed to

1. **TO:** *(Fill in name and address of appropriate Sponsoring Govt. Agency)*

2. a. Applicant's name and complete address *(Street, City, State and ZIP code).*

b. Telephone No. *(Include Area Code)* _____

c. Contact's Name _____

3. Name and address of Applicant's customer.

4. Purchase order or contract number of Applicant's customer.

Date _____

5. Rating on customer's purchase order.

6. Date Applicant accepted customer's purchase order.

7. If known, identify the Government program, end product, and contract number for which Applicant's item(s) is required by customer.

8. Description of item(s) to be delivered or service rendered by Applicant through use of item(s) shown in (10).

9. How will item(s) shown in (10) be used? *(Check)*

☐ As Production Material ☐ For Construction Project
☐ As Capital Equipment ☐ As Maintenance, Repair and Operating Supplies

**10. ITEM(S) FOR WHICH APPLICANT REQUESTS ASSISTANCE**

| Indicate quantity *(Lbs., ft., pcs.)* (a) | Description *(As appearing in Applicant's purchase order with additional information, such as: model, part, die number, etc.)* (b) | Approximate dollar value of quantity shown (c) |
|---|---|---|
| | | |

11. a. Applicant's purchase order number to Supplier and date. *(Attach copy and all amendments and change orders)*

b. Rating on Applicant's purchase order. If none, so state.

c. Date Applicant's purchase order accepted by Supplier. *(Attach copy of acceptance)*

12. a. Supplier's name and complete address. *(Street, City, State and ZIP Code)*

b. Contact's name

c. Telephone number *(Include Area Code)*

d. Supplier's shop order number.

e. If Supplier is an agent or distributor, give producer's name and address. *(Provide name and telephone number, including Area Code, of person to contact and supplier's purchase order number, if known)*

**13. Original Shipment Schedule of Item(s) shown in 10 — Supplier to Applicant**

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| a. Applicant's Original Shipment Requirement | Month Year | | | | | | | |
| | No. of Units | | | | | | | Total units |
| b. Supplier's Original Shipment Promise | Month Year | | | | | | | |
| | No. of Units | | | | | | | Total units |

**Current Shipment Schedule of Item(s) shown in 10 — Supplier to Applicant**

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| c. Shipment(s) Now Required by Applicant | Month Year | | | | | | | |
| | No. of Units | | | | | | | Total units |
| d. Supplier's Present Shipment Promise | Month Year | | | | | | | |
| | No. of Units | | | | | | | Total units |

**USE CONTINUATION BLOCK OR SEPARATE SHEET, IF NECESSARY, FOR ANSWERS TO 14, 15 AND 16 BELOW**

14. Reasons given by Supplier for inability to meet Applicant's required shipment date(s), including interfering rated orders or programs, if known.

15. List at least two other suppliers contacted. *(If none contacted, explain why)*

| Date (a) | Name and complete address (b) | Best quoted shipment date(s) and other pertinent data (c) |
|---|---|---|
| | | |
| | | |

16. Explain the effect of the delay in receipt of item(s) in (10) on the delivery commitment for item(s) in (8); i.e. production stoppage, shipment delays, etc. Describe the attempts to resolve the problems and give specific reasons why special priorities assistance is necessary.

17. a. Is quantity shown in 10(a) entire amount on purchase order listed in 11(a)? ☐ Yes ☐ No

b. Is the same item(s) also on order from another supplier? *(If "yes," explain)* ☐ Yes ☐ No

c. Does the Applicant have an inventory of the item(s) shown in 10? ☐ Yes ☐ No

d. If answer to (c) above is yes, state number of days of production the inventory will support.

e. State minimum leadtimes. *(Number of days the item(s) in 10 must be received before applicant can ship to customer)*

**CERTIFICATION** — The undersigned certifies that the information contained in items (2) to (17) of this form, and as any information attached, is correct and complete to the best of his or her knowledge and belief.

Name of applicant

Signature and typed name of authorized official

Date

Title

The U.S. Code, Title 18 *(Crimes and Criminal Procedure)*, Section 1001, makes it a criminal offense to make a wilfully false statement or representation to any department or agency of the United States as to any matter within its jurisdiction. The individual company information reported on this form is for use in defense mobilization activities. The unauthorized publication or disclosure of individual company information by Government personnel is prohibited by law, and such personnel are subject to fine and imprisonment for unauthorized disclosure.

USCOMM-DC 84-22M2

**FOR USE OF GOVERNMENT AGENCY ENDORSING THIS REQUEST (FIELD)**

| 18. a. Actions taken to attempt resolution of applicant's problem. | By whom | Date |
|---|---|---|
| b. Estimate of realistic shipment date. | | |
| c. Coordination of other action taken. | By whom | Date |

**FOR USE OF GOVERNMENT AGENCY SPONSORING THIS REQUEST (HEADQUARTERS ONLY)**

| 19. a. Name of Sponsor. | b. Sponsor's address. | |
|---|---|---|
| c. Sponsor's Case Reference No. | d. Name of person handling case in Sponsor's office. | Telephone No. |
| e. Sponsor's program or service to be benefited by Applicant's product or service *(Item (7) on first page)*. | f. Recommendation. | |

g. Statement of urgency of particular program or service and Applicant's part in it. Specify the extent to which failure to obtain requested assistance will adversely affect the program or service.

h. Signature.

Signature of sponsor's authorized official — Title

Type name of authorized official — Date

## INSTRUCTIONS FOR FILING FORM ITA-999

**REQUESTS FOR SPECIAL PRIORITIES ASSISTANCE MAY BE FILED:**

a. when the regular procedures of the Defense Priorities and Allocations System (DPAS) will not obtain delivery of item(s)[1] in time to meet required delivery schedules in support of authorized national defense programs;

b. to request assistance in placing rated orders; and

c. to request authority to use a priority rating. Applicants for priority rating authority should complete only sections 1, 2, 10, 11, 12, 16, 19, and the Certification of this form.

**REQUESTS FOR ASSISTANCE MUST BE TIMELY AND MUST ESTABLISH:**

a. the urgent defense related need for the item(s) covered by the associated rated order; and

b. that the applicant has exercised reasonable effort to resolve the problem.

**WHERE TO FILE** — Each ITA-999 must be sponsored by a Government Agency.[2] Completed forms should be filed with the Government agency having jurisdiction over the contract.

**Department of Defense** — File with local Defense Contract Administration Services Office or plant representative.

**Department of Energy (DOE)** — File with appropriate Field Office.

**General Services Administration** — File with the contracting officer in the Regional Office or the Headquarters Office in Washington, D.C., whichever issued the contract.

If the appropriate agency cannot be determined from the applicant's customer, this form may be filed with the **Priorities and Allocations Division, Room 3876, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.**

**COPIES TO BE FILED** — The applicant should file an original and five (5) copies of this form with the appropriate Government Agency.

**APPLICATIONS FOR PRIORITY RATING TO OBTAIN CAPITAL/PRODUCTION EQUIPMENT** — Prime and subcontractor applications for a priority rating to obtain capital/production equipment for the performance of a rated order or contract for a Department of Defense procurement must file on Department of Defense Form DD-691, "Application for Rating for Production Equipment," in accordance with the instructions on that form.

### SPECIAL INSTRUCTIONS

If the space in any block is insufficient for a clear and complete statement of the information called for, use the "continuation" space provided on a separate sheet or letter with a copy attached to each copy of the form.

Entries in block 10 must be restricted to those appearing on a single purchase order of the applicant, except in those instances where "special priorities assistance" is requested for additional purchase orders that have been placed with the same supplier for the same item(s) in which case such purchase orders may be combined on one application; however, each purchase order number must be identified and the quantities and rating on each purchase order must be shown separately.

If disclosure of the use to which the particular customer will put Applicant's product is prohibited by security regulations, give a general description in block 10 and enter "classified."

[1] "Item" is defined in the DPAS as any raw, in-process, or manufactured material, article, commodity, supplies, equipment, component, accessory, part, assembly, or product of any kind, technical information, process, or service.

[2] "Government Agency" means the Department of Defense, the Department of Energy, General Services Administration, or other Government agencies so designated.

**CONTINUATION**

*(Identify each statement with the block number concerned)*

FORM ITA-999 (REV. 7-84) **Please sign certification on face of form** USCOMM DC 84-22042

BILLING CODE 3510-25-C

**Appendix IV to Part 350—Memorandum of Understanding on Priorities and Allocations Support Between the U.S. Department of Commerce and the Canadian Department of Supply and Services**

*A. Purpose*

Since 1950, the United States and Canada have been assisting each other on priorities and allocations for programs important to the defense of both nations. Details on the implementation of that assistance were spelled out in the U.S. Defense Priorities System Regulation No. 2 (DPS Reg. 2), Operations of the Priorities and Allocations System between Canada and the United States (15 CFR 351). The Defense Priorities and Allocations System (DPAS) regulation (15 CFR Part 350) supersedes the Defense Materials System and Defense Priorities System regulations (15 CFR 330–351), including DPS Reg. 2. While the revised regulation addresses the procedures for obtaining priorities and allocations support from the United States and Canada, it does not fully detail the working relationship between the United States and Canada. Accordingly, the following Memorandum of Understanding is set forth between the U.S. Department of Commerce and the Canadian Department of Supply and Services.

*B. General*

1. The Office of Industrial Resource Administration, U.S. Department of Commerce (DOC), is the United States point of contact for the Canadian government with respect to priorities and allocations.

2. The Supply Information and Data Management Branch, Canadian Department of Supply and Services (DSS), is the Canadian point of contact for the U.S. government with respect to priorities and allocations.

*C. Priority Rating Authority*

1. DOC will authorize the DSS to use priority ratings, including those for the procurement of controlled materials, in the United States in support of the following programs authorized by the Federal Emergency Management Agency:

D1—Canadian Military Programs
D2—Canadian Production and Construction
D3—Canadian Atomic Energy Program

2. DOC must receive requests for priority rating authority, by program, at least ninety days in advance of the calendar quarter in which the authorization is required. Requests with respect to controlled materials requirements must be received at least 240 days in advance of the calendar quarter in which authorization is required.

*D. DX Authority*

DSS may authorize the use of the "DX" rating symbol for procurements in the United States which are in support of U.S. "DX" rated programs.

*E. Items Which Will Not Receive Priority Rating Authority*

Priority ratings may not be used for procurements in the United States of (1) civilian items for resale in Military Exchanges or the packaging for such items; (2) material purchased from exclusively retail establishments; (3) direct procurement of those Federal Supply Classification classes, groups, or items specified in Attachment A to this Understanding, unless those items are to be used as production material for an authorized program; or (4) procurement of items to be used primarily for administrative purposes, such as for personnel or financial management.

*F. Special Priorities Assistance*

1. DOC will provide special priorities assistance as needed to Canadian procurements in the United States which are in support of D1, D2, and D3 programs when requests for such assistance are sponsored by DSS.

2. DSS will provide assistance to United States procurements in Canada which are in support of authorized programs when requests for such assistance are sponsored by DOC.

*G. Forms and Reports*

1. Canadian requests for special priorities assistance from the United States will be submitted to DOC on Form ITA–999, "Request for Special Priorities Assistance".

2. Requests for priority rating authority will be submitted to DOC on Form DSS–1451–1, "Application for U.S. Priority Rating Covering Importation of Quarterly Requirements of Materials from the United States", on Form DSS–1451–2, "Application for U.S. Priority Rating Covering Specific Materials", or other forms as may be established by DSS.

3. DSS will report monthly on the number of rating authorizations and their dollar value against DOC rating authorizations during the previous month.

4. DSS will report, two months following the close of each calendar quarter, the number and quantity of controlled materials allotments issued against DOC authorizations for each program during that quarter.

5. United States requests for assistance from Canada will be submitted to DSS by letter.

*H. Compliance*

1. DSS will ensure that Canadian Government personnel and Canadian defense contractors are in compliance with the provisions of the DPAS when placing rated orders in the United States, including those for controlled materials.

2. DOC will ensure that U.S. Government personnel and U.S. contractors are in compliance with the provisions of the DPAS when placing rated orders in Canada, including controlled materials.

3. The DSS will inform DOC of any alleged violations of the DPAS of which it may become aware.

*I. Training*

1. The DSS will develop and implement training programs on the DPAS for appropriate Canadian Government procurement and contract administration personnel and contractor personnel.

2. DOC will develop and implement training programs on the DPAS for appropriate U.S. Government procurement and contract administration personnel and contractor personnel.

3. DSS and DOC training programs shall be coordinated to ensure the conduct of a comprehensive program and to minimize duplication.

*J. Effective Date*

This Memorandum of Understanding shall take effect thirty (30) days after publication of the DPAS in the U.S. Federal Register.

Canadian Department of Supply and Services
Peter Smith,
Assistant Deputy Minister, Operations
Date: June 26, 1984.

U.S. Department of Commerce
Walter J. Olson,
Deputy Assistant Secretary, Export Administration
Date: June 21, 1984.

**Attachment A—Federal Supply Classification Classes, Groups, and Items Not Eligible For Priority Ratings**

*Group*

35 Services and trade equipment—except:
- 3510 Laundry and dry cleaning equipment
- 3520 Shoe repairing equipment
- 3530 Industrial sewing machines and mobile textile repair shoes
- 3540 Wrapping and packaging machinery

71* Furniture
72* Household and commercial furnishings and appliances—except:
- 7240 Household and commercial utility containers

73* Food preparation and serving equipment—except:
- 7310 Food cooking, baking and serving equipment
- 7320 Kitchen equipment and appliances
- 7360 Sets, kits, and outfits: food preparation and serving

74 Office machines, visible record equipment, and data processing equipment**
75* Office supplies and devices
77* Musical instruments, phonographs and home-type radios
78* Recreational and athletic equipment
79 Cleaning equipment and supplies
85* Toiletries
87 [1] Agricultural supplies
89 Subsistence
91* [1] Fuels, lubricants, oils, and waxes—except:
- 9135 Liquid propellant fuels and oxidizers, chemical base
- 9150 Oils and greases: cutting, lubricating, and hydraulic
- 9160 Miscellaneous waxes, oils and fats

94* Non-metallic crude materials—except:
- 9420 Fibers: vegetable, animal and synthetic

99* Miscellaneous

*Class*

7630 Newspapers and periodicals
7660 Sheet and book music
8325 Fur materials
8425 Underwear and nightwear, women's
9610 Ores

[FR Doc. 84–19500 Filed 7–27–84; 8:45 am]
BILLING CODE 3510–25

*DOC will consider requests for special priority rating authorization in the procurement of these items.

**This Group does not include general purpose automatic data processing equipment, software, supplies and support equipment (see Group 70).

[1] Only those items subject to DOC authority as delegated by E.O. 10480.

federal register

Monday
July 30, 1984

Part III

# Department of the Interior

Bureau of Land Management

43 CFR Parts 3100, 3110, and 3830
Oil and Gas Leasing; Reinstatement of Leases and Conversion of Certain Claims; Final Rule

**DEPARTMENT OF THE INTERIOR**

**Bureau of Land Management**

**43 CFR Parts 3100, 3110, and 3830**

**[Circular No. 2549]**

## Oil and Gas Leasing; Reinstatement of Leases and Conversion of Certain Claims

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Final rulemaking.

**SUMMARY:** This final rulemaking provides procedures to facilitate the reinstatement of oil and gas leases automatically terminated for the failure to timely pay the required rental. It also permits conversion of certain unpatented oil placer mining claims deemed conclusively abandoned to noncompetitive oil and gas leases. The final rulemaking implements provisions contained in Title IV of the Federal Oil and Gas Royalty Management Act of 1982.

**EFFECTIVE DATE:** August 29, 1984.

**ADDRESS:** Inquiries or suggestions should be sent to: Director (620), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:**
Lois Mason, (202) 653–2190
or
Robert C. Bruce, (202) 343–8735.

**SUPPLEMENTARY INFORMATION:** The proposed rulemaking implementing the provisions of Title IV of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 188) was published in the **Federal Register** on February 3, 1984 (49 FR 4217), with a 60-day comment period. During the comment period, comments were received from 9 sources, 6 from corporations and 3 from Federal agencies. Generally, the comments supported the proposed regulations, but suggested changes. Only those sections of the proposed rulemaking that were the subject of comments are discussed in this preamble.

*Section 3103.2–2 Advance rental payments.*

Two comments suggested that this section of the proposed rulemaking needed clarification. One comment suggested that the third sentence be made more specific by inserting the word "noncompetitive" before the phrase "terminated leases". The second comment questioned the clarity of the proposed rulemaking as to the requirement for the payment of an additional $2 per acre or fraction thereof when the lands covered by the lease are determined to be within a known geological structure outside of Alaska or a favorable petroleum geological province in Alaska. The final rulemaking amends this section by inserting the word "noncompetitive" in the third sentence and by inserting an additional sentence which clarifies the point that the additional rental of $2 per acre or fraction thereof applies to reinstated leases when a determination is made subsequent to the reinstatement that the lands covered by the lease are within a known geological structure outside of Alaska or a favorable petroleum geological province in Alaska.

*Section 3103.3–2 Minimum royalties.*

A comment noted an error in the citation in paragraph (d) which was added by the proposed rulemaking. The final rulemaking corrects the citation.

*Section 3103.4–1 Waiver, suspension or reduction of rental, royalty or minimum royalty.*

The one comment received on this section suggested that the authorized officer should be allowed to reduce the royalty in a reinstated lease. Title IV of the Federal Oil and Gas Royalty Management Act gives the Secretary of the Interior special authority to reduce royalty rates on a reinstated lease, if such a reduction is justifiable because of hardship or premature termination of production. The proposed rulemaking referenced this authority in this section and provided the application process in subpart 3108. The final rulemaking adopts that language without change.

*Section 3108.2–2 Reinstatement at existing rental and royalty rates—Class I reinstatements.*

Several comments addressed this section of the proposed rulemaking. One comment pointed out that the requirement that a petition for reinstatement must be filed within 60 days would preclude the accumulation of any back rental and the language requiring the payment of back rental should be deleted. The final rulemaking has not been changed. The normal situation covered by Class I reinstatements would not require the payment of any back rental, but the language was designed to cover all situations. In the unlikely event that a termination notice is not timely forwarded, it is possible for a situation to arise where back rental is due.

Another comment on this section of the proposed rulemaking requested that the Bureau of Land Management furnish termination notices in sufficient time to give recipients an opportunity to avail themselves of the Class I reinstatement provisions. The Class I provisions are specifically designed to be used by lessees whose rental payments were not timely received but the failure to timely submit was either justified or not due to a lack of reasonable diligence. Most other terminations would not normally fall under the Class I reinstatement provisions. No change has been made in the final rulemaking as a result of this comment.

Two comments were received concerning the language of § 3108.2–2(a)(3) of the proposed rulemaking changing the existing 15-day period for filing a petition of reinstatement with all required payment to 60 days. One comment suggested that the extension of the filing period to 60 days might delay the posting of terminated leases to the simultaneous list or might result in the deletion of parcels from the list. The other comment suggested that an additional paragraph be added to this section by the final rulemaking clarifying that the 60-day period for filing of a petition under Class I or II begin at the same time. The review of these comments indicates that it is administratively advantageous, as well as equitable, to provide the same time, 60 days, for the filing of a petition of reinstatement under either Class I or II. The 60-day period specified in the proposed and final rulemaking begins upon receipt of the termination notice for both Class I and II reinstatements. If a lessee chooses to petition under both Class I and II procedures, filing must be completed within 60 days of receipt of the notice of termination. The procedures for handling Class I and Class II petitions filed at the same time will be set forth in the Bureau of Land Management's Manuals and Handbooks. These changes suggested by these comments have not been incorporated into the final rulemaking.

The final rulemaking does adopt clarifying language for paragraph (b) that was suggested in one of the comments.

Another comment requested that the final rulemaking indicate which bureau of the Department of the Interior is to receive the required rental for a reinstated lease. This issue was raised because of the recent change in the Bureau of Land Management's regulations providing that all remittances after the initial remittance are made to the Minerals Management Service. After careful consideration of this question, it is clear that the remittance should be made to the Bureau. What is involved in the case of a reinstatement is not a continuing lease, but a terminated lease that is

being reinstated. The old lease is no longer in existence and a new lease is being created pursuant to the authority of Title IV of the Federal Oil and Gas Royalty Management Act. Therefore, the rental is treated as a first-time rental and is remitted to the Bureau of Land Management rather than the Minerals Management Service. In addition, it is necessary for the Bureau to be certain that all the requirements of the Act have been met, including the payment of the specified rental, before it reinstates the lease. The final rulemaking retains the requirement that the reinstatement rental be remitted to the Bureau of Land Management.

*Section 3108.2–3 Reinstatement at higher rental and royalty rates—Class II reinstatements.*

This section of the proposed rulemaking was the subject of eight comments. One comment requested that the final rulemaking require the collection of only a one-time penalty payment equal to the delay rental payment on the lease. This change cannot be adopted because Title IV of the Federal Gas and Royalty Management Act requires that an affected party pay rental and royalty at substantially increased rates as a condition to having a terminated lease reinstated.

Another comment wanted the final rulemaking clarified on the question of issuance of a notice of termination. The preamble to the proposed rulemaking states that the Bureau of Land Management will issue a notice of termination regardless of whether the rental is paid late or not paid at all. The proposed rulemaking did not contain this requirement. The final rulemaking has been amended to provide that the notice of termination is to be sent to the lessee of record.

Three comments on this section of the proposed rulemaking suggested that the language permitting an assignee to file a petition for reinstatement be deleted by the final rulemaking. The comments pointed out: that the language of the proposed rulemaking could require sending termination notices to assignees as well as lessees; that the lessee is responsible for any and all obligations under the lease, including the payment of the annual rental; and that the Office of Hearings and Appeals, Department of the Interior, has held that only the lessee of record may successfully request reinstatement of a lease. After consideration of these points, the final rulemaking deletes the language of § 3108.2–3(b)(2). In addition, this section of the final rulemaking has been amended to include some minor corrections that were pointed out in the comments.

One comment suggested that the final rulemaking should clarify whether a filing fee is required in connection with the submission of a Class II petition for reinstatement. Title IV of the Federal Oil and Gas Royalty Management Act requires that an "administrative" fee be charged for reinstatement of a lease terminated under the conditions covered by the Class II provisions. In light of this provision of the Act, the proposed and final rulemakings require that an applicant submit an administrative fee of $500, but no filing fee is required.

A comment requested that the phrase "a reasonable time" used in §§ 3108.2–3(b) and 3108.2–4 of the proposed rulemaking be clarified. In response to this request, the final rulemaking has been amended to state that no action will be taken on a lease on lands covered by the petition for reinstatement until "all action on the petition is final."

Finally, the final rulemaking amends § 3108.2–3(b) to state that back rentals and royalties must be paid at the rate established for reinstatement before the lease can be reinstated. This change was necessitated by the fact that a petition for reduction of rental or royalty could be considered at the same time consideration was being given to a petition for reinstatement. Normally, back rental and royalty will be paid at the increased rate set out in the reinstated lease. However, if the petition for reduction of rental or royalty were granted, that rate would be the basis for the required payment.

Editorial and grammatical corrections as needed have been made.

The principal authors of this final rulemaking are Cynthia L. Embretson and Lois Mason, Division of Fluid Mineral Leasing, assisted by the staff of the Office of Legislation and Regulatory Management, all of the Bureau of Land Management.

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

The procedures provided in the final rulemaking are limited to those situations detailed in the Federal Oil and Gas Royalty Management Act. Any entity, large or small, that meets the conditions set out in the final rulemaking, can apply for reinstatement or conversion. The procedure should reduce the legislative burden on the Congress by reducing the number of private bills introduced and should shorten the period required for reinstatement or conversion.

The final rulemaking does not contain any information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

**List of Subjects**

*43 CFR Part 3100*

Administrative practice and procedure, Environmental protection, Mineral royalties, Oil and gas reserves, Public lands—classification, Public lands—mineral resources, Surety bonds.

*43 CFR Part 3110*

Administrative practice and procedure, Mineral royalties, Oil and gas reserves, Public lands—mineral resources.

*43 CFR Part 3830*

Mining claims under the General Mining Law.

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359), the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 760 et seq.), the Act of May 21, 1930 (30 U.S.C. 301–306), the Omnibus Budget Reconciliation Act of 1981 (Pub L. 97–35), the Independent Offices Appropriation Act of 1952 (31 U.S.C. 483a), the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 188) and the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41), Parts 3100 and 3110 of Group 3100 and Part 3800 of Group 3800, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations are amended as set forth below.

**J. Steven Griles,**

*Acting Assistant Secretary of the Interior.*

July 6, 1984.

## PART 3100—[AMENDED]

**§ 3103.2–2 [Amended]**

1. Section 3103.2–2 is amended by adding new paragraphs (j) and (k) as follows:

* * * * *

(j) On terminated leases that were originally issued noncompetitively and are reinstated under § 3108.2–3 of this title, and on noncompetitive leases that were originally issued under § 3108.2–4 of this title, the annual rental shall be $5 per acre or fraction thereof. For

terminated leases that were originally issued competitively, the annual rental shall be $10 per acre or fraction thereof. For terminated noncompetitive leases that have been determined to be within a known geological structure outside of Alaska, or a favorable petroleum geological province in Alaska, prior to the filing of a petition to reinstate a lease or convert an abandoned, unpatented oil placer mining claim, the annual rental shall be an additional $2 per acre or fraction thereof. If lands within leases reinstated under the provisions of §§ 3108.2–3 and 3108.2–4 of this title are later determined to be within a known geological structure outside of Alaska, or a favorable petroleum geological province in Alaska, the annual rental shall be an additional $2 per acre or fraction thereof beginning with the first lease year after expiration of 30 days notice to the lessee. The provisions of this paragraph shall supersede the provisions of paragraphs (a) and (d) of this section for all leases reinstated or issued under §§ 3108.2–3 and 3108.2–4 of this title.

(k) Each succeeding time a specific lease is reinstated under § 3108.2–3 of this title, the annual rental on that lease shall increase by an additional $5 per acre or fraction thereof for leases that were originally issued noncompetitively and by an additional $10 per acre or fraction thereof for leases that were originally issued competitively.

**§ 3103.3–1 [Amended]**

2. Section 3103.3–1 is amended by revising paragraph (a) to read:

(a) Royalty on production shall be payable only on the mineral interest owned by the United States. The following royalty rates shall be paid in amount or value of the production removed or sold from the lease:

(1)(i) 12½ percent royalty on noncompetitive leases;

(ii) 16⅔ percent royalty on noncompetitive leases reinstated under § 3108.2–3 of this title, plus an additional 2 percentage point increase (e.g., to 18⅔; 20⅔, etc.) added for each succeeding reinstatement;

(iii) 12½ percent royalty on noncompetitive leases issued in lieu of unpatented oil placer mining claims under § 3108.2–4 of this title.

(2)(i) Such rates as are prescribed in the notice of sale in the case of all leases issued by competitive bidding;

(ii) On leases reinstated under § 3108.2–3 of this title, royalty shall increase 4 percentage points over the competitive royalty schedule in force and used for royalty determination for competitive leases, plus an additional 2 percentage point increase added for each succeeding reinstatement (e.g., 12½ plus 4, plus 2; 12½ plus 4, plus 2, plus 2; etc.).

(3) From lands within exchange and renewal leases, the rate of royalty shall be identical to that prescribed in the prior leases, except that for a lease issued in exchange for or as a renewal of a lease carrying a flat royalty rate of 5 percent to the United States, the royalty rate shall be as follows:

(i) When the average production of oil for the calendar month in barrels per well per day is:

Not over 110, the royalty rate shall be 12½ percent;

Over 110, but not over 130, the royalty rate shall be 16 percent of all production;

Over 130, but not over 150, the royalty rate shall be 19 percent of all production;

Over 150, but not over 200, the royalty rate shall be 20 percent of all production;

Over 200, but not over 250, the royalty rate shall be 21 percent of all production;

Over 250, but not over 300, the royalty rate shall be 22 percent of all production;

Over 300, but not over 350, the royalty rate shall be 23 percent of all production;

Over 350, but not over 400, the royalty rate shall be 24 percent of all production; and

Over 400, the royalty rate shall be 25 percent of all production.

(ii) On gas, including inflammable gas, helium, carbon dioxide and all other natural gases and mixtures thereof, and on casinghead gasoline and other liquid products obtained from gas when the production per well per calendar day for the month is:

Not in excess of 5 million cubic feet, the royalty rate shall be 12½ percent of the amount or value of the gas and liquid products produced; and

In excess of 5 million cubic feet, the royalty rate shall be 16⅔ percent of the amount or value of the gas and liquid products produced.

(iii) On leases reinstated under § 3108.2–3 of this title, the royalty shall increase 4 percentage points over the percentages listed in subparagraphs (i) and (ii) of this paragraph, but in no case less than 16⅔ percent, plus an additional 2 percentage point increase for each succeeding reinstatement.

* * * * *

**§ 3103.3–2 [Amended]**

3. Section 3103.3–2 is amended by adding a new paragraph (d) to read:

* * * * *

(d) The minimum royalty provisions of this section shall be applicable to leases reinstated under § 3108.2–3 of this title and leases issued under § 3108.2–4 of this title.

**§ 3103.4–1 [Amended]**

4. Section 3103.4–1 is amended by adding a new paragraph (d) to read:

* * * * *

(d) Petition may be made for reduction of royalty under § 3108.2–3(f) for leases reinstated under § 3108.2–3 of this title and under § 3108.2–4(j) for noncompetitive leases issued under § 3108.2–4 of this title. Petitions to waive, suspend or reduce rental or minimum royalty for leases reinstated under § 3108.2–3 of this title or for leases issued under § 3108.2–4 of this title may be made under this section.

**§ 3107.6 [Amended]**

5. Section 3107.6 is amended by removing the figure "§ 3108.2" where it appears and replacing it with the figure "§ 3108.2–1", by removing paragraph (a) in its entirety, by redesignating paragraphs (b) and (c) as paragraphs (a) and (b) and by amending new paragraph (b) by adding at the end thereof the words ", but in no event for more than 2 years from the date the reinstatement is authorized and so long thereafter as oil or gas is produced in paying quantities."

6. Section 3108.2 is amended by revising the heading to read:

**§ 3108.2 Termination by operation of law and reinstatement.**

**§ 3108.2–1 [Amended]**

7. Section 3108.2–1 is amended by:

A. Revising the heading to read:

**§ 3108.2–1 Automatic termination.**

B. Removing paragraph (c) in its entirety.

8. New §§ 3108.2–2, 3108.2–3 and 3108.2–4 are added to read:

**§ 3108.2–2 Reinstatement at existing rental and royalty rates—Class I reinstatements.**

(a) Except as hereinafter provided, the authorized officer may reinstate a lease which has terminated for failure to pay on or before the anniversary date the full amount of rental due, provided that:

(1) Such rental was paid or tendered within 20 days after the anniversary date; and

(2) It is shown to the satisfaction of the authorized officer that the failure to timely submit the full amount of the rental due was either justified or not due to a lack of reasonable diligence on the part of the lessee; and

(3) A petition for reinstatement, together with a nonrefundable filing fee of $25 and the required rental, including

any back rental which has accrued from the date of the termination of the lease, is filed with the proper BLM office within 60 days after receipt of Notice of Termination of Lease due to late payment of rental.

(b) The burden of showing that the failure to pay on or before the anniversary date was justified or not due to lack of reasonable diligence shall be on the lessee.

(c) Under no circumstances shall a terminated lease be reinstated if:

(1) A valid oil and gas lease has been issued prior to the filing of a petition for reinstatement affecting any of the lands covered by that terminated lease; or

(2) The oil and gas interests of the United States in the lands have been disposed of or otherwise have become unavailable for leasing.

(d) The authorized officer shall not issue a lease for lands which have been covered by a lease which terminated automatically until 90 days after the date of termination.

**§ 3108.2–3 Reinstatement at higher rental and royalty rates—Class II reinstatements.**

(a) The authorized officer may, if the requirements of this section are met, reinstate an oil and gas lease which was terminated by operation of law for failure to pay rental timely when the rental was not paid or tendered within 20 days of the termination date and it is shown to the satisfaction of the authorized officer that such failure was justified or not due to a lack of reasonable diligence, or no matter when the rental was paid, it is shown to the satisfaction of the authorized officer that such failure was inadvertent.

(b)(1) For leases that terminate on or after January 12, 1983, consideration may be given to reinstatement if the required back rental and royalty at the increased rates accruing from the date of termination, together with a petition for reinstatement, are filed on or before the earlier of:

(i) Sixty days after the receipt of the Notice of Termination sent to the lessee of record; or

(ii) Fifteen months after termination of the lease.

(2) After determining that the requirements for filing of the petition for reinstatement have been timely met, the authorized officer may reinstate the lease if:

(i) No valid lease has been issued prior to the filing of the petition for reinstatement affecting any of the lands covered by the terminated lease, whether such lease is still in effect or not;

(ii) The oil and gas interests of the United States in the lands have not been disposed of or have not otherwise become unavailable for leasing;

(iii) Payment of all back rentals and royalties at the rates established for the reinstated lease, including the release to the United States of funds being held in escrow, as appropriate;

(iv) An agreement has been signed by the lessee and attached to and made a part of the lease specifying future rentals at the applicable rates specified for reinstated leases in § 3103.2–2 of this title and future royalties at the rates set in § 3103.3–1 of this title for all production removed or sold from such lease or shared by such lease from production allocated to the lease by virtue of its participation in a unit or communitization agreement or other form of approved joint development agreement or plan;

(v) A notice of the proposed reinstatement of the terminated lease and the terms and conditions of reinstatement has been published in the **Federal Register** at least 30 days prior to the date of reinstatement for which the lessee shall reimburse the Bureau for the full costs incurred in the publishing of said notice; and

(vi) The lessee has paid the Bureau a nonrefundable administrative fee of $500.

(c) The authorized officer shall not, after the receipt of a petition for reinstatement, issue a new lease affecting any of the lands covered by the terminated lease until all action on the petition is final.

(d) The authorized officer shall furnish to the Chairpersons of the Committee on Interior and Insular Affairs of the House of Representatives and of the Committee on Energy and Natural Resources of the Senate, at least 30 days prior to the date of reinstatement, a copy of the notice, together with information concerning rental, royalty, volume of production, if any, and any other matter which the authorized officer considers significant in making the determination to reinstate.

(e) If the authorized officer reinstates the lease, the reinstatement shall be as of the date of termination, for the unexpired portion of the original lease or any extension thereof remaining on the date of termination, and so long thereafter as oil or gas is produced in paying quantities. Where a lease is reinstated under this section and the authorized officer finds that the reinstatement of such lease either (1) occurs after the expiration of the primary term or any extension thereof, or (2) will not afford the lessee a reasonable opportunity to continue operations under the lease, the authorized officer may extend the term of the reinstated lease for such period as determined reasonable, but in no event for more than 2 years from the date of the reinstatement and so long thereafter as oil or gas is produced in paying quantities.

(f) The authorized officer may, either in acting on a petition for reinstatement or in response to a request filed after reinstatement, or both, reduce the royalty in that reinstated lease on the entire leasehold or any tract or portion thereof segregated for royalty purposes, if he/she determines there are either economic or other circumstances which could cause undue economic hardship or premature termination of production; or because of any written action of the United States, its agents or employees, which preceded, and was a major consideration in, the lessee's expenditure of funds to develop the lands covered by the lease after the rental had become due and had not been paid; or if the authorized officer determines it is equitable to do so for any other reason.

**§ 3108.2–4 Conversion of unpatented oil placer mining claims—Class III reinstatement.**

(a) For any unpatented oil placer mining claim validy located prior to February 24, 1920, which has been or is currently producing or is capable of producing oil or gas, and has been or is deemed after January 12, 1983, conclusively abandoned for failure to file timely the required instruments or copies of instruments required by section 314 of the Federal Land Policy and Management Act (43 U.S.C. 1744), and it is shown to the satisfaction of the authorized officer that such failure was inadvertent, justifiable or not due to lack of reasonable diligence on the part of the owner, the authorized officer may issue, for the lands covered by the abandoned unpatented oil placer mining claim, a noncompetitive oil and gas lease consistent with the provisions of section 17(e) of the act (30 U.S.C. 226(e)). The effective date of any lease issued under this section shall be from the statutory date that the claim was deemed conclusively abandoned.

(b) The authorized officer may issue a noncompetitive oil and gas lease if a petition has been filed in the proper BLM office for the issuance of a noncompetitive oil and gas lease accompanied by the required rental and royalty, including back rental and royalty accruing, at the rates specified in §§ 3103.2–2 and 3103.3–1 of this title, for any claim deemed conclusively abandoned after January 12, 1983. The petition shall have been filed on or before the 120th day after the final

notification by the Secretary or a court of competent jurisdiction of the determination of the abandonment of the oil placer mining claim.

(c) The authorized officer shall not issue a noncompetitive oil and gas lease under this section if a valid oil and gas lease has been issued affecting any of the lands covered by the abandoned oil placer mining claim prior to the filing of the petition for issuance of a noncompetitive oil and gas lease.

(d) After the filing of a petition for issuance of a noncompetitive oil and gas lease covering an abandoned oil placer claim, the authorized officer shall not issue any new lease affecting any lands covered by such petition until all action on the petition is final.

(e) Any noncompetitive lease issued under this section shall include:

(1) Terms and conditions for the payment of rental in accordance with § 3103.2–2(j) of this title. Payment of back rentals accruing from the date of abandonment of the oil placer mining claim, at the rental set by the authorized officer, shall be made prior to the lease issuance.

(2) Royalty rates set in accordance with § 3102.3–1 of this title. Royalty shall be paid at the rate established by the authorized officer on all production removed or sold from the oil placer mining claim, including all royalty on production made subsequent to the date the claim was deemed conclusively abandoned prior to the lease issuance.

(f) Noncompetitive oil and gas leases issued under this section shall be subject to all regulations in Part 3100 of this title except for those terms and conditions mandated by Title IV of the Federal Oil and Gas Royalty Management Act.

(g) A notice of the proposed conversion of the oil placer mining claim into a noncompetitive oil and gas lease, including the terms and conditions of conversion, shall be published in the Federal Register at least 30 days prior to the issuance of a noncompetitive oil and gas lease. The mining claim owner shall reimburse the Bureau for the full costs incurred in the publishing of said notice.

(h) The mining claim owner shall pay the Bureau a nonrefundable administrative fee of $500 prior to the issuance of the noncompetitive lease.

(i) The authorized officer may, either in acting on a petition to issue a noncompetitive oil and gas lease or in response to a request filed after issuance, or both, reduce the royalty in such lease, if he/she determines there are either economic or other circumstances which could cause undue economic hardship or premature termination of production.

## PART 3110—[AMENDED]

### § 3110.1–3 [Amended]

9. Section 3110.1–3(a) is amended by adding at the end thereof the sentence "This paragraph shall not apply to offers made under § 3108.2–4 of this title."

### § 3110.3 [Amended]

10. Section 3110.3(c) is amended by removing the figure "60" and replacing it with the figure "90".

## PART 3111—[AMENDED]

### § 3111.1–1 [Amended]

11. Section 3111.1–1(a) is amended by inserting after the first sentence thereof the sentence "For noncompetitive leases processed under § 3108.2–4 of this title, the current lease form shall be used."

### § 3111.2–1 [Amended]

12. Section 3111.2–1 is amended by adding a new paragraph (e) to read:

* * * * *

(e) The requirements of this section shall apply to applications for conversion of abandoned unpatented oil placer mining claims made under § 3108.2–4 of this title, except that deficiencies shall be curable.

## PART 3830—[AMENDED]

### § 3833.4 [Amended]

13. Section 3833.4 is amended by adding a new paragraph (e) to read:

* * * * *

(e) Title IV of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 188(f)) provides that where an unpatented oil placer mining claim validly located prior to February 24, 1920, which has been or is currently producing or is capable of producing oil or gas, has been or is hereafter deemed conclusively abandoned for failure to file timely the required instruments or copies of instruments required by section 314 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1744), and it is shown to the satisfaction of the authorized officer that such failure was inadvertent, justifiable, or not due to lack of reasonable diligence on the part of the owner, the authorized officer may issue, for the lands covered by the abandoned unpatented oil placer mining claim, a noncompetitive oil and gas lease consistent with the provisions of section 17(e) of the Mineral Leasing Act (30 U.S.C. 226(e)) to be effective from the statutory date the claim was conclusively abandoned. The conditions and requirements for issuance of such leases are contained in § 3108.2–4 of this title.

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[1] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1983. The CFR volume issued as of Apr. 1, 1980, should be retained.

[2] Refer to September 19, 1983, FEDERAL REGISTER, Book II (Federal Acquisition Regulation).