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Monday
September 23, 1985

Selected Subjects

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DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

7 CFR Part 800

Fees for Supervision of Official Services

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Federal Grain Inspection Service (FGIS or Service) is reducing fees by approximately 40 percent for the supervision of inspection and weighing services performed by agencies. The fee reduction will reduce the level of applicable operating reserves. FGIS also is establishing fees to recover the costs incurred for supervision of agencies performing Class Y weighing services and clarifying the fee schedule by consolidating the fees for protein and oil analyses under the category "official criteria." These change clarify and update the fee schedule.

EFFECTIVE DATE: October 1, 1985.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., Information Resources Management Branch, RM, USDA, FGIS, Room 0667 South Building, 1400 Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This final rule has been issued in conformance with Executive Order 12291 and Departmental Regulation 1512-1. This action has been classified as nonmajor because it does not meet the criteria for a major regulation established in the Order.

Regulatory Flexibility Act Certification

Dr. Kenneth A. Gilles, Administrator, FGIS, has determined that this final rule does not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because most users of the official inspection and weighing services and those entities that perform these services do not meet the requirements for small entities. FGIS is required by statute to make services available and to cover the estimated costs of providing such services. Moreover, this action, in part, would reduce applicable fees.

Pursuant to the Administrative Procedures Act, good cause is found to make this final rule effective October 1, 1985, which is less than 30 days after publication because this final rule will provide a reduction in the level of fees for services provided by FGIS as well as promote program stability by providing for an orderly reduction of current operating revenues. Therefore, this reduction should be implemented as soon as practicable. Also, other changes in this final rule will further update the fee schedule.

Final Action

The United States Grain Standards Act, as amended, (7 U.S.C. 71 *et seq.*) requires that delegated States and designated agencies pay fair and reasonable fees to cover the estimated costs to FGIS to supervise these agencies.

In the July 10, 1985 **Federal Register** (50 FR 28104) FGIS proposed specific changes to the fees for supervision of agencies performed under the United States Grain Standards Act (USGSA). A correction docket was published on July 23, 1985, (50 FR 29985). The comment period ended August 9, 1985. Thirteen comments were received on the proposed rule. Ten commenters supported the proposed decrease in FGIS fees assessment for supervision of official agencies. Two commenters suggested that FGIS refund to the agencies all applicable operating reserves in excess of cost of supervising agencies for a six-month period, or that the reserves be reduced by expending a portion in a manner that would be of significant benefit to all agencies. FGIS believes it is in the best interest of all parties concerned to reduce the operating reserves on a planned gradual basis through lower fees. This is consistent with FGIS' long standing policy of increasing or decreasing fees, as appropriate, to match revenues and operating costs. This approach is also consistent with, and supports a fee schedule that will maintain a 6-month reserve. FGIS also feels that agencies have already received substantial benefits from the 1984 fee reduction and will continue to receive these benefits with the proposed reduction in supervision fees. The reduction in operating reserves on a planned gradual basis would avoid any potential sharp increase in fees as may be required beause of unanticipated or accelerated program losses.

One commenter suggested that the proposed reduction in supervision fees represented a rebate to agencies and suggested that FGIS' plan to reduce the operating reserve discriminates against States currently under an expanded delegation of authority with FGIS because in the past such States in effect contributed to the operating reserves and presently are assessed fees determined on an annual basis pursuant to their expanded delegations of authority. The FGIS fees assessed to these States would not be affected by the 40% reduction in supervision fees. This reduction in user fees is part of FGIS' continuing effort to match future revenues with future costs of operating each FGIS program, including supervision of agencies. The expanded delegation of authority with specific States represents an added effort to match FGIS revenues and costs while reducing overall expenses and strengthening program operations. As stated above, FGIS increases or decreases fees, as appropriate, to match revenues and operating costs. Presently, States operating under an expanded delegation of authority voluntarily participate in a program that has reduced FGIS costs and, in turn, the supervision fees assessed to these States. The combination of these savings, along with improved program effectiveness, benefits both FGIS and the States participating in the expanded delegation of authority program. FGIS will continue to monitor its fiscal position to provide cost-effective services.

A final rule was made effective August 1, 1984 (49 FR 26560) which, in part, reduced the fees for FGIS supervision of inspection and weighing of delegated States and designated agencies by approximately 35%. This reduction in fees was intended to bring

revenues more in line with FGIS costs while, at the same time, gradually reducing the level of operating reserves for these two programs. Since that time, FGIS has carefully monitored the level of these fees in light of current program costs and revenues, including applicable operating reserves.

The 1984 reduction in fees slowed the rate of growth in the operating reserves by approximately 64%. However, the operating reserves continue to grow, but at a slower rate. As of April 30, 1985, for both supervision programs, FY 1985 revenues were $1.8 million with costs of $1.2 million. As of that date, the level of the applicable operating reserves was $4.5 million. In the 1984 reduction, some factors used in projections were affected by an unanticipated increase in grain exports during the first few months of fiscal year 1985. Further, FGIS has and continues to adopt costs saving measures to provide the grain trade with the most cost effective programs practicable. Additionally effective August 1, 1984, FGIS implemented a new program in which additional supervisory authorities have been delegated to the States of California and Washington in their delegated capacities under the Act. This action permitted the closing of two field offices. The action will not change the level of fees assessed to the delegated States because the fees charged are assessed separately as set forth in the States' delegation of authority documents.

A comparison of FY 1984 actual costs with comparable FY 1985 actual costs indicates that FGIS costs have been reduced by approximately 9%. Presently, grain exports are at levels approximately 19% below the first quarter of FY 85 levels. Recent trends indicate that exports are running approximately 4.5% behind comparable 1984 figures. The trend is expected to continue. A comparison of FY 84 actual revenues with comparable FY 85 actual revenues indicates that FGIS revenues have been reduced approximately 41%.

Nevertheless, based upon present operating reserve levels, FGIS is reducing the fees for supervision of official services by approximately 40%.

This reduction will operate the programs at net losses to reduce the operating reserves on a planned gradual basis; thereby avoiding any potential sharp increase in fees as may be required because of unanticipated or accelerated program losses. The reduction when added to the 1984 reduction will reduce applicable fees by approximately 61% over early FY 1984 levels.

FGIS will continue to monitor its cost and revenues in this area so that appropriate action may be taken to further revise these fees, if deemed necessary.

FGIS is establishing fees to cover costs incurred for the supervision of agencies performing official Class Y weighing services. The fees have been set at a level which is anticipated not to increase applicable operating reserves.

The Administrator is authorized to perform permissive inspections under official standards or, upon request, under other approved criteria. Protein testing is one such other criteria and supervision fees for protein analysis performed by agencies are listed separately in the supervision fee schedule. In order to clarify the fee schedule and provide supervision fees for any and all official criteria, FGIS will assess $.20 supervision fees for protein, oil or any other analyses under the heading "official criteria." A conforming change is reflected in footnote 6.

Miscellaneous nonsubstantive changes, including redesignating and revising footnotes, are being made to clarify and facilitate the use of the fee schedule.

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Export, Grain.

PART 800—GENERAL REGULATIONS

Accordingly, 7 CFR Part 800 of the regulations is amended as follows:

1. The authority citation for Part 800 continues to read as follows:

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

2. In § 800.71(a), Schedule C, Tables 1 and 2 are revised to read as follows:

§ 800.71 Fees assessed by the Service.

(a) * * *

SCHEDULE C—FEES FOR FGIS SUPERVISION OF OFFICIAL INSPECTION AND WEIGHING SERVICES PERFORMED BY DELEGATED STATES AND/OR DESIGNATED AGENCIES IN THE UNITED STATES[1]

TABLE 1

Inspection services (bulk or sacked grain)	Official inspection or reinspection services
(1) Official sample-lot inspection service (white certificate):	
(i) For official grade and official factor determinations:	
(A) Truck or trailer (per inspection)[2]	$0.30
(B) Boxcar or hopper car (per inspection)[2]	0.95
(C) Barge (per inspection)[3]	6.15
(D) Ship (per ship)[3]	49.20
(E) All other lots (per inspection)[2,4]	0.30
(ii) For official factor or official criteria determinations:	
(A) Factor determination (per inspection) (maximum 2 factors)[5]	0.20
(B) Official criteria[5,6]	0.20
(2) Stowage examination services:	
(i) Ship (per stowage certificate)	3.00
(ii) Other carriers (per stowage certificate)	0.20
(3) Warehouseman's sample-lot inspection service (yellow certificate) or submitted sample inspection service (pink certificate):	
(i) For official grade and official factor determinations (per inspection)	0.30
(ii) For official factor or official criteria determinations:	
(A) Factor determination (per inspection) (maximum 2 factors)[5]	0.20
(B) Official criteria[5,6]	0.20
(4) Reinspection services:	
(i) Truck, boxcar, hopper car, barge, ship, warehouseman's sample-lot, submitted sample, factor determination, and all other lots (per sample inspected)	0.30
(ii) Official criteria[5,6]	0.20

SCHEDULE C—FEES FOR FGIS SUPERVISION OF OFFICIAL INSPECTION AND WEIGHING SERVICES PERFORMED BY DELEGATED STATES AND/OR DESIGNATED AGENCIES IN THE UNITED STATES[1]—Continued

NOTE: The footnotes for Table 1 are shown at the end of Table 2.

TABLE 2

Official services (bulk or sacked grain)	Official weighing services	
	(Class X)	(Class Y)
(1) Official weighing services:		
(i) Truck or trailer (per carrier)	$0.30	$0.20
(ii) Boxcar or hopper car (per carrier)	0.95	0.25
(iii) Barge (per carrier)	6.15	1.55
(iv) Ship (per carrier)[3]	49.20	N/A
(v) All other lots (per lot or part lot)[4]	0.30	0.20

[1] The fees include the cost of supervision functions performed by the Service for official inspection and weighing services performed by delegated States and/or designated agencies.

[2] A fee shall be assessed for each carrier or sample inspected if a combined lot certificate is issued or a uniform loading plan is used to determine grade.

[3] A fee shall be assessed per ship regardless of the number of lots or sublots loaded at a specific service point. A fee shall not be assessed for divided-lot certificates.

[4] Inspection services for all other lots include, but are not limited to, sampling service, condition examinations, and examination of grain in bins and containers. For weighing services, all other lots include, but are not limited to, sesvans and inhouse bin transfers.

[5] Fees shall be assessed for a maximum of two factors. If more than two factors are determined, fees are assessed at rates in Table 1 (1)(i) or (3)(i) above, as applicable, based on carrier or type sample represented.

[6] Official criteria includes, but is not limited to, protein and oil analyses. A fee shall be assessed for each sample tested.

* * * * *

Dated: September 13, 1985.

D.R. Galliart,

Acting Administrator.

[FR Doc. 85-22717 Filed 9-20-85; 8:45 am]

BILLING CODE 3410-EN-M

Animal and Plant Health Inspection Service

9 CFR Part 72

[Docket No. 85-083]

Texas (Splenetic) Fever in Cattle; Areas Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of Interim Rules.

SUMMARY: An interim rule amended the "Texas (Splenetic) Fever in Cattle" regulations by deleting from quarantined area status all of the previously quarantined portions of Dimmit and Zavala Counties in Texas, and by adding to and deleting from the quarantined area (the quarantined area is a strip of land along the Rio Grande River) portions of Cameron, Hidalgo, Kinney, Maverick, Starr, Val Verde, Webb, and Zapata Counties in Texas. Another interim rule further amended the regulations by adding to the quarantined area additional portions of Kinney, Maverick, and Val Verde Counties. This document affirms the changes made by the interim rules. The regulations, among other things, restrict the interstate movement from the quarantined area of certain cattle because of ticks which are vectors of splenetic or tick fever. Such ticks have been found to occur in the area added to the quarantined area. It is necessary to add such areas to the quarantined area in order to impose restrictions on the interstate movement of certain cattle from such areas and thereby help prevent the interstate spread of such ticks. Such ticks no longer occur in the areas deleted from quarantined area status. It is necessary to delete such areas from quarantined area status in order to delete unnecessary restrictions on the interstate movement of certain cattle.

EFFECTIVE DATE: September 23, 1985.

FOR FURTHER INFORMATION CONTACT: Dr. C.A. Gipson, Special Diseases Staff, VS, APHIS, USDA, Room 826, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8321.

SUPPLEMENTARY INFORMATION:

Background

An interim rule published in the Federal Register on December 21, 1984 (49 FR 49610-49614), amended the "Texas (Splenetic) Fever in Cattle" regulations in 9 CFR Part 72 by deleting from quarantined area status all of the previously quarantined portions of Dimmit and Zavala Counties in Texas, and by adding to and deleting from the quarantined area (the quarantined area is a strip of land along the Rio Grande River) portions of Cameron, Hidalgo, Kinney, Marerick, Starr, Val Verde, Webb, and Zapata Counties in Texas. The amendment became effective on the date of publication. Comments were solicited for 60 days following publication. No comments were received.

An interim rule published in the Federal Register on May 29, 1985 (50 FR 21795-21798), further amended the regulations by adding to the quarantined area additional portions of Kinney, Maverick, and Val Verde Counties. The amendment became effective on the date of publication. Comments were solicited for 60 days after publication. No comments were received.

The factual situations which were set forth in the documents of December 21, 1984, and May 29, 1985, still provide a basis for the changes made by the interim rules.

Executive Order and Regulatory Flexibility Act

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

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

It is anticipated that the number of cattle moved interstate annually from Texas which will be affected by this rule will be significantly less than 1 percent of the number of cattle moved interstate annually within the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V, 48 FR 29112, June 24, 1983; 49 FR 22675, May 31, 1984; 50 FR 14088, April 10, 1985.)

List of Subjects in 9 CFR Part 72

Animal diseases, Animal pests, Cattle, Quarantine, Transportation, Texas Fever, Splenetic Fever, Ticks.

PART 72—TEXAS (SPLENETIC) FEVER IN CATTLE

§ 72.5 [Amended]

Accordingly, the changes to 9 CFR 72.5 made by the interim rules published in the Federal Register at 49 FR 49610-49614 on December 21, 1984, and at 50 FR 21795-21798 on May 29, 1985, are adopted as final.

Authority: 21 U.S.C. 111-113, 115, 117, 120, 121-126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 17th day of September 1985.

B.G. Johnson,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 85-22716 Filed 9-20-85; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-NM-100-AD; Amdt. 39-5141]

Airworthiness Directives; Boeing Model 737-100, -200, and -300 Airplanes

AGENCY: Federal Aviation Administration (FAA), Dot.

ACTION: Final Rule, Request for Comments.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to Boeing Model 737-100, -200, and -300 airplanes. This AD requires replacement of escape slide pack release cable assembles with assemblies using a longer length cable. The current cable length could cause premature release of the slide pack during aggressive opening of floor level exits. If released early, the slide pack could drop out of its container inside the airplane; this causes the slide container to open before clearing the door sill thereby inhibiting further door opening. This situation, if not corrected, could

jeopardize successful evacuation of the airplane.

DATES: Effective October 15, 1985. Comments must be received by October 15, 1985.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124, or may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Gardlin, Airframe Branch, ANM-120S; telephone (206) 431-2932. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: During the emergency evacuation of a Boeing Model 737 airplane on August 22, 1985, at Manchester, England, the forward right hand door became jammed during a crewmember's initial attempt to open the exit; the exit was subsequently unjammed by the crewmember and was used during the evacuation. Investigation and interviews with the crew revealed that the slide had detached from the door while inside the airplane causing the slide pack container to open and jam in the doorway preventing outward motion of the door. The cause of the premature slide detachment has been traced to the length of the slide pack release cable. This cable is designed to release the slide pack during outward motion of the door after the door has cleared its cutout. If the door is opened aggressively, the cable can release the slide pack early, causing potential jamming of the exit and rendering it unusable for evacuation. The design resulting in this situation exists on aft doors and the forward right-hand door on Models 737-100 and -200, and only on the aft doors of Model 737-300.

Since this condition is likely to exist or develop on other airplanes of this model, the FAA has determined that an AD is necessary which requires replacement of slide pack release cable assemblies with assemblies using longer cables.

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

Although this action is in the form of a final rule, which involves an emergency and, thus, was not preceded by notice and public procedure, interested persons are invited to submit such written data, views, or arguments as they may desire regarding this AD. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Directives Rules Docket No. 84-NM-100-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. All communications received before the closing date will be considered by the Administator, and the AD may be changed in light of the comments received.

The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Boeing: Applies to Boeing Model 737-100, -200, and -300 airplanes, certificated in any category. Compliance required within 45 days after the effective date of this amendment, unless already accomplished.

To ensure proper door opening and escape slide deployment accomplish the following:

A. Replace slide pack release cable assemblies in accordance with Boeing Service Bulletin 737-25A1182, Original Issue, or later FAA-approved revisions.

B. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this AD who have not already received copies of the service bulletin cited herein may obtain copies upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective October 15, 1985.

Issued in Seattle, Washington, on September 12, 1985.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-22613 Filed 9-20-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-ASW-17; Amdt. 39-5129]

Airworthiness Directives; Sikorsky Model S-61L, S-61N, S-61NM, S-61R, S-61A, and S-61V Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires an initial and repetitive visual inspection to detect cracking of the main rotor blade spar of Sikorsky S-61L, S-61N, S-61NM, and S-61R series helicopters, certificated in all categories, and S-61A helicopters (serial numbers (S/N) 61083, 61087, 61094, and 61161) and S-61V (S/N 61271) helicopters, certificated in the restricted category which are operating under Part 133 of the Federal Aviation Regulations (FAR), Rotorcraft External-Load Operations, Class B, rotorcraft-load combination (as defined by Part 1 of the FAR). This AD is needed to provide a supplemental inspection system to AD 74-20-07, Rev. 5, to maintain the service lives of the main rotor blades specified in AD 75-26-10 and in the S-61A and S-61V Type Certificate (TC) Data Sheet H2EA, Note 6, for helicopters operating in external load operations, and to prevent helicopter operations with a cracked main rotor blade spar which could result

in the loss of the main rotor blade and probable loss of the helicopter.

DATES: Effective date: September 20, 1985.

The incorporation by reference of certain publications in the regulations is approved by the Director of the Federal Register as of September 20, 1985.

Compliance: As indicated in the body of the AD.

ADDRESSES: A copy of the applicable service bulletins (SB) and rotorcraft flight manuals (RFM) may be obtained from Sikorsky Aircraft, Division of United Technologies, North Main Street, Stratford, Connecticut 06601, Attn: S-61 Commercial Product Support Department.

A copy of the pertinent sections of the above documents is contained in the Rules Docket, Office of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Donald F. Thompson, Airframe Branch, ANE-152, Boston Aircraft Certification Office, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7113.

SUPPLEMENTARY INFORMATION: Main rotor blade spar cracking incidents detected by the blade inspection method (BIM) system on S-61 series helicopters have been reported by the manufacturer. The S-61 series helicopters operating under Part 133 external load operations such as logging have been determined as being subjected to a more severe service life spectrum than envisioned in the original certification program.

In order to maintain the service life of the main rotor blades specified in AD 75-26-10 and S-61A and S-61V TC Data Sheet H2EA, Note 6, this amendment takes into consideration the S-61 series fatigue spectrum pertaining to logging operations (or other operations with a high number of power cycles per hour) under Part 133, Rotorcraft External Load Operations. For helicopters equipped only with the visual blade inspection system (or a nonoperational in-cockpit blade inspection system), the visual blade indicators must be inspected every 1½ hours' time in service. If a positive indication of a pressure loss in the blade spar is obtained by either the visual blade inspection method (VBIM) or optional in cock-pit blade inspection method (CBiM) indicators, the suspect main rotor blade(s) must be removed prior to further flight and replaced with an approved airworthy blade. For S-61 series helicopters equipped with an in-cockpit blade inspection system which supplements the visual blade inspection system, inspection of the visual blade pressure indicators and transducers is conducted prior to the first flight of the day. Subsequent functional checks of the in-cockpit inspection system electrical circuit are conducted each 1 hour time in service and the inspection of the visual blade pressure indicators is conducted every 8 hours' time in service.

The VBIM system and the optional in-cockpit CBIM system instructions contained in this amendment may be found in Sikorsky S-61 Alert Service Bulletin (ASB) ASB61B15-28 or later revision approved by the Boston Aircraft Certification Office, New England Region.

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

The FAA has determined that this regulation involves a fleet of approximately 12 aircraft with an estimated additional fleet cost of $3,500 for each 50 hours' time in service. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291, (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979), (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal, and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, Incorporation by reference.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

Sikorsky Aircraft: Applies to Model S-61L, S-61N, S-61NM, and S-61R series helicopters, certificated in all categories, and S-61A (S/N's 61083, 61087, 61094, and 61161) and S-61V (S/N 61271) helicopters, certificated in the restricted category, which are operating under Part 133, Class B, Rotorcraft-external load combination operations.

Compliance is required as indicated (unless already accomplished).

To prevent operation with a main rotor spar crack and possible loss of the helicopter, accomplish the following:

(a) Within the next 25 hours' time in service after the effective date of this AD, unless already accomplished, remove main rotor blades from the rotorcraft that are not approved for use in Part 133 (Class B, Rotorcraft-external load combination operations), and replace with approved blades. The approved main rotor blades are as follows:

(1) The following blades are approved for Model S-61L, transport category helicopters operating up to a combined vehicle and cargo gross weight of 22,000 lbs, provided the main rotor blades have been altered and maintained in accordance with Service Bulletin (SB) 61B15-6, Rev. P, or later FAA-approved revisions, excluding Section 2, Part II:

(i) P/N's S6115-20501-041 and -042.

(ii) P/N's S6115-20601-042, -047, and -048.

(iii) P/N's 61170-20201-060, -061, and -062.

(2) The following blades are approved for Model S-61N, transport category helicopters operating up to a combined vehicle and cargo gross weight of 22,000 lbs, or Model S-61NM, transport category helicopters operating up to a combined vehicle and cargo gross weight of 20,500 lbs, provided the main rotor blades have been altered and maintained in accordance with SB No. 61B15-6, Rev. P, or later FAA-approved revisions, excluding Section 2, Part II.

(i) P/N's S6115-20501-041 and -042.

(ii) P/N's S6115-20601-041, -045, and -046.

(iii) P/N's S6188-15001-041 through -045.

(iv) P/N's 61170-20201-055, -056, -058, -059, -060, -061, -062, -065, and -067.

(3) P/N 61170-20201-062 blades are approved for the Model S-61A (S/N's 61083 and 61094), restricted category helicopters, operating up to a combined vehicle and cargo gross weight of 22,000 lbs.

(4) P/N's S6115-20201-2 and -3 blades are approved for the Model S-61A (S/N's 61087 and 61161), restricted category helicopter, operating up to a combined vehicle cargo gross weight of 19,000 lbs.

(5) P/N 61170-20201-060 blades are approved for the Model S-61V (S/N 61271), restricted category helicopter, operating up to a combined vehicle and cargo gross weight of 19,100 lbs.

(6) P/N's S6117-20101-041, -051, -054, -056, and -058 blades are approved for Model S-61R transport category helicopters operating up to a combined vehicle and cargo gross weight of 19,500 pounds.

(b) Within the next 1½ hours' time in service after the effective date of this AD, unless already accomplished, inspect main rotor blades equipped with approved visual

blade pressure indicators (VBIM) but not equipped with an in-cockpit blade inspection system (CBIM) in accordance with paragraph (c). After the initial inspection, conduct further inspections in accordance with paragraph (c) prior to the first flight of each day and conduct subsequent visual inspections of the VBIM indicators in accordance with Section 2, Part IV, paragraph 1a of Sikorsky Service Bulletin No. 61B15–6, Revision P, or later FAA-approved revisions, at intervals not to exceed 1½ hours' time in service from the last inspection.

(c) Inspect the VBIM indicators of the main rotor blades in accordance with procedures set forth in Section 2, Part IV, of Sikorsky SB No. 61B15–6 Rev. P, or later FAA-approved revisions.

(1) Conduct visual inspections of blade-mounted VBIM indicators from the transmission work platform of the helicopter or equivalent to ensure that an accurate visual check is conducted.

(2) The visual inspections of blade-mounted VBIM indicators shall be conducted by either an individual who holds a pilot certificate with approrpiate rating, or a mechanic certificate with airframe rating, or by an appropriately certificated maintenance entity. The person performing this inspection or check shall make entries of the results in the aircraft maintenance record including a description and date of the inspection and the name of the individual performing the inspection along with the certificate number, kind of certificate, and signature.

(d) For helicopters equipped with in-cockpit CBIM (reference Sikorsky SB No. 61B15–20E).

(1) Prior to the first flight of the day, after the effective date of this AD, unless already accomplished, and every 8 hours' time in service thereafter.

(i) Visually inspect the main rotor blade VBIM pressure indicators in accordance with paragraph (c).

(ii) Test the VBIM pressure indicators and the in-cockpit CBIM transducers in accordance with the procedures set forth in Section 2, Part IV, of Sikorsky SB No. 61B15–6, Rev. P, or later FAA-approved revisions.

(2) Check the in-cockpit blade inspection system electrical circuit and CBIM warning light in flight by activating the (cockpit) BIM test switch located on the left overhead quarter panel at least once each (1) hour time in service during flight operations in accordance with the rotorcraft flight manual (RFM).

(i) If the (cockpit) BIM warning light illuminates, continue operations in a normal manner.

(ii) If the (cockpit) BIM warning light does not illuminate, immediately check the BIM circuit breaker and reset if tripped.

(A) Repeat check of (cockpit) BIM test switch to verify if warning light illuminates. Continue with normal operations if BIM warning light functions properly.

(B) If the (cockpit) BIM warning light fails to illuminate, discontinue external load operations and land as soon as practical. Investigate and correct malfunction prior to further flight.

(3) If the (cockpit) BIM warning light illuminates during flight—

(i) Discontinue external load operations;

(ii) Reduce airspeed to 90 knots IAS;

(iii) Establish and continue operation at 104 percent N_r; and

(iv) Land at nearest suitable landing area.

Note.—For model S–61 helicopters not engaged in Part 133 external load operations, AD 74–20–07, Rev. 5, main rotor blade inspection requirements are applicable.

(e) Each blade with any black or red indication visible in the blade VBIM pressure indicator (or whose transducer activates the cockpit BIM warning light) is restricted from further flight until the cause of the indication is determined and corrected in accordance with procedures given in Sikorsky SB 61B15–6, Rev. P, or later FAA-approved revisions.

(f) Alternate inspections, repairs, modifications, or other means of compliance which provided an equivalent level of safety may be approved by the Manager, Boston Aircraft Certification Office, FAA, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

(g) Rotorcraft may be flown in accordance with the provisions of FAR §§ 21.197 and 21.199 to a base where the AD can be accomplished, except when a VBIM or CBIM indication exists.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Sikorsky Aircraft, Division of United Technologies, North Main Street, Stratford, Connecticut 06601, Attn: S–61 Commercial Product Support Department. These documents also may be examined at the Office of the Regional Counsel, Southwest Region, FAA, Bldg. 3B, 4400 Blue Mound Road, Fort Worth, Texas 76106.

This amendment becomes effective September 20, 1985.

Issued in Forth Worth, Texas, on August 23, 1985.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 85–22689 Filed 9–20–85; 8:45 am]

BILLING CODE 4910–13–M

Office of the Secretary

14 CFR Part 399

[Docket No. 42199; Amdt. No. 399–90]

Statements of General Policy; Shared Airline Designator Codes

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Department of Transportation is adopting a policy statement indicating that the Department will regard it as an unfair and deceptive practice for two or more airlines to share a single carrier designator code without giving reasonable and timely notice to consumers of the existence of any cooperative arrangement between the carriers and the identity of the carrier(s) actually providing service on each segment of the trip. To achieve reasonable and timely notice to consumers, carriers also will have to provide certain information concerning code-sharing relationships to the Official Airline Guide (OAG) and computer reservations system (CRS) vendors. This action is taken in response to a petition filed by a group of regional carriers.

DATES: The rule shall become effective on December 23, 1985. The policy statement also will require that carriers sharing codes provide additional information to the OAG and to CRS vendors then that already provided. Carriers may need additional time to comply with this aspect of the policy statement and, therefore, reasonable and timely notice concerning the submission of information to the OAG and to CRS vendors shall be effective on February 20, 1986. This should give all carriers adequate time to determine how to provide reasonable and timely notice, and to supply information to the OAG and CRS vendors.

FOR FURTHER INFORMATION CONTACT: Robert D. Young, Office of the Assistant General Counsel for Litigation, at (202) 426–4731; or Samuel E. Whitehorn, Office of the Assistant General Counsel for Regulations and Enforcement, at (202) 472–5577, Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590.

Background

Airlines use two-letter codes (designator codes) in the Official Airline Guide (OAG), in computer reservations systems (CRS's), and on tickets to identify the carrier providing the service. For the most part, each carrier has its own code, and each code is assigned exclusively to one carrier.

By agreement, some carriers integrate their schedules and operations with other carriers. As a part of that integration, these carriers sometimes share their designator codes. In the typical case, some or all of the flights operated by a commuter carrier are identified with the two-letter designator code of the large carrier with which it has a special relationship. Code-sharing cooperative arrangements have become much more prevalent in the industry during the past several years. With United Airlines' recent adoption of the practice, virtually all major U.S. carriers now share their codes with one or more smaller carriers.

While code-sharing is now widely used, a group of twelve regional carriers ("the Independent Regional Carriers") petitioned the Civil Aeronautics Board (Board) on May 14, 1984 to prohibit all carriers from sharing designator codes unless carriers had entered into a *bona fide* franchise agreement approved by the Board. Comments and reply comments to the petition were filed.

On October 23, 1984, the Board issued a notice of proposed rulemaking (NPRM) (49 FR 43709, October 31, 1984) concerning the use of designator codes. The Board instituted the rulemaking under section 411 of the Federal Aviation Act of 1958 (49 U.S.C. 1381). Under section 411, the Board had the authority to issue rules and regulations, or cease and desist orders, to prevent "unfair or deceptive trade practices or unfair methods of competition in air transportation or the sale thereof." *See United Airlines* vs. *Civil Aeronautics Board*, 7th Cir. No. 84–18/7, decided July 3, 1985. Comments and reply comments to the NPRM were filed. On January 1, 1985, the Board went out of existence without having taken final action on the NPRM. Under the Civil Aeronautics Board Sunset Act of 1984, 98 Stat. 1703, authority under section 411 of the Federal Aviation Act, and hence this rulemaking proceeding, transferred to this Department.

Summary

The Board proposed a policy statement that declared that the sharing of a single airline designator code by two or more carriers would be considered an unfair and deceptive practice unless consumers were given reasonable and timely notice of the existence of the arrangement and the identity of the carrier actually providing service on any given flight. Comments on two other alternatives also were requested. The first alternative would require direct, continuous disclosure in the same medium in which the shared airline designator code appears (e.g., OAG and CRS). The second alternative would involve proceeding instead by individual enforcement complaints in specific instances where a carrier's conduct appeared to violate section 411.

Comments and reply comments were filed with the Board by numerous parties. Some supported the proposed policy statement, some opposed it, and others suggested instead that the Board should prohibit the practice. Continental Airlines, American Airlines, Business Express, and Pocono Airlines favored the adoption of a general policy statement because it would allow participating carriers leeway to fashion their cooperative arrangements and disclosure policies according to individual circumstances. They pointed out that such a non-interventionist policy appropriately guided the Board throughout its CRS rulemaking (Docket 41686), and should be applied in this context as well. In addition, they argued that detailed rules would stifle the creation of innovative arrangements by effectively standardizing coordination requirements.

American, however, also argued that the proposed policy statement should not be applied to true "franchises" such as the Allegheny Commuter system and its own American Eagle network. It contended that such arrangements do not pose a deception problem because the major or sponsoring airline exerts the necessary quality control over all material aspects of the "franchisee's" operations, and the franchisees do not offer flights in their own names.

Finally, these commenters argued against requiring disclosure in CRS displays (direct disclosure). American, a CRS vendor, contended that compliance with this alternative would be expensive and time-consuming for CRS vendors. By contrast, others argued that a direct disclosure requirement could enable CRS vendors to frustrate cooperative arrangements by refusing to display the requisite information or by imposing additional fees on other carriers for this service.

The Independent Regional Carriers, Enterprise Airlines, KLM, British Airways, and United Airlines urged an outright ban on the sharing of airline designator codes as a deceptive and unfair trade practice. Alternatively, they urged adoption of a direct disclosure requirement, as did Trans World Airlines and the American Society of Travel Agents (ASTA). The vagueness of the policy statement, in their view, would render it ineffective. ASTA emphasized the importance of CRS's as the major information source for agents and, therefore, concluded that any notice must be made at least through CRS's.

United reported that its CRS displays a particular symbol to identify coordinated services, that the costs of such a CRS display are minimal, and that it also offered another existing service whereby more detailed disclosure of each arrangement's specific features could easily be arranged through its APPOLLO CRS system for a monthly fee. American, in a subsequent reply, claimed that it could adopt United's system of displaying code sharing arrangements at little cost but that the manual nature of United's "asterisk" system rendered its accuracy unreliable.

Several of the parties favoring the direct display alternative also argued that the regulation must, in conjunction with the requirement, require CRS vendors to indicate coordinated services on their displays. Absent this requirement, these parties contended compliance with the direct disclosure alternative would be left solely in the hands of CRS system owners. ASTA and the Independent Regional Carriers also argued that code-sharing carriers should disclose the relationship through telephone responses by airline reservation personnel, signs at airport gate and baggage claim areas, written inserts in ticket jackets that specify conditions of carriage, and in all advertising of participating carriers. ASTA further asserted that the regulation should establish a prerequisite for code-sharing: a guarantee by the carrier allowing its codes to be used that it will compensate passengers if the other carrier fails to fulfill its service obligations. ASTA believed that this requirement would only clarify, and not increase, existing legal obligations.

At the other extreme, Delta, Northwest, USAir, the Delta Connection (Atlantic Southeast Airlines, Comair, Rio Airways, and Ransome Airlines), Alaska Airlines, Frontier, and Frontier Commuter opposed any policy statement on the subject. As a threshold matter, they questioned the significance of the problem, for they considered the number of consumer complaints on file inadequate to support a rule. They also stated that coordinated services arrangements vary widely, making industrywide pronouncements inappropriate, stifling, or too vague to be helpful. Market forces are in their view adequate to correct abusive practices and are more efficient than regulation. Commenters argued that specific enforcement proceeding can and should address individual practices which may be inherently deceptive or the source of continuing problems.

Delta objected to any requirement that CRS vendors identify cooperative services on CRS display screens. It considered disclosure the responsibility solely of the participating carriers and it estimated that its programming and other costs for displaying this information in its CRS would be significant, although it provided no specific cost estimates.

Since the sunset of the CAB, the Independent Regional Carriers, American, Delta, USAir and its affiliates, and United have filed

additional comments, essentially restating their positions as outlined above. In addition, American recently submitted a letter, addressed to the Assistant Secretary for Policy and International Affairs, informing DOT that it has embarked on a project to develop the capability to identify shared-code flights in its SABRE CRS system. American indicated that the project should be completed by April, 1986, but noted that the accuracy of shared-code information in SABRE will depend on whether carriers sharing codes distinguish such flights in their schedule information submitted to the OAG which is the central source of data for CRSs. In addition, the OAG, recently notified all carriers that it intended to place an asterisk in the airline guide for all shared code flights, and asked carriers to provide accurate information concerning such flights to the airline guide. Copies of these letters have been placed in the docket.

Discussion

The Department believes that carriers sharing codes have an affirmative obligation to the public to advise ticket purchasers at the time of the transaction of the existence of any code-sharing relationship. The Department has decided that carriers sharing designator codes must provide reasonable and timely notice to travel agents and consumers of the existence of a code-sharing relationship as well as the identity of the airline actually providing service on any given flight segment. At a minimum, reasonable and timely notice consists of two elements. First, carriers must provide frequent, periodic notice in carrier advertising and in direct carrier contact with consumers so as to inform them of the existence of a code-sharing relationship and the identity of the airlines involved. Second, carriers must provide this information to the OAG and to CRS vendors (whenever carriers provide flight information directly to CRS vendors) in a format suitable to the computerized nature of those services.

This policy statement will prevent practices that may be deceptive or unfair to the public without extensively regulation code-sharing arrangements. The policy also gives carriers the freedom to create or modify their agreements to meet individual marketing objectives. At the same time, this approach provides guidance to carriers that desire to enter into or expand their use of code-sharing arrangements.

The Department also agrees with the Board's tentative conclusion that, from a consumer protection standpoint, code-sharing does have the capacity to confuse and deceive the public, but that the basic issue with code-sharing is one of disclosure and not one of inherent deception and unfairness. The bases for this conclusion, as stated in the NPRM, are that code-sharing appears similar to commercial franchising; that while some coordinated service arrangements may not truly offer the "on-line" connection quality implied or promised, many others appear to produce service akin to on-line connections; and that the few consumer complaints that have been filed do not indicate that code-sharing is inherently deceptive.

Several questions have been raised as to what constitutes adequate disclosure. The principal requirement is that the carrier make reasonable and timely efforts to insure that consumers are given a basis to inquire about the details of the prospective air transportation at the point of sale. At a minimum this means that, for transactions in which the carriers deal directly with consumers, the existence of the shared-code arrangement should be made clear. For example, when a consumer calls a particular carrier that engages in code-sharing, the sales clerk should indicate that the service offered is on a commuter affiliate, e.g., "Allegheny Commuter". As long as the name clearly conveys the information that the service will be provided on an airline different from the large carrier, the actual name need not be volunteered. This information should be sufficient to enable consumers to request additional information should it be desired.

For transactions involving travel agents, carriers must take reasonable steps to make sure that agents are also aware of the existence of the cooperative arrangement and the actual identity of the carrier providing the service when they make reservations and issue tickets. This includes a requirement that airlines must identify shared-code flights in schedule information provided to the OAG and/or CRS vendors in a manner that permits this information to appear in schedule listings of individual flights in those media. If carriers have doubts as to whether, in particular situations, their methods of disclosure satisfy the rule, they may obtain interpretative guidance from the Department.

Alternatives

The Department has decided not to require, at this time, that CRS vendors provide disclosure in their displays of shared-code flights, since it appears that the major vendors—particularly United and American, whose systems account for approximately 80 percent of the value of tickets sold through CRS's—already offer, or has indicated it will provide, this information in their respective systems. In addition, another CRS vendor, TWA (whose system represents approximately 12 percent of the value of tickets sold through CRS's), noted that altering the CRS's to provide information on code sharing should not be difficult. Requiring carriers sharing codes to provide the necessary information to the OAG and to CRS vendors will allow the vendors to adapt each of their respective systems to display the information. There appears to be little need to impose further legal requirements on airline CRS vendors when the major vendors apparently perceive this information to be valuable to consumers and have indicated a willingness to provide code sharing information voluntarily.

The Department also has decided not to impose a complete ban on the practice of code-sharing because of its potential benefits, and because those that urged such action have not presented new facts or considerations to persuade the Department that the Board was incorrect in its conclusion that code-sharing is not inherently deceptive. We are not prepared at this time, however, to conclude that the practice is not injuring competition, as the Board did in the NPRM. Instead, this aspect of the problem is the subject of a study that has been commissioned by the Department. The study, which is expected to be completed by the end of 1985, will be available for public comment, and will be placed in a separate docket.

The Department has decided that it will not prescribe the precise form of disclosure or the precise elements that render a code-sharing arrangement acceptable, as some have urged. Concerning the form of disclosure, as described above, a detailed notice requirement would hamper carrier flexibility that is necessary to achieve marketing objectives and fashion mutually acceptable arrangements. In addition, such a regulation would limit each carrier's ability to determine how to publicize its coordinated services, especially in light of the wide variety of arrangements. Some may choose to emphasize that the services offered are superior to services offered by others because they involve a higher degree of coordination. Each carrier can make that choice under the policy statement adopted.

Defining which agreements are acceptable also would require detailed regulations which would only serve to standardize a product that need not fit into a single mold. Obviously, the

numerous arrangements have different and distinct features, and the degree of coordination between the carriers varies. Regulating the arrangements or the precise form of disclosure, therefore, becomes an extremely difficult task. In addition, since both the details of cooperative arrangements and the consumer expectations that arise from a shared code may vary widely, the best way to close the gap between expectation and reality is a general, reasonable notice requirement.

The Department also declines to establish service or financial prerequisites for code-sharing, as ASTA proposes. The problem, as stated earlier, is one of disclosure rather than inherently deceptive practices. In the unlikely event that there are practices evidencing blatant disregard for the rights of consumers to make informed decisions, such practices can be dealt with through enforcement. Moreover, enforcement proceedings also may be available to respond to complaints that an airline whose code appears on a ticket is denying responsibility for failure to provide the service and refusing to make passengers whole.

Further, the Department rejects American's proposal that the policy statement be limited to apply only to those arrangements in which the smaller carrier operates both under its own name and under the name of the larger carrier. The Department does not believe that this single criterion would be an adequate measure of whether a code-sharing relationship is deceptive.

In addition, there is no justification for exempting operation in any State from this policy statement, as Alaska Airlines requested. Disclosure is no more or less a problem because of the particular points on one's route system.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act, Pub. L. 96-354, is designed to ensure that agencies consider flexible approaches to the regulation of small businesses and other small entities. It requires regulatory flexibility analyses for rules that, if adopted, will have a significant economic impact on a substantial number of small entities.

In PSDR-85, the Civil Aeronautics Board undertook an initial regulatory flexibility analysis, and tentatively concluded that the rule if adopted would not have a significant economic impact on a substantial number of small entities.

The final rule adopted here does not differ from that originally proposed in any substantial manner. Therefore, the initial regulatory flexibility analysis remains valid. I therefore certify that this rule will not have a significant economic impact on a substantial number of small entities.

Regulatory Impact Review

This rule has been evaluated under Executive Order 12291, dated February 17, 1981, which requires every executive agency to prepare a Regulatory Impact Analysis for every "major rule," as defined in the Executive Order. The final rule is not considered major under E.O. 12291. The requirements impose only minor changes to current industry practices governing notice of services offered, and submission of minor additional information to the OAG and CRS vendors. Thus, the costs of compliance to all affected groups should be minimal. In addition, because the anticipated impact of this policy statement is so minimal, the Department has not prepared a full Regulatory Evaluation, as provided for under the Department's Regulatory Policies and Procedures. Under those Policies and Procedures, this rulemaking is considered to be significant.

Paperwork Reduction Act

The collection-of-information requirements in this proposal are subject to the Paperwork Reduction Act, Pub. L. 96-511, 44 U.S.C. Chapter 35. Those requirements will be submitted to the Office of Management and Budget (OMB) for review and approval. The policy statement will become effective upon approval of the collection of information request by OMB, and a notice and approval number will be published in the **Federal Register.**

List of Subjects in 14 CFR Part 399

Advertising, Air carriers, Air transportation, Antitrust, Consumer protection, Essential air service, Travel agents.

PART 399—[AMENDED]

In consideration of the foregoing 14 CFR Part 399 is amended as follows:

1. The authority citation for 14 CFR Part 399 is revised to read as follows:

Authority: Secs. 102, 204, 404, 408, 411, 412, 419, 1102; Pub. L. 85-726 as amended; 72 Stat. 740, 743, 760, 769; 92 Stat. 1732; (49 U.S.C. 1302, 1324, 1374, 1378, 1381, 1382, 1389, 1502.)

2. A new § 399.88 is added to read as follows:

§ 399.88 Policy on airline designator code-sharing.

It is the policy of the Department of Transportation to consider the use of a single air carrier designator code by two or more air carriers to be unfair and deceptive and in violation of § 411 of the Act unless, in conjunction with the use of such codes, the air carriers give reasonable and timely notice of the existence of such code-sharing arrangements. Reasonable notice shall as a minimum require code-sharing air carriers to:

(1) Identify, with an asterisk or other means, each flight in which the airline code is different from the code of the carrier actually providing the service, in written or electronic schedule information provided by the air carrier to the public, the Official Airline Guide and, where applicable, computer reservations system vendors;

(2) Provide information in any direct oral communication with a consumer concerning a code-sharing flight sufficient to alert the consumer that the flight will occur on an airline different from the carrier whose code is used and identify the carrier(s) actually providing the service; and

(3) Provide frequent, periodic notice in advertising media that can reasonably be expected to convey to potential passengers and travel agents the existence of a code-sharing relationship and the identities of the carriers actually providing the service.

Issued in Washington, D.C. on September 17, 1985.

Elizabeth Hanford Dole,

Secretary of Transportation.

[FR Doc. 85-22651, Filed 9-18-85; 1:00 pm]

BILLING CODE 4910-62-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 371, 374, 386 and 399

[Docket No. 50944-5144]

Exports to COCOM Countries

AGENCY: Office of Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Export Administration Amendments Act of 1985 (Pub. L. 99-64) amended section 5(b), "Policy Toward Individual Countries," of the Export Administration Act of 1979. In section 5(b)(2), the validated license requirement for certain exports to countries participating in the multilateral export control organization known as the Coordinating Committee (COCOM) was removed. This rule amends the Export Administration Regulations (15 CFR Parts 368-399) to implement this change.

EFFECTIVE DATE: September 23, 1985.

FOR FURTHER INFORMATION CONTACT: Joan Szivos, Exporter Assistance Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (Telephone: (202) 377-4479).

SUPPLEMENTARY INFORMATION:

Regulatory Changes

A new section 5(b)(2) of the Export Administration Act requires that validated license controls be removed from exports to countries participating in COCOM (a multilateral control coordinating committee participated in by Belgium, Canada, Denmark, France, the Federal Republic of Germany, Greece, Italy, Japan, Luxembourg, the Netherlands, Norway, Portugal, Turkey, the United Kingdom, and the United States), when the performance characteristics of the commodities would permit approval of exports to controlled countries with only notification to the COCOM governments. The potential for removing the validated license requirement for exports to non-COCOM countries is contained within section 5(k). To facilitate implementation of section 5(b)(2), a new General License G-COM is established to allow exports of qualifying commodites to COCOM countries without need for a validated export license.

The Office of Export Administration maintains the Commodity Control List (CCL), which lists those items subject to Department of Commerce export controls. Certain entries on the CCL are amended to indicate that commodities indentified in selected "Advisory Notes" within those entries may be shipped to COCOM participating countries under the new General License G-COM. The reexport requirements contained in 15 CFR Part 374 are amended for consistency with this new procedure, and the regulations in 15 CFR Part 386 are amended to apply the destination control statement requirement to exports under General License G-COM.

Rulemaking Requirements

1. This rule is exempted from the provisions of the Administrative Procedure Act requiring notice of proposed rulemaking, an opportunity for public participation, and a delay in effective date (5 U.S.C. 553) pursuant to section 13(a) of the Export Administration Act of 1979, as amended. This regulation also involves a military and foreign affairs function of the United States.

2. This rule removes a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, because certain commodities formerly requiring a validated export license can now be shipped under new General License G-COM.

3. Because a notice of proposed rulemaking is not required to be published for this rule, it is not a rule within the meaning of section 601(2) of the Regulatory Flexibility Act and is not subject to the requirements of that Act. Accordingly, no initial or final Regulatory Flexibility Analysis has been or will be prepared.

4. Because this rule concerns a military and foreign affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291 and, accordingly, is not subject to the requirements of that Order. Therefore, no preliminary or final Regulatory Impact Analysis has been or will be prepared.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects in 15 CFR Parts 371, 374, 386 and 399

Exports.

Accordingly, Parts 371, 374, 386 and 399 of the Export Administration Regulations are amended as follows:

1. The authority citation for 15 CFR Part 399 continues to read and the authority citations for 15 CFR Parts 371, 374 and 386 are revised to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97-145 of December 29, 1981 and by Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985).

PART 371—[AMENDED]

2. Section 371.8 is added to read as follows:

§ 371.8 General License G-COM: Certain shipments to COCOM countries.

(a) *Scope.* A general license designated G-COM is established, authorizing exports to countries participating in the multilateral control mechanism known as the Coordinating Committee (COCOM) of commodities having performance characteristics that permit the United States to approve exports to controlled countries with only notification to the COCOM governments.

(b) *Eligible countries.* The countries participating in COCOM that are eligible to receive exports under this general license are Belgium, Denmark, France, the Federal Republic of Germany, Greece, Italy, Japan, Luxembourg, the Netherlands, Norway, Portugal, Turkey, and the United Kingdom. Exports to these countries may be made under G-COM *only* when intended for consumption within an eligible country or for reexport among these countries.

(c) *Eligible commodities.* The commodities eligible for export under this general license are described in Advisory Notes in certain entries on the Commodity Control List. When G-COM is applicable, the "Control for ECCN" section of the CCL entry will include a "G-COM Eligibility" paragraph indicating which Advisory Notes apply. Only those commodities whose technical performance characteristics are specifically described in a designated Advisory Note may be exported to an eligible country under General License G-COM. Eligibility for G-COM is based on the technical performance characteristics of a given commodity, not its intended end-use. Consequently, end-use restrictions in the Advisory Notes may be disregarded in determining whether G-COM may be used. However, shipments of such eligible commodities are subject to the prohibitions contained in § 371.2(c).

PART 374—[AMENDED]

§ 374.2 [Amended]

3. In § 374.2, paragraph (a)(1) is amended by inserting "*G-COM,*" between "*GTE,*" and "*G-NNR,*"

PART 386—[AMENDED]

§ 386.6 [Amended]

4. In § 386.6, paragraph (a)(1)(ii) is amended by revising "or GLR" to read "GLR, or G-COM".

PART 399—[AMENDED]

5. In § 399.1, a sentence is added to the end of paragraph (f)(3)(i) to read as follows:

§ 399.1 The Commodity Control List and how to use it.

* * * * *

(f) * * *

(3) * * *

(i) * * * However, if the shipment is to COCOM participating country and the commodity meets the technical performance characteristics described in an Advisory Note that is listed in the paragraph titled "G-COM Eligibility," you may ship under General License G-COM (see § 371.8). The countries eligible for this procedure are Belgium, Denmark, France, the Federal Republic of Germany, Greece, Italy, Japan,

Luxembourg, the Netherlands, Norway, Portugal, Turkey, and the United Kingdom.

* * * * *

6. In Supplement No. 1 to § 399.1 (the Commodity Control List), in entries listed below, add a new paragraph after the *Special License Available* paragraph of each entry to read as follows: *"G–COM Eligibility*: Commodities that meet technical specifications described in Advisory Note 1 under this entry regardless of end-use, subject to the prohibitions contained in § 371.2(c)."

A. In Commodity Group 0, Metal-Working Machinery: ECCN 1091A; and

B. In Commodity Group 5, Electronics and Precision Instruments: ECCNs 1545A and 1586A.

7. In Supplement No. 1 to § 399.1 (the Commodity Control List), in entries listed below, add a new paragraph after the *Special Licenses Available* paragraph of each entry to read as follows:

"G–COM Eligibility: Commodities that meet technical specifications described in the Advisory Note under this entry regardless of end-use, subject to the prohibitions contained in § 371.2(c)."

A. In Commodity Group 1, Chemical and Petroleum Equipment: ECCN 1133A;

B. In Commodity Group 3, General Industrial Equipment: ECCNs 1312A, 1353A, and 1355A;

C. In Commodity Group 5, Electronics and Precision Instruments: ECCNs 1531A, 1532A, 1541A, 1549A, 1559A, 1568A, and 1588A;

D. In Commodity Group 6, Metals, Minerals, and their Manufacturers: ECCNs 3604A and 3605A; and

E. In Commodity Group 7, Chemicals, Metalloids, Petroleum Products and Related Materials: ECCN 1767A.

8. In Supplement No. 1 to § 339.1 (the Commodity Control List), Commodity Group 3, General Industrial Equipment, in ECCN 1391A, add a new paragraph after the *Special License Available* paragraph to read as follows: *"G–COM Eligibility*: (commodities that meet technical specifications described in Advisory Note 2 under this entry regardless of the end-use, subject to the prohibitions contained in § 371.2(c)."

9. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5, Electronics and Precision Instruments, in ECCN 1501A, add a new paragraph after the *Special Licenses Available* paragraph to read as follows: *"G–COM Eligibility*: Commodities that meet technical specifications described in Advisory Notes 1, 2, 3, 4, and 6 under this entry regardless of end-use, subject to the prohibitions contained in §371.2(c)."

10. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5, Electronics and Precision Instruments, in ECCN 1510A, add a new paragraph after *Special Licenses Available* paragraph to read as follows: *"G–COM Eligibility*: Commodities that meet technical specifications described in Advisory Notes 6 and 7 under this entry regardless of end-use, subject to the prohibitions contained in § 371.2(c)."

11. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5, Electronics and Precision Instruments, in ECCNs 1519A, add a new paragraph after *Special Licenses Available* paragraph to read as follows: *"G–COM Eligibility*: Commodities that meet technical specifications described in Advisory Notes 1, 3, and 4 under this entry regardless of end-use, subject to the prohibitions contained in § 371.2(c)."

12. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5, Electronics and Precision Instruments, in ECCNs 1520A and 1537A, add a new paragraph after *Special Licenses Available* paragraph of each entry to read as follows: *"G–COM Eligibility*: Commodities that meet technical specifications described in Advisory Notes 1 through 5 under this entry regardless of end-use, subject to the prohibitions contained in § 371.2(c)."

13. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5, Electronics and Precision Instruments, in ECCN 1522A, add a new paragraph after *Special Licenses Available* paragraph to read as follows: *"G–COM Eligibility*: Commodities that meet technical specifications described in Advisory Notes 4 and 6 under this entry regardless of end-use, subject to the prohibitions contained in § 371.2(c)."

14. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5, Electronics and Precision Instruments, in ECCN 1526A, add a new paragraph after *Special Licenses Available* paragraph to read as follows: *"G–COM Eligibility*: Commodities that meet technical specifications described in Advisory Notes 4 and 5 under this entry regardless of end-use, subject to the prohibitions contained in § 371.2(c)."

15. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5, Electronics and Precision Instruments, in ECCNs 1529A and 1564A, add a new paragraph after the *Special Licenses Available* paragraph of each entry to read as follows: *"G–COM Eligibility:* Commodities that meet technical specifications described in Advisory Notes 2 and 3 under this entry regardless of end-use, subject to the prohibitions contained in § 371.2(c)."

16. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5, Electronics and Precision Instruments, in ECCN 1533A, add a new paragraph after the *Special Licenses Available* paragraph to read as follows: *"G–COM Eligibility:* Commodities that meet technical specifications described in Advisory Note 5 under this entry regardless of end-use, subject to the prohibitions contained in § 371.2(c)."

17. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5, Electronics and Precision Instruments, in ECCNs 1544A, 1558A and 1567A, add a new paragraph after the *Special Licenses Available* paragraph of each entry to read as follows: *"G–COM Eligibliity:* Commodities that meet technical specifications described in Advisory Note 2 under this entry regardless of end-use, subject to the prohibitions contained in § 371.2(c)."

18. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5, Electronics and Precision Instruments, in ECCN 1548A, add a new paragraph after the *Special Licenses Available* paragraph to read as follows: *"G–COM Eligibility:* Commodities that meet technical specifications described in Advisory Note 3 under this entry regardless of end-use, subject to the prohibitions contained in § 371.2(c)."

19. In Supplement No. 1 to § 399.1 (the Commodity Control List) Commodity Group 5, Electronics and Precision Instruments, in ECCN 1555A, add a new paragraph after the *Special Licenses Available* paragraph to read as follows: *"G–COM Eligibility:* Commodities that meet technical specifications described in Advisory Notes 2 and 4 under this entry regardless of end-use, subject to the prohibitions contained in § 371.2(c)."

20. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5, Electronics and Precision Instruments, in ECCN 1565A, add a new paragraph after the *Special Licenses Available* paragraph to read as follows: *"G–COM Eligibility:* Commodities that meet technical specifications described in Advisory Notes 3, 5, 7, and 9 (a) and (b) under this entry regardless of end-use, subject to the prohibitions contained in § 371.2(c). However, with regard to Advisory Note 9 (a) and (b), the limitations imposed by paragraph (b)(5) (i), (iii), and (vi), (b)(6)(iii), (b)(7) (iv), (v), and (vi), (b)(8)(i), and (b)(9)(iii) are waived."

21. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 5, Electronics and Precision Instruments, in ECCN 1572A, add a new paragraph after the *Special Licenses*

Available paragraph to read as follows: *"G–COM Eligibility:* Commodities that meet technical specifications described in Advisory Notes 5, 6, and 7 under this entry regardless of end-use, subject to the prohibitions contained in § 371.2(c)."

22. In Supplement No. 1 to § 399.1 (the Commodity Control List), in Commodity Group 7, Chemicals, Metalloids, Petroleum Products and Related Materials, in ECCNs 1754A and 1755A; add a new paragraph after the *Special Licenses Available* paragraph of each entry to read as follows: *"G–COM Eligibility:* Commodities that meet technical specifications described in Advisory Notes 1 and 2 under this entry regardless of end-use, subject to the prohibitions contained in § 371.2(c)."

Dated: September 18, 1985.

James K. Pont,

Deputy Director, Office of Export Administration, International Trade Administration.

[FR Doc. 85–22650 Filed 9–19–85; 9:40 am]

BILLING CODE 3510-DT-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9188]

Louisiana State Board of Dentistry; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires the Louisiana State Board of Dentistry (the Board), the sole licensing authority for dentists in Louisiana, among other things, to cease adopting or maintaining any rule, regulation, policy, or course of conduct that would tend to prevent or hinder the advertising or publishing of pricing discounts for dental products and services. The Board is also barred from prohibiting any dentist or dental organization from advertising the availability of a discounted price; taking or threatening to take disciplinary action against advertisers of such prices; declaring the publication of discounted prices to be illegal, unethical, unprofessional, or otherwise improper; and including or encouraging any individual or organization to take any actions prohibited by the order. The Board is additionally required to distribute a copy of the order and an explanatory announcement to all dentists licensed to practice in Louisiana; and provide such material to all those applying for a license for a period of two years.

DATE: Complaint issued Oct. 29, 1984. Decision issued Aug. 26, 1985.[1]

FOR FURTHER INFORMATION CONTACT: Arthur Lerner, FTC/B–823, Washington, D.C. 20580, (202) 724–1341.

SUPPLEMENTARY INFORMATION: On Monday, June 10, 1985, there was published in the **Federal Register**, 50 FR 24200, a proposed consent agreement with analysis In the Matter of Louisiana State Board of Dentistry for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

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

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: § 13.370 Suppliers and sellers; § 13.367 Members. Subpart—Combining or Conspiring: § 13.384 Combining or conspiring; § 13.395 To control marketing practices and conditions; § 13.475 To restrict competition in buying; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; 13.533–20 Disclosures; 13.533–45 Maintain records. Subpart—Cutting Off Supplies or Service: § 13.655 Threatening disciplinary action or otherwise.

List of Subjects in 16 CFR Part 13

Advertising, Dentists, Trade practices.

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

Emily H. Rock,

Secretary.

[FR Doc. 85–22629 Filed 9–20–85; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 13

[Docket No. C–3161]

Montana Board of Optometrists; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

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

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires the Montana Board of Optometrists (the Board), among other things, to cease adopting or maintaining any rule, regulation, policy or course of conduct that has the effect of prohibiting, restricting, or discouraging any qualified person from advertising price-related terms or claims of professional superiority; and declaring such advertising to be illegal, unethical, or unprofessional. The Board is barred from taking or threatening disciplinary action against any individual or organization that advertises price-related terms and claims of professional superiority; and from inducing or assisting others to take any of the prohibited actions. The Board is additonally required to distribute a copy of the order and an explanatory announcement to all optometrists licensed to practice in Montana; and provide such material to all those applying for a license for period of five years.

DATE: Complaint and Order issued Aug. 29, 1985.[1]

FOR FURTHER INFORMATION CONTACT: Cynthia Wicker, FTC/H–292, Washington, D.C. 20580, (202) 423–5607.

SUPPLEMENTARY INFORMATION: On Monday, June 10, 1985, there was published in the **Federal Register**, 50 FR 24203, a proposed consent agreement with analysis In the Matter of Montana Board of Optometrists for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

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

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: § 13.370 Suppliers and sellers. Subpart—Combining or Conspiring: § 13.384 Combining or conspiring: § 13.395 To control marketing practices and conditions; § 13.475 To restrict

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

competition in buying: § 13.497 To terminate or threaten to terminate contracts, dealing, franchises, etc. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective action and/or requirements: § 13.533–20 Disclosures: § 13–533–45 Maintain records. Subpart—Cutting Off Supplies or Service: § 13–655 Threatening disciplinary action or otherwise.

List of Subjects in 16 CFR Part 13

Advertising, Optometrists, Trade practices.

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

Emily H. Rock,

Secretary.

[FR Doc. 85–22837 Filed 9–20–85; 8:45 am]

BILLING CODE 6750–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34–22413; File No. S7–787]

National Market System Securities

AGENCY: Securities and Exchange Commission.

ACTION: Final rule amendments.

SUMMARY: To permit increased competition between market centers, the Commission is amending its transaction reporting rule and its rule governing the designation of securities qualified for trading in a national market system to permit, in certain circumstances, a security to be concurrently designated as a national market system security and traded on an exchange.

EFFECTIVE DATE: January 1, 1986.

FOR FURTHER INFORMATION CONTACT: William W. Uchimoto, Esq., (202) 272–2409, Room 5193, Division of Market Regulations, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Summary

The Securities and Exchange Commission ("Commission") is adopting amendments to its transaction reporting rule, Rule 11Aa3–1 [1] under the Securities and Exchange Act of 1934 ("Act"),[2] and its rule governing the designation of securities qualified for trading in a national market system ("NMS"), Rule 11Aa2–1 ("MNS Securities Rule") [3] under the Act.

The NMS Securities Rule currently permits a security to be designated as an NMS Security only if it is traded solely in the over-the-counter ("OTC") market, and terminates a security's NMS designation if it becomes listed or admitted to unlisted trading privileges ("UTP") on an exchange. The amendments to the rule will permit stocks that are not reported pursuant to the Consolidated Tape Association ("CTA") Plan [4] to be traded on an exchange and concurrently designated as NMS Securities.

The amendments direct the NASD and the exchanges that trade NMS Securities to file a joint plan for consolidating exchange and OTC quotation and transaction reporting of these securities. The Commission, in another release issued today announcing the Commission's policy on granting UTP on OTC securities,[5] similarly directs that the exchanges and the NASD develop a plan to provide procedures and a mechanism for consolidating OTC and exchange quotation reporting in NMS Securities upon which UTP is granted. That plan, which will cover both listed NMS Securities and NMS Securities traded on an exchange pursuant to UTP, is to be submitted to the Commission by December 1, 1985 and implemented by January 1, 1986.

II. Background and Summary of Comments

As a result of concerns voiced by the Boston Stock Exchange, Inc. ("BSE") and the Midwest Stock Exchange, Inc. ("MSE") [6] that the structure of the NMS Securities Rule is causing them to lose listings, the Commission issued a release on February 1, 1985 [7] soliciting comment on proposed rule amendments that would permit, in certain circumstances, a security to be concurrently designated as an NMS Security and traded on an exchange ("OTC/Exchange-Traded NMS Security"). In response to the release the Commission received comment letters from the NASD, the BSE, Milton Cohen, the Philadelphia Stock Exchange, Inc. ("Phlx"), the Amex, and the Federal Regulation of Securities Committee of the American Bar Association ("ABA").[8]

The Phlx stated that it had lost "at least 30% of its volume in primary listed securities" due to the provision in the NMS Securities Rule which requires the termination of a security's NMS designation "[i]f such security becomes listed and registered, or admitted to unlisted trading privileges, on an exchange."[9] The Phlx also stated that it was "impossible to estimate the number of listings which we have not received because of [the Limiting Provison]."[10] The Phlx advocated that the Commission grant exchanges UTP on OTC securities so that the Phlx could continue to trade those securities which delisted from the exchange.[11]

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[1] 17 CFR 240.11Aa3–1.

[2] 15 U.S.C. 78a *et seq.*, as amended by the Securities Acts Amendments of 1975 ("1975 Amendments"), Pub. L. No. 94–29 (June 4, 1975), 89 Stat. 97, [1975] U.S. Code Cong. & Ad. News 97.

[3] 17 CFR 240.11Aa2–1.

[4] The CTA Plan is a joint industry plan governing the collection and dissemination of transaction reports in listed securities that substantially meet the original listing standards of either the American ("Amex") or New York ("NYSE") Stock Exchange. The National Association of Securities Dealers, Inc. ("NASD") and seven national securities exchanges are CTA participants.

[5] *See* Securities Exchange Act Release No. 22412 (September 16, 1985) ("OTC/UTP Policy Release"). The Commission solicited comment on whether the Commission should commence granting UTP applications on OTC securities in Securities Exchange Release No. 21498 (November 18, 1984), 49 FR 46156.

[6] *See* Letter from Charles J. Mohr, Chairman and Chief Executive Officer, BSE, to Senator William Proxmire, dated November 23, 1983; and Letter from Kenneth I. Rosenblum, President, MSE, to George A. Fitzsimmons, Secretary, SEC, dated August 6, 1984.

[7] *See* Securities Exchange Act Release No. 21703 (February 1, 1985), 50 FR 7065 ("Proposal Release").

[8] *See* Letter from Milton H. Cohen, to John P. Wheeler III, Secretary, SEC, dated April 2, 1985; Letter from James M. Cangiano, Secretary, NASD, to John Wheeler, Secretary, SEC, dated April 11, 1985; letter from Brian Riddell, Executive Vice President, BSE, to John P. Wheeler, Secretary, SEC, dated April 11, 1985; Letter from Richard M. Phillips, Chairman, Federal Regulation of Securities Committee, ABA, John M Liftin, Chairman, Subcommittee on Securities Markets and Market Structure, ABA, and Andrew M. Klein, Drafting Committee, ABA, to John P. Wheeler III, Secretary, SEC, dated April 12, 1985; Letter from Nicholas A. Giordano, President, Phlx, to John P. Wheeler III, Secretary, SEC, dated March 22, 1985 (commenting on the Commission's OTC/UTP Release, but also commenting on OTC/Exchange-Traded NMS Securities); and Letter from Richard O. Scribner, Executive Vice President, Amex, to John Wheeler, Secretary, SEC, dated May 2, 1985.

[9] 17 CFR 240.11Aa2–1(b) ("Limiting Provision").

[10] The BSE also indicated that it was in the process of losing some long-time BSE listed companies even after publication of the Proposal Release. *See e.g.*, Letter from Joseph P. Raferty, Vice President and Corporate Secretary, BSE, to John Wheeler, Secretary, SEC, dated May 22, 1985.

[11] The Commission has granted UTP on stocks which were delisted and subject to last sale reporting. *See e.g.*, Order Approving Pacific Stock Exchange, Inc. ("PSE") UTP Application in the common stock of Pacific Resources, Inc., Securities Exchange Act Release No. 17584 (February 27, 1981). The Commission has denied granting UTP on stocks that were delisted and not subject to last sale reporting. *See e.g.*, Denial of PSE UTP Application in the common stock of Xonics, Inc., Securities Exchange Act Release No. 19609 (March 17, 1983).

The Phlx did not believe that restricting the Limiting Provision to stocks ineligible for CTA reporting "sufficiently resolves the unduly anticompetitive effects of this rule" as some CTA eligible securities have been required to delist to become NMS Securities. While the Amex did not object to non-CTA reported listed securities being designated as NMS Securities, the Amex saw no benefits in extending the amendments' coverage to include listed CTA reported securities. At a minimum, Amex felt it was inappropriate to seek to address the question of whether CTA-eligible securities shall be reported through NASDAQ in the context of a proceeding intended to focus on what it viewed as a far narrower issue.[12]

The Amex and the BSE believed that the issue of UTP on OTC securities and the creation of a mechanism for concurrent transaction and quotation reporting of these securities should precede the resolution of such a mechanism for OTC/Exchange-Traded NMS Securities. Pending a resolution of the latter mater, the BSE urged a moratorium on further delisting resulting from the Limiting Provision. While the ABA believed that the proposed amendments "may prove workable as an interim measure," the ABA recommended that the permanent approach would be to define "all OTC stocks that become listed or admitted to UTP on an exchange" as "qualified securities" and compel them to be reported pursuant to the CTA Plan (the ABA believed that the CTA was more established than the NASD's transaction reporting plan for NMS Securities).

Similarly, Milton Cohen questioned the amendments' effect on consolidating reporting through NASD facilities as opposed to exchange facilities, *i.e.*, the CTA. Mr. Cohen did not view NASDAQ as a "true NMS facility" and had reservations with respect to whether the OTC market would receive the bulk of trading volume in OTC/Exchange-Traded NMS Securities.[13]

The Amex recommended a revision to the NMS Securities Rule so that a security's "NMS designation will terminate when a security which is listed or subject to unlisted trading privileges becomes CTA-reported." Without such a revision, the Amex stated that

> a NASDAQ/NMS security could retain its NMS designation and would continue to be reported through NASDAQ, even after becoming CTA eligible by listing on the Amex or the New York Stock Exchange or meeting CTA eligibility requirements while traded or a regional exchange. It may even permit an existing listed, CTA-reported security to the designated NMS, substituting NASDAQ reporting for CTA reporting for these securities.[14]

The NASD did not oppose the concept of OTC/Exchange-Traded NMS Securities but desired that the amendments make clear that the regional exchanges cannot frustrate issuers from seeking NMS designation by unilaterally causing these issuers' securities to be CTA-reported or by refusing to remove off-board trading restrictions.[15]

The NASD also argued that the Commission should reaffirm that specialists executing transactions in securities other than on the floor of an exchange must become members of the NASD because their off-board dealings are "over-the-counter transactions," and that the exchanges should waive their access fees to permit OTC market makers to effect transactions on the exchange floor.

The NASD offered to consolidate quotation and transaction reporting in OTC/Exchange-Traded NMS Securities through NASD facilities. The NASD also noted each NASDAQ market maker has a unique symbol identifying the market maker and suggested that exchange specialists be similarly identified. Finally, the NASD requested that its exemption from having to identify OTC market makers who compose the best bid and offer display ("BBO") of NASDAQ Level 1 service[16] and from having to identify OTC market makers with respect to transaction reporting in NMS Securities be extended to reporting in OTC/Exchange-Traded NMS Securities.[17]

III. Discussion

After considering the comments, and in light of the Commission's decision to grant exchanges UTP on certain NMS Securities, the Commission has determined to adopt revised amendments that permit non-CTA reported securities to be designated as NMS Securities and concurrently listed on an exchange. The amendments would only permit those securities that are not subject to exchange off-board trading restrictions to receive this dual status. The amendments also allow NMS

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[12] Indeed, the Commission has issued a release soliciting comment on whether NMS Securities should be included in further NMS initiatives and whether exchange listed securities should be designated as NMS Securities. *See* Securities Exchange Act Release No. 22127 (June 21, 1985), 50 FR 26584.

[13] The central thrust of Mr. Cohen's comment letter, however, was that the Commission should designate listed and OTC securities that exhibited a multiple trading interest as NMS Securities and require that those securities trade in NMS facilities such as intermarket trading linkages.

[14] The Amex and ABA argued that the proposed definition of "NASDAQ security" contained in proposed paragraph (a)(3)(ii)(B) of the NMS Securities Rule is problematic because by definition a "NASDAQ security" could not be subject to a consolidated transaction reporting plan whereas NMS Securities are subject to such a plan. Accordingly, these commentators argued that no securities could be designated as NMS Securities. The Commission disagrees with these commentators' analysis; the definition's sole use is to indicate the group of securities that are eligible for designation as NMS Securities. In this regard, prior to being designated an NMS Security, a "NASDAQ security" is not subject to the NASD's NMS Securities reporting plan. Nevertheless, to remove any misunderstandings, the Commission has revised the definition to make clear the intention to limit the group of eligible securities to non-CTA reported stocks.

[15] Off-board trading restrictions limit or condition the ability of exchange members to effect transactions otherwise than on an exchange in securites which are traded on the exchange. The Commission has abrogated off-board agency restrictions (except agency cross transactions) (*see* 17 CFR 240.19c-1, Securities Exchange Act Release No. 11942 (December 19, 1975), 41 FR 4507; and abrogated off-board principal restrictions with respect to new exchange listings (*see* 17 CFR 240.19c-3,) (Securities Exchange Act Release No. 16888 (June 11, 1980), 45 FR 41125).

[16] NASDAQ Level 1 service provides the inside market for each NASDAQ security; pursuant to the exemption it does not identify market makers reflected in those quotations. The NASD was exempted from paragraph (b)(1) of Rule 11Ac1-1 ("Quote Rule") under the Act, 17 CFR 240.11Ac1-1, which requires the NASD to provide specific market maker identifiers with quotations disseminated to vendors. In exempting the NASD from having to display OTC market maker identifiers in the BBO, the Commission stated that "the present dealer nature of the OTC market makes the need for such identifiers substantially less than for exchange-traded securities. [footnote omitted] Specifically, customers who purchase OTC securities often deal directly with a market maker in those securities and are therefore less concerned over whether their orders are executed on an agency or principal basis than they are that that execution is at a price at least as good as the best bid or offer (as the case may be)." *See* Securities Exchange Act Release No. 18585 (March 23, 1982), 47 FR 13265. NASDAQ Level 2 and Level 3 services provide the quotations of each market maker in a particular NASDAQ security and identifies the market maker by symbol.

[17] The NASD was exempted from paragraph (b)(2)(i)(C) of Rule 11Ac1-2 ["Vendor Display Rule"] under the Act, 17 CFR 240.11Ac1-2, which requires vendors that disseminate transaction information for reported securities to provide an identifier indicating the market center associated with the consolidated last sale display. Specifically, the Commission exempted NASDAQ, the NASD's wholly owned subsidiary from having to display specifific market maker identifiers with respect to transaction reports in NMS Securities because the Transaction Reporting Rule does not require the NASD to provide such identifiers to vendors. Accordingly, the NASD only shows that transaction reports in NMS Securities have originated from the OTC market. *See* Letter from Richard G. Ketchum, Associate Director, Division of Market Regulation, SEC, to Gordon S. Macklin, President, NASD, dated March 31, 1982.

Securities that become traded by an exchange pursuant to UTP to retain their NMS designation.

The Commission believes that a grant of UTP on NMS Securities has essentially the same market structure effects as permitting listed non-reported securities to be simultaneously designated as NMS Securities. In both cases exchanges and OTC market makers would each be able to trade the affected securities. There are differences, however, with respect to competition between exchanges and the NASD for the listing and registration of securities. In the case of UTP, the issuer's consent to exchange trading is unnecessary and the exchange derives no listing or other type of registration fees; in the case of a listed security which is also an NMS Security an issuer remains listed and it continues to pay listing-related fees. Under the OTC/Exchange-Traded NMS Securities amendments, the Rule no longer will require issuers of non-reported exchange-listed securities to delist, depriving the exchange of listing fees, in order to achieve NMS designation.

By limiting OTC/Exchange-Traded NMS Securities to non-CTA reported securities, the Commission is avoiding problems of conflicting reporting plans and at the same time ensuring that a category of listed stocks that previously would not have had the benefit of consolidated last sale reporting will now receive such reporting.[18]

In this regard, the Commission believes that OTC and exchange quotation and transaction reporting in OTC/Exchange-Traded NMS Securities should be consolidated in the NASDAQ system, because these securities would be CTA ineligible under the rule, and the OTC market generally has received the predominant share of the trading volume in those non-reported listed stocks that seek NMS designation.[19] Therefore, the Commission believes that the development of a separate system for these securities would engender unnecessary costs and investor confusion.

The amendments require the NASD and exchanges to submit a joint transaction reporting plan, the product of negotiation and mutual agreement, covering the specifics of consolidated reporting for these securities. Because this process is identical to integrating reporting in OTC securities upon which UTP is granted, the Commission in the OTC/UTP Policy Release also has directed the NASD and exchange participants to submit a plan which provides for consolidating reporting in NMS Securities that are listed as well as OTC/UTP securities.[20] As noted in that release, the Commission expects the parties to submit this plan by December 1, 1985 so that it can be implemented in full by January 1, 1986.

The NASD's comment letter raises a number of significant issues that must be discussed and resolved by the NASD and the exchange participants in formulating the joint reporting plan. The Commission has preliminary views on a number of the issues raised by the NASD. In general, the Commission believes that the approach to these issues outlined below should serve to maximize competition between markets in OTC/Exchange-Traded NMS Securities.

First, the NASD was concerned about the ability of a regional exchange to veto an issuer's choice of having its security designated as an NMS Security by causing the security to be CTA-reported. The Commission notes that to be eligible to be CTA-reported, a security listed on a regional exchange must substantially meet the Amex or NYSE listing standards, and that under the CTA Plan the regional exchanges must apply to have their securities CTA-reported.[21] The Commission agrees that a regional exchange has some flexibility in interpreting and applying the CTA eligibility standards; as a practical matter, however, these standards are not the totally elective process suggested in the NASD's comment letter. Moreover, a regional exchange would appear to have no incentive to make such an improper designation since if a listed stock becomes CTA-reported, an issuer could delist its security and seek NMS Securities designation. Nonetheless, the Commission believes that in cases of conflict the exchange should consult with the issuer before designating the security as eligible for CTA reporting so that the issuer's security can retain its NMS Securities designation if the issuer so desires. With respect to OTC/UTP securities, the Commission is conditioning the grant of OTC/UTP so that an exchange could not trade an OTC stock on a UTP basis if the stock becomes CTA-reported.[22]

Second, with respect to specialist membership in the NASD, the Commission does not believe that an exchange specialist must become an NASD member to trade OTC/Exchange-Traded NMS Securities in the OTC market so long as it is exempt from such registration pursuant to Rule 15b9-1 of the Act.[23] That Rule provides an exemption for exchange market makers who carry no customer accounts and effect trades for their own account with or through another registered broker or dealer.[24]

Third, the Commission does not believe competition between market makers would be fostered by the NASD's suggestion that exchange specialists be identified individually; such identification ignores the fact that those quotations could reflect agency orders held by the specialist or interest of the floor participants. Rather, the Commission believes that quotations of exchange specialists must be identified as those of the exchange on which they make markets.[25] In addition, the Commission believes that it is important to require the NASD to identify exchange quotations when these quotations are reflected in the BBO and to identify the exchange which disseminated transaction reports in OTC/Exchange-Traded NMS Securities. The Commission notes that this is consistent with the reporting of exchange-traded securities through CTA. Moreover, the Commission believes that exchange identifiers with respect to quotations and transaction reports will facilitate increased competition between OTC and exchange markets, to the ultimate benefit of the investing public. The Commission will modify the NASD's exemption accordingly.[26]

Fourth, similar to the position taken by the Commission in the OTC/UTP Policy Release, the Commission believes that OTC and exchange market makers trading OTC/Exchange-Traded NMS Securities must have access, at a

[18] The Commission shares the Phlx's concern that by limiting the amendments to non-CTA reported securities, forced delistings could continue to occur where an issuer of a CTA reported security applied for designation as an NMS Security. The Commission believes that this problem can best be solved through an amendment to the CTA Plan or an interpretation of that plan permitting withdrawal of a security's eligibility for CTA reporting simultaneous with its designation as an NMS Security.

[19] *See* OTC/UTP Policy Release, *supra* note 5.

[20] Exchanges that are presently trading OTC securities pursuant to a grant of UTP would be directly subject to the amended Transaction Reporting Rule requirement to develop a reporting plan.

[21] *See* Section VI(d) of the CTA Plan.

[22] *See* OTC/UTP Policy Release, *supra* note 5.

[23] 17 CFR 240.15b9-1.

[24] The Commission notes that several regional exchanges permit broker-dealer firms, which do retail business and accordingly hold customer accounts, to become specialists. The Commission understands that most, if not all, of these specialists are already registered as NASD members.

[25] *See* OTC/UTP Policy Release, *supra* note 5.

[26] In this regard, the Commission believes that the justification for granting the exemptions from identifying quotations and trades with respect to OTC market maker identifiers still exists. *See* discussion, *supra* notes 16 and 17.

minimum, to one another's market via telephone. Accordingly, the Commission has amended the NMS Securities Rule so that exchanges trading OTC/Exchange-Traded NMS Securities are required to provide NASDAQ market makers telephone access to their markets just as the NASD permits exchange specialists to effect trades with NASDAQ market makers. The Commission believes that a more sophisticated intermarket trading linkage and trade-through rules should be extended to OTC/Exchange-Traded NMS Securities at the time these facilities and rules are made applicable to OTC/UTP securities.

Finally, to ensure equal regulation with respect to short sales, the Commission has issued a release proposing amendments that would exempt exchange and OTC market makers, and other broker-dealers, from Rule 10a–1,[27] the Commission's short sale rule with respect to transactions in OTC/Exchange-Traded NMS Securities.[28]

IV. Effects on Competition

Section 23(a)(2) [29] of the Act requires the Commission, in adopting rules under the Act, to consider the anticompetitive effects of such rules, if any, and to balance any anticompetitive impact against the regulatory benefits gained in terms of furthering the purposes of the Act. In adopting the amendments, the Commission believes that permitting exchanges to trade certain NMS Securities on a listed basis will be procompetitive, adding exchange specialists' capital and participation to an existing multiple dealer environment. The Commission believes that consolidated last sale reporting of OTC/Exchange-Traded NMS Securities will facilitate increased competition between OTC and exchange markets to the ultimate benefit of the investing public.

V. Regulatory Flexibility Act Consideration

Section 603(a) [30] of the Administrative Procedure Act,[31] as amended by the Regulatory Flexibility Act ("RFA"),[32] generally requires the Commission to undertake a regulatory flexibility analysis of the impact of a rule or amendment on "small entities," unless exempted under Section 605(b) on the basis that the rule or rule amendments would not have a significant impact on a substantial number of small entities. The Commission believes that the amendments are exempt from the RFA. The amendments would affect those national securities exchanges that seek to trade OTC/Exchange-Traded NMS Securities and these entities are not considered small entities for purposes of ther RFA.[33] The Commission also believes that the amendments would not have a significant economic impact on small issuers. The amendments' primary effect on issuers would be to give issuers the option of having another market maker, an exchange specialist, in their securities. This alternative may result in some lowering of the costs of raising capital for small issuers but would not be of a magnitude that would have a significant economic impact on small issuers. Currently, NMS Securities are required to have at minimum two market makers. The Commission believes that the addition of another market maker will not significantly affect trading in these securities, and will not have a significant adverse effect on the OTC market makers that trade those securities. Accordingly, the Chairman of the Commission has certified that the Rule amendments will not have a significant impact on a substantial number of small entities.

List of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

VI. Statutory Basis and Text of the Amendments

Title 17, Chapter II of the Code of Federal Regulations is amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read as follows:

Authority: Sec. 23, 48 stat. 901, as amended, 15 U.S.C. 78w. * * * § 240.11Aa2–1 and § 240.11Aa3–1 issued under secs. 11A and 23(a), 15 U.S.C. 78k–1, 78w(a).

2. Section 240.11Aa2–1 is amended by revising paragraphs (a)(3) and (b)(3) as follows:

§ 240.11Aa2–1 Designation of national market system securities.

(a) *Definitions.* For purposes of this section:

* * * * *

(3) The term "NASDAQ security" shall mean any registered equity security for which quotation information is disseminated in the NASDAQ electronic inter-dealer quotation system ("NASDAQ"):

(i) Which is not listed or admitted to unlisted trading privileges on a national securities exchange ("exchange"); or

(ii) Which is listed or admitted to unlisted trading privileges on an exchange, provided that:

(A) No rule, stated policy or practice of such exchange shall prohibit or condition, or be construed to prohibit, condition or otherwise limit, directly or indirectly the ability of any member to effect any transaction in such security otherwise than on such exchange, and

(B) Such exchange shall permit NASDAQ market makers telephone access to exchange trading facilities with respect to transactions in NMS Securities to the same extent that exchange market makers are permitted access to NASDAQ market makers, and

(C) Transaction reports in such security are not collected, processed and made available pursuant to the plan submitted to the Securities and Exchange Commission pursuant to Rule 17a–15 (subsequently amended and redesignated as Rule 11Aa3–1) under the Securities Exchange Act of 1934, as amended, (the "CTA Plan"), which plan was declared effective as of May 17, 1974.

* * * * *

(b) *Designation criteria.* * * *

(3) Any security designated as a national market system security pursuant to this section shall be deemed qualified for trading in a national market system (or any facility or subsystem thereof) so long as its designation remains effective.

The effectiveness of any designation pursuant to paragraphs (b)(1) or (b)(2) of this section with respect to a security shall terminate if such security is reported pursuant to the CTA Plan, or designation of such security is revoked, or during any period the designation of such security has been suspended, by the NASD in accordance with the terms of an effective designation plan.

* * * * *

3. Section 240.11Aa3–1 is amended by revising paragraphs (a)(4), (a)(5), (a)(6), (b)(1), and (b)(2)(i) as follows:

§ 240.11Aa3–1 Dissemination of transaction reports and last sale data with respect to transactions in reported securities.

(a) *Definitions.* For purposes of this section.

* * * * *

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[27] 17 CFR 240.10a–1.

[28] *See* Securities Exchange Act Release No. 22414 (September 16, 1985). In that release, the Commission also seeks comment on whether the short sale rule should apply to all NMS Securities.

[29] 15 U.S.C. 78 w(a)(2).

[30] 5 U.S.C. 603(a).

[31] 5 U.S.C. 551 *et seq.*

[32] Pub. L. No. 96–354, 94 Stat. 1164. (September 19, 1980).

[33] 17 CFR 240.0–10(e).

(4) The term "reported security" shall mean any listed equity security or national market system security for which a transaction reporting plan with respect to transactions in such security is required to be filed pursuant to this section.

(5) The term "listed equity security" shall mean any equity security listed and registered, or admitted to unlisted trading privileges, on a national securities exchange ("exchange") that is not a national market system security.

(6) The term "national market system security" shall mean any security or class of securities which is designated as qualified for trading in a national market system pursuant to Section 11A(a)(2) of the Act and the procedures established thereunder.

* * * * *

(b) *Filing and effectiveness of transaction reporting plans.*

(1) Every exchange shall, with respect to

(i) Transactions in listed equity securities executed through its facilities and

(ii) Transactions in national market system securities executed through its facilities, and every association shall, with respect to

(A) Transactions in listed equity security executed by its members otherwise than on an exchange and

(B) Transactions in national market system securities executed otherwise than on an exchange, file with the Commission a transaction reporting plan.

(2) * * *

(i) Reporting requirements with respect to transactions in listed equity securities or national market system securities, for any broker or dealer subject to the plan;

* * * * *

By the Commission.

John Wheeler,

Secretary.

September 16, 1985.

[FR Doc. 85-22700 Filed 9-20-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 158 and 178

[T.D. 85-159]

Customs Regulations Amendment Relating to Entry Summary Filing

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to allow importers to file entry summaries and pay duty for less than the invoiced and manifested number of packages in a "permitted" shipment, provided the importer submits both a discrepancy report and, in lieu of the carrier's declaration on the report (attesting to the shortage), copies of the dock receipt or other documents evidencing nonreceipt of the lost or missing packages. This amendment is necessary because the carrier is often reluctant to provide the declaration requested, thus forcing the importer to pay unnecessary duties on lost or missing packages and later claim a refund. The purpose of the amendment is to relieve importers of the burden of requiring them to obtain the carrier's declaration on the discrepancy report.

EFFECTIVE DATE: October 23, 1985.

FOR FURTHER INFORMATION CONTACT: Legal Aspects: Jerry C. Laderberg, Entry Procedures and Penalties Division (202-566-5765). Operational Aspects: Thomas Davis, Office of Cargo Enforcement and Facilitation (202-566-5354), U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Section 158.2, Customs Regulations (19 CFR 158.2), provides that an importer may file an entry summary for consumption or an entry summary for warehouse for less than the invoiced and manifested number of packages in a "permitted" shipment if he files with the entry summary a Customs Form 5931, in triplicate. Section 158.1, Customs Regulations (19 CFR 158.1), defines a permitted shipment as one in which Customs authorizes the carrier bringing the shipment to the port to make delivery to the consignee or the next carrier and:

(a) These parties in interest, or their agents, make a joint determination of the quantities being delivered, or,

(b) The carrier bringing the shipment to the port, at its option, independently declares the quantities available for delivery by filing with the district director, no later than the close of business on the next working day after a determination of quantities is made, a signed statement that:

(1) An independent determination of quantities of merchandise available for delivery has been made, within the date of the determination shown;

(2) At least 4 days have elapsed since the consignee or his agent was notified that Customs has authorized delivery; and,

(3) The merchandise was and is available for delivery.

The Customs Form 5931, titled "Discrepancy Report and Declaration," must be completed by both the importer and the importing or bonded carrier, as appropriate, and must contain a declaration by the carrier that the missing packages were not available for delivery within the provisions of section 448(a), Tariff Act of 1930, as amended (19 U.S.C. 1448(a)).

Section 158.3, Customs Regulations (19 CFR 158.3), provides that a refund shall be allowed for duties paid for lost or missing packages in a shipment included in an entry summary whenever it is established to the satisfaction of the district director, before liquidation of the entry summary becomes final, that the packages claimed to be lost or missing were not delivered to the consignee or another carrier. A claim for this allowance must be made on Customs Form 5931 completed by both the importer and the importing or bonded carrier. If the carrier refuses to complete Customs Form 5931, the claim may nevertheless be allowed if the importer completes Customs Form 5931 and attaches copies of the dock receipt or other documents evidencing nonreceipt of the lost or missing packages.

Under these regulations, an importer who cannot obtain the immediate cooperation of the carrier in completing the Customs Form 5931, upon entry or presentation of the entry summary must pay the duty on the lost or missing packages and later seek a refund of the duty under § 158.3. Importers are thus forced to pay unnecessary duties because of the carrier's refusal to cooperate or its delay in completing the form.

To relieve importers of the burden of obtaining the carrier's attestation to the shortage on Customs Form 5931 (in order to file an entry summary for the actual number of packages in a shipment), by notice published in the **Federal Register** on October 23, 1984 (49 FR 42576), it was proposed to allow importers to file an entry summary for the actual number of packages released, provided that they submit both Customs Form 5931 completed by them and, in lieu of the carrier's declaration of the form, copies of the dock receipt or other documents evidencing nonreceipt of the lost or missing packages. Importers would thereby be allowed to avail themselves of the relief offered in § 158.3 at the time the entry summary is filed, rather than at some later date before liquidation of the entry summary becomes final.

As explained in the notice, the proposed change is currently operative in all Customs field offices, by virtue of

a telex from Customs Headquarters dated June 6, 1983, instructing them to make the change pending its incorporation into § 158.2.

A discussion of the three comments received in response to the notice follows.

Discussion of Comments

Comment: The first commenter appears to support the amendment, but suggests that the final rule put into effect a simplified system for handling short shipments of containers, i.e., when shipments are not included in the container load forwarded on one vessel but instead are forwarded on a later vessel. The commenter complains that the current method for accounting for this type of shortage is not uniform.

Response: The suggestion is beyond the scope of the proposal. We will, however, review this matter to determine what, if any, action should be taken.

Comment: The second commenter supports the proposal but suggests that the new procedure for allowing importers to file entry summaries for less than the invoiced and manifested number of packages in a shipment should include heavily damaged cargo which will be abandoned by the importer, as well as short shipments, as described above.The commenter also assumes that there will be no time deadline for filing Customs Form 5931 and that the existing procedures for filing entry summaries will apply to merchandise released under a "live" entry, *i.e.*, an entry in which the entry summary and estimated duties are filed at the time the merchandise is released.

Response: There are provisions in § 158.21, Customs Regulations, for allowance in duties upon satisfactory proof of the loss or theft of merchandise, or the injury or destruction of merchandise in a number of situations, some of which would cover the situation of damaged cargo. Section 158.22, Customs Regulations, however, provides that the provisions of § 158.21 do not apply in cases where allowances in duties are made under Subpart A or B of Part 158, Customs Regulations (as they will be by the amendment to § 158.2 in this document). Also, section 563, Tariff Act of 1930, as amended (19 U.S.C. 1563(a)), significantly limits the situations in which Customs can make an allowance in duties to those where the merchandise was in Customs custody. Given the large number of situations involving claims filed under 19 U.S.C. 1563(a) and § 158.21 *et seq.*, Customs Regulations, it would be unwise to extend the less onerous procedure contained in the amendment to § 158.2 to other cases.

With regard to the commenter's assumption that there is no time deadline in which to file Customs Form 5931, we note that the purpose of the amendment is to allow the importer to make an adjustment in the invoiced and manifested number of packages in the shipment at the time the entry summary is filed, rather than at some later date before liquidation of the entry summary becomes final. As long as Customs Form 5931 is submitted before, or at the time, the entry summary is filed, an allowance in duties will be granted before liquidation.

With regard to the application of existing entry procedures for merchandise released under a "live" entry, we note that this would continue. In this situation the entry summary has been filed before the importer realizes that he has not received all the invoiced merchandise. Thus, the entry summary will not reflect less than the invoiced or manifested amount of packages in the shipment and the importer cannot avail himself of the new procedures under the amendment to § 158.2.

Comment: The last commenter objects to the limited coverage of the proposal. He views it as only correcting problems with traditional break-bulk cargo where imports are unloaded on a pier and the importer picks up loose freight on a piece count. He also offers a number of observations on the problems involved with containerized freight and submits proposed regulatory amendments on this subject.

Response: The suggestions of this commenter do not relate to the proposed amendment. They represent an overhaul of the quantity control manual procedures which we will review separately for appropriate action.

Upon consideration of the comments received, and further review of the matter, it has been determined advisable to adopt the amendment as proposed.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), it is certified that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 or 604.

Drafting Information

The principal author of this document was Susan Terranova, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Paperwork Reduction Act

The collection of information requirements contained in § 158.2 are subject to the provisions of the Paperwork Reduction Act (44 U.S.C. 3504(h)) and have been cleared by the Office of Management and Budget (OMB). Accordingly, Part 178, Customs Regulations (19 CFR Part 178), which lists the information collections contained in the regulations and the control numbers assigned by OMB, is being amended to include OMB Control Number 1515-0037.

List of Subjects in 19 CFR Parts 158 and 178

Customs duties and inspections, Imports, Freight, Reporting and recordkeeping requirements, Paperwork requirements, Collections of information.

Amendments to the Regulations

PART 158—RELIEF FROM DUTIES ON MERCHANDISE LOST, DAMAGED, ABANDONED, OR EXPORTED

Section 158.2, Customs Regulations (19 CFR 158.2), is revised to read as follows:

§ 158.2 Shortages in packages released under immediate delivery or entry.

An importer may file an entry summary for consumption or an entry summary for warehouse for less than the invoiced and mainfested number of packages in a shipment "permitted" and delivered to him or deposited in a bonded warehouse under the immediate delivery procedure in § 142.21 of this chapter, or under the entry documentation in § 142.3(a), if he files with the entry summary a Customs Form 5931 in triplicate. The Customs Form 5931 shall be completed by the importer with attached copies of the dock receipt or other documents evidencing nonreceipt of the lost or missing packages.

(R.S. 251, as amended, sec. 1, 19 Stat. 247, 249, sec. 1, 36 Stat. 965, sec. 624, 46 Stat. 759, sec. 641, 46 Stat. 759, as amended, sec. 648, 46 Stat. 762 (19 U.S.C. 66, 197, 198, 1624, 1641, 1648))

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

Section 178.2, Customs Regulations (19 CFR 178.2), is amended by inserting the

following in the appropriate numerical sequence according to the section number under the columns indicated:

§ 178.2 Listing of OMB Control Numbers.

* * * * *

19 CFR section	Description	OMB Control No.
§ 158.2	Filing of entry summary and payment of duty for less than invoiced number of packages in shipment.	1515-0037

(R.S. 251, as amended, sec. 624, 46 Stat. 759, 77A Stat. 14, Pub. L. 96-511, 94 Stat. 2812, 44 U.S.C. 3501 *et seq.*, (19 U.S.C. 1624))

William von Raab,

Commissioner of Customs.

Approved: August 28, 1985.

David D. Queen,

Acting Assistant Secretary of the Treasury.

[FR Doc. 85-22667 Filed 9-20-85; 8:45 am]

BILLING CODE 4820-02-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 213

Collection of Claims

AGENCY: Agency for International Development.

ACTION: Final rule.

SUMMARY: The Agency for International Development proposes to amend part 213 to implement the Federal Claims Collection Standards of the Department of Justice and the General Accounting Office.

EFFECTIVE DATE: September 23, 1985.

FOR FURTHER INFORMATION CONTACT: Jan W. Miller, Office of the General Counsel, Room 6943 NW., Agency for International Development, Washington, D.C., Telephone (202) 632-9434.

SUPPLEMENTARY INFORMATION: On June 21, 1985, the proposed revisions to 22 CFR Part 213 were published in the Federal Register for comment (50 FR 25720). No comments were received. The only substantive change from the proposed rule is the deletion of § 213.8 which dealt with delegations of authority. Because they are found in other agency directives, it was felt that it was unnecessarily duplicative to have them in Part 213.

List of Subjects in 22 CFR Part 213

Claims.

Accordingly, 22 CFR Part 213 is revised to read as follows:

PART 213—COLLECTION OF CLAIMS

Sec.

Authority: Sec. 621, Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2381.

§ 213.1 Purpose.

These regulations prescribe the procedures to be used by the Agency for International Development ("AID") in the collection of claims owed to AID and to the United States.

§ 213.2 Scope.

(a) *Applicability of Federal Claims Collection Standards.* Except as set forth in this part or otherwise provided by law, AID will conduct administrative actions to collect claims (including offset, compromise, suspension, termination, disclosure and referral) in accordance with the Federal Claim Collection Standards ("FCCS") of the General Accounting Office and Department of Justice, 4 CFR Parts 101-105.

(b) This part is not applicable to:

(1) Claims arising out of loans for which compromise and collection authority is conferred by section 635(g)(2) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2395(g)(2).

(2) Claims arising from investment guaranty operations for which settlement and arbitration authority is conferred by section 635(i) of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2395(i).

(3) Claims against any foreign country or any political subdivision thereof, or any public international organization.

(4) Claims where the A.I.D. Administrator or his designee determines that the achievement of the purposes of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2151 *et seq.*, or any other provision of law administered by A.I.D. require a different course of action.

§ 213.3 Subdivision of claims.

A debtor's liability arising from a particular contract or transaction (for example, each individual Supplier's Certificate and Agreement, Form AID 282) shall be considered a single claim for purposes of the monetary ceilings of the FCCS.

§ 213.4 Late payment, penalty and administrative charges.

(a) Except as otherwise provided by statute, loan agreement or contract, A.I.D. will assess:

(1) *Late payment charges* (interest) on unpaid claims at the higher of the Treasury tax and loan account rate or the prompt payment interest rate established under section 12 of the Contract Disputes Act of 1978.

(2) *Penalty charges* at 6 percent a year on any portion of a claim that is delinquent for more than 90 days.

(3) *Administrative charges* to cover the costs of processing and calculating delinquent claims.

(b) Late payment charges shall be computed from the date of *mailing* or *hand delivery* of the notice of the claim and interest requirements.

(c) *Waiver.* (1) Late payment charges are waived on any claim or any portion of a claim which is paid within 30 days after the date on which late payment charges begin to accrue.

(2) The 30 day period may be extended on a case-by-case basis if it is determined that an extension is appropriate.

(3) AID may waive late payment, penalty and administrative charges under the FCCS criteria for the compromise of claims (41 CFR Part 103) or upon a determination that collection of the charges would be against equity and good conscience or not in the best interests of the United States, including for example:

(i) Pending consideration of a request for reconsideration, administrative review or waiver under a permissive statute,

(ii) If repayment of the full amount of the debt is made after the date upon which interest and other charges become payable and the estimated costs of recovering the residual balance exceed the amount owed, or

(iii) If collection of interest or other charges would jeopardize collection of the principal of the claim.

§ 213.5 Demand for payment.

(a) A total of three progressively stronger written demands at approximately 30-day intervals will normally be made, unless a response or other information indicates that additional written demands would either be unnecessary or futile. When necessary to protect the Government's interest, written demand may be preceded by other appropriate actions under the Federal Claims Collection Standards, including immediate referral for litigation and/or offset.

(b) The initial written demand for payment (usually a Bill for Collection, Form AID 7-129) shall inform the debtor of:

(1) The basis for the claim;

(2) The amount of the claim;

(3) The date when payment is due 30 days from date of mailing or hand delivery of the initial demand for payment;

(4) The provision for late payment (interest), penalty and administrative charges, if payment is not received by the due date.

§ 213.6 Collection by offset.

(a) Collection by administrative offset will be undertaken only on claims which are liquidated or certain in amount. Offset will be used whenever feasible and not otherwise prohibited. Offset is not required to be used in every instance and consideration should be given to the debtor's financial condition and the impact of offset on Agency programs or projects.

(b) The procedures for offset in this part do not apply to the offset of Federal salaries under 5 U.S.C. 5514 or offset under section 640A of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2399.

(c) Before offset is made, the agency will provide the debtor with written notice informing the debtor of:

(1) The nature and amount of the claim;

(2) The intent of the agency to collect by administrative offset, including asking the assistance of other Federal agencies to help in the offset whenever possible, if the debtor has not made payment by the payment due date or has not made an arrangement for payment by the payment due date;

(3) The right of the debtor to inspect and copy the records of the agency related to the claim;

(4) The right of the debtor to a review of the claim within the agency. If the claim is disputed in full or part, the debtor shall respond to the demand in writing by making a request to the billing office for a review of the claim within the agency by the payment due date stated in the notice. The debtor's written response shall state the basis for the dispute. If only part of the claim is disputed, the undisputed portion must be paid by the date stated in the notice to avoid late payment, penalty and administrative charges. If A.I.D. either sustains or amends its determination, it shall notify the debtor of its intent to collect the claim, with any adjustments based on the debtor's response by administrative offset unless payment is received within 30 days of the mailing of the notification of its decision following a review of the claim.

(5) The right of the debtor to offer to make a written agreement to repay the amount of the claim.

(6) The notice of offset need not include the requirements of paragraphs (c) (3), (4) or (5) of this section if the debtor has been informed of the requirements at an earlier stage in the administrative proceedings, e.g., if they were included in a final contracting officer's decision.

(d) A.I.D. will promptly make requests for offset to other agencies known to be holding funds payable to a debtor and, when appropriate, place the name of the debtor on the "List of Contractors Indebted to the United States." A.I.D. will provide instructions for the transfer of funds.

(e) A.I.D. will promptly process requests for offset from other agencies and transfer funds to the requesting agency upon receipt of the written certification required by § 102.3 of the FCCS.

§ 213.7 Disclosure to consumer reporting agencies and contracts with collection agencies.

(a) A.I.D. may disclose delinquent debts, other than delinquent debts of current Federal employees, to consumer reporting agencies in accordance with 31 U.S.C. 3711(f) and the FCCS.

(b) A.I.D. may enter into contracts with collection agencies in accordance with 31 U.S.C. 3718 and the FCCS.

Dated: August 5, 1985.

Ain H. Kivimae,

Acting Assistant to the Administrator for Management.

[FR Doc. 22672 Filed 9-20-85; 8:45 am]

BILLING CODE 6116-02-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DOD Regulation 6010.8-R, Amdt. No. 33]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Medical Benefits for Former Spouses of Uniformed Services Members and Former Members

AGENCY: Office of the Secretary, DOD.

ACTION: Amendment to Final rule.

SUMMARY: This amendment revises the comprehensive CHAMPUS Regulation, DOD 6010.8-R (32 CFR 199), to implement section 645 of Pub. L. 98-525, the Department of Defense Authorization Act, 1985. This section relaxes the requirements for CHAMPUS eligibility for former spouses of Uniformed Services members or former members.

EFFECTIVE DATE: This amendment is effective for health care furnished on or after January 1, 1985.

FOR FURTHER INFORMATION CONTACT: Stephen E. Isaacson, Policy Branch, CHAMPUS, Aurora, Colorado 80045, telephone (303) 361-4005.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-7834, appearing in the Federal Register on April 4, 1977, (42 FR 17972), the Office of the Secretary of Defense published its Regulation, DOD 6010.8-R, "Implementation of the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)," as Part 199 of this title.

Currently a spouse of a member or former member of the Uniformed Services loses CHAMPUS eligibility as of 12:01 a.m. of the day following the date of a final decree of divorce, dissolution, or annulment of the marriage, except where the spouse qualifies as an eligible former spouse under the provisions of sections 1004 and 1006 of Pub. L. 97-252. To be eligible, the former spouse must: (1) Be unremarried; (2) have been married to the member or former member for at least twenty (20) years during which time the member or former member performed at least twenty (20) years of creditable service; and (3) not be covered under an employer-sponsored health plan. In addition, the final decree of divorce, dissolution, or annulment of the marriage must be dated on or after February 1, 1983.

Section 645 of Pub. L. 98-525 relaxes the requirements for CHAMPUS eligibility for former spouses. Section 645(b) eliminates the February 1, 1983, limitation imposed by Pub. L. 97-252 so that any former spouse who meets the requirements of Pub. L. 97-252 is eligible for CHAMPUS, regardless of the date of the divorce, dissolution, or annulment.

Section 645(a) extends CHAMPUS eligibility to former spouses of members or former members who performed at least 20 years of creditable service if the former spouse: (1) Is unremarried; (2) was married to the member or former member for a period of at least 20 years, at least 15, but less than 20, of which were during the period the member or former member performed creditable service; and (3) is not covered under an employer-sponsored health plan. Moreover, the date of the final decree of divorce, dissolution, or annulment must be before April 1, 1985.

Under section 645(c) those former spouses who meet the requirements of section 645(a), except the date of the final decree of divorce, dissolution, or annulment is on or after April 1, 1985, are eligible for CHAMPUS for only two years beginning on the date of such final decree.

The provisions of section 645 are effective for health care services furnished on or after January 1, 1985.

As authorized under 32 CFR 296.2(d)(4), the final regulation is being published and no previous public comment has been requested. Since this change is authorized through Pub. L. 98-525 which was effective October 1, 1984, we do not believe it is in the public interest to delay implementation through the publication of a proposed rule. However, for a period of 30 days following the date of the publication of this amendment in the **Federal Register**, we will accept public comments and, where appropriate, will revise the amendment. A notice advising of any revisions prompted by public comments will be published in the **Federal Register** no later than 90 days following the end of the comment period. Written public comments must be received on or before October 23, 1985.

Section 605(b) of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) requires that each federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues regulations which would have a significant impact on a substantial number of small entities. The Secretary certifies, pursuant to section 605(b) of Title 5, United States Code, enacted by the Regulatory Flexibility Act (Pub. L. 96-354), that this regulation amendment will not have a significant economic impact on a substantial number of small businesses, organizations or government jurisdictions.

We have determined that this Regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It is not, therefore, a "major rule" under Executive Order 12291.

List of Subjects in 32 CFR Part 199

Health insurance, Military personnel, Handicapped.

PART 199—[AMENDED]

Accordingly, 32 CFR Part 199 is amended as follows:

1. The authority citation for Part 199 continues to read as follows:

Authority: 10 U.S.C. 1079, 1086, 5 U.S.C. 301.

2. Section 199.9 is amended by revising paragraph (b)(2)(ii) to read as follows:

§ 199.9 Eligibility.

* * * * *

(b) * * *

(2) * * *

(ii) *Former spouse.* To be eligible, a former spouse:

(*a*) Must be unremarried;

(*b*) Must not be covered by an employer-sponsored health plan;

(*c*) Must have been married to a member of former member who performed at least twenty (20 years of service which can be credited in determining the member's or former member's eligibility for retired or retainer pay; and

(*d*) Must meet the requirements of either paragraph (b)(2)(ii)(*d*) (*1*) or paragraph (*2*) of this section.

(1) The former spouse must have been married to the same member or former member for at least 20 years, at least 20 of which were creditable in determining the member's or former member's eligiblity for retired or retainer pay.

(i) If the date of the final decree of divorce, dissolution, or annulment was on or after February 1, 1983, the former spouse is eligible for health care furnished on or after February 1, 1983.

(ii) If the date of the final decree of divorce, dissolution, or annulment is before February 1, 1983, the former spouse is eligible only for health care furnished on or after January 1, 1985.

(2) The former spouse must have been married to the same member or former member for at least 20 years, at least 15, but less than 20, of which were creditable in determining the member's or former member's eligibility for retired or retainer pay.

(i) If the date of the final decree of divorce, dissolution, or annulment is before April 1, 1985, the former spouse is eligible only for care received on or after January 1, 1985.

(ii) If the date of the final decree of divorce, dissolution, or annulment is on or after April 1, 1985, the former spouse is eligible for only two years beginning on the date of such final decree.

Note.—A former spouse cannot be a dependent of a NATO member.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

September 18, 1985.

[FR Doc. 85-22656 Filed 9-20-85; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD 12-85-07]

Drawbridge Operation Requirements; Rio Vista, CA

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: At the request of California Department of Transportation, the Coast Guard is establishing a temporary drawbridge operation regulation for the Highway 12 drawbridge across the Sacramento River at Rio Vista, California, to require fifteen minutes advance notice for the passage of vessels. This temporary regulation is being established to allow a painting contractor to complete cleaning and painting operations begun two years ago. Since this action will accommodate all the needs of marine traffic expected to pass the bridge, its impact is expected to be minimal.

EFFECTIVE DATE: This rule becomes effective on September 9, 1985 and terminates on March 1, 1986.

FOR FURTHER INFORMATION CONTACT: Rose. E. Guerra, Assistant Chief, Bridge Section, Aids to Navigation Branch (telephone: (415) 437-3514).

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for this regulation and it is being made effective in less than 30 days from the date of publication. Following normal rulemaking procedure would have been contrary to the public interest. Immediate action is needed to prevent further deterioration of the steel bridge structure. A comment period has not been provided because all the needs of navigation are provided for. A Broadcast Notice to Mariners has been issued, and the information has been published in the Local Notice to Mariners. This temporary regulation is 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). Since there is no economic impact, a full regulatory evaluation is unnecessary. This temporary regulation will have no appreciable consequences as it will not prohibit any vessels from using the waterway. Since the economic impact of this regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant impact on a substantial number of small entities.

Drafting Information

The drafters of this rule are Mrs. Rose E. Guerra, project officer, and Lieutenant Wayne C. Raabe, project attorney, Twelfth Coast Guard District Legal Office.

Discussion of Regulation

Cleaning and painting operations started two years ago. Shortly after the operations started the bridge was struck by a ship. The cleaning and painting was terminated so that repairs to the structure could be done. The repairs have been completed and it is necessary to immediately resume cleaning and painting prior to the onset of the rainy season.

Current regulations require the bridge to open on call. The temporary regulations will require fifteen minutes advance notice from 7:00 A.M. to 5:00 P.M. Monday thru Friday, excluding holidays.

List of Subjects in 33 CFR Part 117

Bridges.

PART 117—DRAWBRIDGE OPERATION REQUIREMENTS

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended as follows:

Supart B—Specific Requirements

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05–1(g).

2. Section 117.189 is amended by adding paragraph (d) to read as follows:

§ 117.189 Sacramento River.

* * * * *

(d) The draw of the Rio Vista Bridge, mile 12.8, requires fifteen minutes advance notice from 7:00 A.M. to 5:00 P.M. Monday thru Friday, excluding holidays, between the dates of 9 September 1985 and March 1, 1986. The advance notice is to be given to the Rio Vista bridge via radiotelephone or by land line to (707) 374–2134.

Dated: September 11, 1985.

John D. Costello,

Vice Admiral, U.S. Coast Guard, Commander Twelfth Coast Guard District.

[FR Doc. 85–22660 Filed 9–20–85; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–9–FRL–2858–3]

Approval and Promulgation of Implementation Plans; North Coast Air Basin Air Pollution Control Regulations, State of California

Correction

In FR Doc. 85–15922, beginning on page 30941 in the issue of Wednesday, July 31, 1985, make the following correction:

§ 52.220 [Corrected]

On page 30943, second column, § 52.220 (c) (124) (ix) (B), the second line should have read:

(b1, n1, p5, and s2), 200, 210, 220(c), 230, and

BILLING CODE 1505–01–M

40 CFR Part 228 [FRL–2901–2]

Ocean Dumping; Final Designation of Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today designates the existing dredged material site located adjacent to the San Francisco main ship channel as an EPA approved ocean dumping site for the dumping of dredged material. This action is necessary to provide an acceptable ocean dumping site for the current and future disposal of dredged material resulting from the annual dredging of the San Francisco main ship channel.

DATE: This rule shall become effective on October 23, 1985.

ADDRESS: Paul Pan, Chief, Environmental Analysis Branch (WH–556M), EPA, Washington, DC 20460, 202/755–9231.

FOR FURTHER INFORMATION CONTACT: Paul Pan, 755–9231.

SUPPLEMENTARY INFORMATION: In FR Doc. 85–5949 appearing at page 10009 et seq. in the **Federal Register** of March 13, 1985, EPA published an interim final rule designating the existing dredged material disposal site located adjacent to the San Francisco main ship channel as an EPA approved ocean dumping site in order to provide an acceptable ocean dumping site for the current and future disposal of dredged material resulting from the annual dredging of the San Francisco main ship channel. EPA promulgated this designation as an interim final rule to give the public an opportunity to comment on a change to the site restriction made after the close of the comment period. This change deleted the specific restriction on grain sizes since the U.S. Army Corps of Engineers and EPA agreed that the general requirement for a case-by-case evaluation would adequately protect the site because it would prohibit disposal of materials found to be incompatible with natural sediments or to result in unacceptable impact on the marine environment.

Following the publication of the interim final rule, it was brought to EPA's attention that the correct coordinates for the San Francisco Channel Bar Dredged Material Site are: 37d 44'55" N, 122d 37'18" W; 37d 45'45" N, 122d 34'24" W; 37d 44'24" N, 122d 37'06" W; 37d 45'15" N, 122d 34'12" W. EPA is making this technical correction to the coordinates in today's final action. No other comments were received on the interim final rule.

List of Subjects in 40 CFR Part 228

Water pollution control.

Dated: September 16, 1985.

Henry L. Longest II,

Acting Assistant Administrator for Water.

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is amended as set forth below.

PART 228—[AMENDED]

1. The authority citation for Part 228 continues to read as follows:

Authority: 33 U.S.C. 1412 and 1418.

2. Section 228.12 is amended by revising paragraph (b)(22) as follows:

§ 228.12 Delegation of management authority for ocean dumping sites.

* * * * *

(b) * * *

(22) San Francisco Channel Bar Dredged Material Site—Region IX.

Location: 37d 44'55" N, 122d 37'18" W; 37d 45'45" N, 122d 34'24" W; 37d 44'24" N, 122d 37'06" W; 37d 45'15" N, 122d 34'12" W.

Size: 4,572x914 meters.

Depth: Ranges from 11 to 14.3 meters.

Primary Use: Dredged material.

Period of Use: Continuing use.

Restriction: Disposal shall be limited to material from required dredging operations at the entrance of the San Francisco main ship channel which is composed primarily of sand having grain sizes compatible with naturally occurring sediments at the disposal site and containing approximately 5 percent of particles having grain sizes finer than that normally attributed to very fine sand (.075 millimeters). Other dredged materials meeting the requirements of 40 CFR 227.13 but having smaller grain sizes may be dumped at this site only upon completion of an appropriate case-by-case

evaluation of the impact of such material on the site which demonstrates that such impact will be acceptable.

[FR Doc. 85-22659 Filed 9-20-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 205

[Docket No. 205N]

Disaster Assistance; Implementation of Coastal Barrier Resources Act

AGENCY: Federal Emergency Management Agency.

ACTION: Final Rule.

SUMMARY: This final rule implements the Coastal Barrier Resources Act (CBRA) (Pub. L. 97-348) as the act applies to disaster assistance granted to individuals and State and local governments under the Disaster Relief Act of 1974 (Pub. L. 93-288). CBRA prohibits new expenditures and new financial assistance for any purpose within the Coastal Barrier Resources System (CBRS) except for certain activities expressly permitted by the CBRA. This rule specifies which disaster assistance actions may or may not be carried out within the CBRS. It establishes procedures for compliance with CBRA in the administration of disaster assistance by the Federal Emergency Management Agency (FEMA).

EFFECTIVE DATE: October 23, 1985.

FOR FURTHER INFORMATION CONTACT: Charles Stuart, Office of Disaster Assistance Programs, Federal Emergency Management Agency, Room 714, 500 C Street, SW., Washington, D.C. 20472, Telephone (202) 646-3691.

SUPPLEMENTARY INFORMATION: On May 10, 1985, FEMA published for comment in the **Federal Register** (50 FR 19870-19877) a proposed rule to implement the Coastal Barrier Resources Act (CBRA) (Pub. L. 97-348) in the administration of disaster assistance under the Disaster Act of 1974, as amended, (Pub. L. 93-288). The Supplementary Information section of the proposed rule explained the basic provisions of the regulations and the procedures to be used in processing disaster assistance actions within the Coastal Barrier Resources System (CBRS). There are only two changes to the proposed rule. Therefore, except for those two changes, the reader is referred to the Supplementary Information section of the proposed ruie for background on the regulation.

It should be explained that at the same time FEMA was circulating the proposed disaster assistance rule, the Department of the Interior (DOI) was circulating its Draft Report to Congress which discusses various alternatives for the CBRS. The discussion included possible areas to be added to the CBRS.

Only two comment letters were received by FEMA. One letter expressed opposition to the proposed changes to the Coastal Barrier Resources Act (CBRA) which relates to the DOI action and not FEMA's proposed rule. The second letter expressed opposition to the FEMA rule because of the effect it might have on areas not yet within the CBRS but which might be added by amendments to CBRA.

The concerns of this second letter will be addressed. The first item of concern to the writer was the San Luis Pass—Vacek bridge at the western end of Galveston Island. Neither end of the bridge is currently in a unit of the CBRS. However, one of the new units (TX-08) discussed as a posssible addition in the Draft Report to Congress would include the bridge. The writer states that disaster assistance may not be available for the existing bridge and would not be available for a substantially improved bridge. The concern relates to the provision in the regulation that publicly owned or operated facilities that are not essential links in a larger network or system must have been built or under construction prior to October 18, 1982, and not substantially improved after that date, to be eligible for disaster assistance. For the bridge to be affected at all, Congress must pass legislation adding unit TX-08 to the CBRS. If that happens, the enactment date of the new legislation would be the effective date for the provision mentioned above. As a result of this comment, a change was made to the definition of "existing facility" and "new financial assistance" to make it clear that this restriction for facilities on any new units of CBRS would only begin on the date the units were added to the CBRS. Thus, the existing bridge and any substantial improvement started before the inclusion of unit TX-08 in the CBRS would not be automatically prohibited from receiving FEMA assistance. The bridge repair would be reviewed for consistency with the purposes of CBRA as part of the consultation process, and could be found eligible for FEMA disaster assistance.

There is another situation which would decrease the likelihood that the repair or replacement of the bridge would be ineligible for assistance. If the bridge is determined by FEMA to be an essential link in a larger network or system, then it does not have to be reviewed for consistency with the purposes of CBRA. The date of the facility's initial construction or substantial improvement has no bearing on eligibility of an "essential link" for assistance.

The letter also stated that a local government would be unable to take over new subdivision roads because disaster assistance would not be available for new facilities built on units of the current CBRS. However, the eligibility for assistance of any new roads on future CBRS units would depend on when the roads were built and when the new legislation was passed. The lack of availability of disaster assistance should not prevent local governments from building or accepting new facilities. It simply means that the local government and its citizens, rather than the Federal government, will have to accept the risks and consequences of building on these unstable coastal barriers.

The last point of the letter concerns proposed development which may have been in the planning stages for several years. It is true that facilities in these developments would not be eligible for disaster assistance if they were built after October 18, 1982, for the current CBRS or the enactment date of new legislation for any new CBRS units. Essential links in a larger network or system of course, are exempt from this restriction. FEMA believes that it would not be consistent with the intent of CBRA to encourage developement after the date that Congress determined an area should be within CBRS. Therefore, disaster assistance has been restricted as noted above.

A comment was also made concerning the maps which would be used to determine whether a facility was in the CBRS. Although the FEMA Flood Insurance Rate Maps (FIRM's) have the CBRS noted on them, the official designation of the CBRS is on the maps published and distributed by the Department of Interior. A change to the regulation was made to reflect this difference.

Environmental Considerations

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 and the implementing regulations of the Council on Environmental Quality (40 CFR Parts 1500-1508), FEMA has prepared an environmental assessment of the issuance by FEMA of the regulations for the implementation of the Coastal Barrier Resources Act.

It has been determined that there will be no significant impact on the

environment caused by FEMA's issuance of this regulation to implement the Coastal Barrier Resources Act (44 CFR Part 205, Subpart N). On this basis an environmental impact statement will not be prepared.

Copies of the environmental assessment are available for inspection at: Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, D.C. 20472, Telephone (202) 287-0395.

Executive Order 12291, Federal Regulations

This rule is not a "major rule" within the context of Executive Order 12291. It will not have an annual effect on the economy of $100 million or more.

The rule will not have a significant economic impact on a substantial number of small entities, within the meaning of 5 USC 605 (the Regulatory Flexibility Act). Therefore, no regulatory analysis will be prepared.

This rule does not call for the collection of any information.

List of Subjects: 44 CFR Part 205:

Disaster assistance, Grant programs, Housing and community development.

PART 205—[AMENDED]

Accordingly, Chapter I of Title 44, Code of Federal Regulations is amended by adding a new Subpart N to Part 205 as follows:

Subpart N—Implementation of Coastal Barrier Resources Act.

Authority: 16 USC 3501, 3505; 42 USC 5201.

§ 205.501 Purpose of subpart.

This subpart implements the Coastal Barrier Resources Act (CBRA) (Pub. L. 97-348) as the Act applies to disaster relief granted to individuals and State and local governments under the Disaster Relief Act of 1974 (Pub. L. 93-288). CBRA prohibits new expenditures and new financial assistance within the Coastal Barrier Resources System (CBRS) for all but a few types of activities identified in CBRA. This subpart specifies what actions may and may not be carried out within the CBRS. It establishes procedures for compliance with CBRA in the administration of disaster assistance by FEMA.

§ 205.502 Policy.

It shall be the policy of FEMA to achieve the goals of CBRA in carrying out disaster relief on units of the Coastal Barrier Resources System. It is FEMA's intent that such actions be consistent with the purpose of CBRA to minimize the loss of human life, the wasteful expenditure of Federal revenues, and the damage to fish, wildlife and other natural resources associated with coastal barriers along the Altantic and Gulf coasts and to consider the means and measures by which the long-term conservation of these fish, wildlife, and other natural resources may be achieved under Pub. L. 93-288.

§ 205.503 Definitions.

Except as otherwise provided in this subpart, the definitions set forth in Part 205 of Subchapter D are applicable to this subject.

(a) "Consultation" means that process by which FEMA informs the Secretary of the Interior through his/her designated agent of FEMA proposed disaster assistance actions on a designated unit of the Coastal Barrier Resources System and by which the Secretary makes comments to FEMA about the appropriateness of that action. Approval by the Secretary is not required in order that an action be carried out.

(b) "Essential link" means that portion of a road, utility, or other facility originating outside of the system unit but providing access or service through the unit and for which no alterative route is reasonably available.

(c) "Existing facility" on a unit of the CBRS established by Pub. L. 97-348 means a publicly owned or operated facility on which the start of construction took place prior to October 18, 1982, and for which this fact can be adequately documented. In addition, a legally valid building permit or equivalent documentation, if required, must have been obtained for the construction prior to October 18, 1982. If a facility has been substantially improved or expanded since October 18, 1982, it is not an existing facility. For any other unit added to the CBRS by amendment to Pub. L. 97-348, the enactment date of such amendment is substituted for October 18, 1982, in this definition.

(d) "Expansion" means changing a facility to increase its capacity or size.

(e) "Facility" means "public facility" as defined in § 205.2(a)(16). This includes any publicly owned flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility; and non-Federal-aid street, road, or highway; and any other public building, structure, or system, including those used for educational or recreational purposes or any park.

(f) "Financial assistance" means any form of Federal loan, grant guaranty, insurance, payment rebate, subsidy or any other form of direct or indirect Federal assistance.

(g) "New financial assistance" on a unit of the CBRS established by Pub. L. 97-348 means an approval by FEMA of a project application or other disaster assistance after October 18, 1982. For any other unit added to the CBRS by amendment to Pub. L. 97-348, the enactment date of such amendment is substituted for October 18, 1982, in this definition.

(h) "Start of construction" for a structure means the first placement of permanent construction such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction for a structure does not include land preparation such as clearing, grading, and filling, nor does it include excavation for a basement, footings, or piers. For a facility which is not a structure, start of construction means the first activity for permanent construction of a substantial part of the facility. Permanent construction for a facility does not include land preparation such as clearing and grubbing but would include grading and filling such as for a road.

(i) "Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a mobile home.

(j) "Substantial improvement" means any repair, reconstruction or other improvement of a structure or facility, that has been damaged in excess of, or the cost of which equals or exceeds, 50 percent of the market value of the structure or replacement cost of the facility (including all "public facilities" as defined in the Disaster Relief Act of 1974) either:

(1) Before the repair or improvement is started, or

(2) If the structure or facility has been damaged and is proposed to be restored, before the damage occurred. If a facility is a link in a larger system, the percentage of damage will be based on the relative cost of repairing the damaged facility to the replacement cost of that portion of the system which is operationally dependent on the facility. The term "substantial improvement" does not include any alteration of a structure or facility listed on the

National Register of Historic Places or a State Inventory of Historic Places.

(k) "System Unit" means any undeveloped coastal barrier, or combination of closely related undeveloped coastal barriers included within the Coastal Barrier Resources System as established by section 4 of the CBRA, or as modified by the Secretary in accordance with the Act.

§ 205.504 Scope.

(a) The limitations on disaster assistance as set forth in this subpart apply only to FEMA actions taken on a unit of the Coastal Barrier Resources System or any conduit to such unit, including but not limited to a bridge, causeway, utility, or similar facility.

(b) FEMA assistance having a social program orientation which is unrelated to development is not subject to the requirements of these regulations. This assistance includes:

(1) Individual and Family Grants that are not for acquisition or construction purposes;

(2) Crisis counseling;

(3) Legal assistance; and

(4) Disaster unemployment assistance.

§ 205.505 Limitations on Federal Expenditures.

Except as provided in §§ 205.506 and 205.507, no new expenditures or financial assistance may be made available under authority of Pub. L. 93-288 for any purpose within the Coastal Barrier Resources System, including but not limited to:

(a) Construction, reconstruction, replacement, repair or purchase of any structure, appurtenance, facility or related infrastructure;

(b) Construction, reconstruction, replacement, repair or purchase of any road, airport, boat landing facility, or other facility on, or bridge or causeway to, any System unit; and

(c) Carrying out of any project to prevent the erosion of, or to otherwise stabilize, any inlet, shoreline, or inshore area, except that such assistance and expenditures may be made available on units designated pursuant to section 4 on maps numbered S01 through S08 for purposes other than encouraging development and, in all units, in cases where an emergency threatens life, land, and property immediately adjacent to that unit.

§ 205.506 Exceptions.

The following types of disaster assistance actions are exceptions to the prohibitions of § 205.505.

(a) After consultation with the Secretary of the Interior, the FEMA Regional Director may make disaster assistance available within the CBRS for:

(1) Maintenance replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, structures, or facilities that are essential links in a larger network or system;

(2) Repair of any facility necessary for the exploration, extraction, or transportation of energy resources which activity can be carried out only on, in, or adjacent to coastal water areas because the use or facility requires access to the coastal water body; and

(3) Maintenance of existing channel improvements and related structures, such as jetties, and including the disposal of dredge materials related to such improvements.

(b) After consultation with the Secretary of the Interior, the FEMA Regional Director may make disaster assistance available within the CBRS for the following types of actions, provided such assistance is consistent with the purposes of CBRA:

(1) Emergency actions essential to the saving of lives and the protection of property and the public health and safety, if such actions are performed pursuant to sections 305 and 306 of the Disaster Relief Act of 1974 and are limited to actions that are necessary to alleviate the emergency;

(2) Maintenance, replacement, reconstruction, or repair, but not the expansion, of publicly owned or publicly operated roads, strucutres, or facilities, except as provided below at § 205.508(c)(5);

(3) Repair and maintenance of air and water navigation aids and devices, and of access thereto;

(4) Repair of facilities for scientific research, including but not limited to aeronautical, atmospheric, space, geologic, marine, fish and wildlife and other research, development, and applications;

(5) Repair of facilities for the study, management, protection and enhancement of fish and wildlife resources and habitats, including but not limited to, acquisition of fish and wildlife habitats and related lands, stabilization projects for fish and wildlife habitats, and recreational projects; and

(6) Repair of nonstructural projects for shoreline stabilization that are designed to mimic, enhance, or restore natural stabilization systems.

§ 205.507 Applicability to disaster assistance.

(a) *Emergency Assistance.* The Regional Director may approve assistance pursuant to sections 305 or 306 of Pub. L. 93-288 for emergency actions which are essential to the saving of lives and the protection of property and the public health and safety, are necessary to alleviate the emergency, and are in the public interest. Such actions include but are not limited to:

(1) Removal of debris from public property;

(2) Emergency protective measures to prevent loss of life, prevent damage to improved property and protect public health and safety;

(3) Emergency restoration of essential community services such as electricity, water or sewer;

(4) Restoration of access to private property;

(5) Provision of emergency shelter by means of providing emergency repair of utilities, provision of heat in the season requiring heat, provision of safe water supply, provision of minimal cooking facilities, or provision of access to a private residence;

(6) Relocation of individuals or property out of danger, such as moving a mobile home to an area outside of the CBRS (but disaster assistance funds may not be used to relocate facilities back into the CBRS);

(7) Minimal repairs to private owner-occupied primary residences to make them habitable;

(8) Housing eligible families in existing resources in the CBRS; and

(9) Mortgage and rental payment assistance.

(b) Permanent restoration assistance. Subject to the limitations set out below, the Regional Director may approve assistance for the repair, reconstruction, or replacement but not the expansion of publicly owned or operated facilities and certain private nonprofit facilities. Such actions, which are subject to these regulations, include but are not limited to the repair, reconstruction, or replacement of:

(1) Roads and bridges;

(2) Drainage structures, dams, levees;

(3) Buildings and equipment;

(4) Utilities (gas, electricity, water, etc.); and

(5) Park and recreational facilities.

§ 205.508 Requirements.

(a) *Location Determination.* For each disaster assistance action which is proposed on the Atlantic or Gulf Coasts the Regional Director shall:

(1) Review a proposed action's location to determine if the action is on or connected to the CBRS unit and thereby subject to these regulations. The appropriate Department of Interior map identifying units of the CBRS will be the

basis of such determination. The CBRS units are also identified on FEMA Flood Insurance Rate Maps (FIRM's) for the convenience of field personnel.

(2) If an action is determined *not* to be on or connected to a unit of the CBRS, no further requirements of these regulations need to be met, and the action may be processed under other applicable disaster assistance regulations.

(3) If an action is determined to be on or connected to a unit of the CBRS, it is subject to the consultation and consistency requirements of CBRA as prescribed in §§ 205.509 and 205.510.

(b) Emergency Disaster Assistance. For each emergency disaster assistance action listed in § 205.507(a), the Regional Director shall perform the required consultation. CBRA requires that the Agency consult with the Secretary of the Interior before taking any action on a System unit. The purpose of such consultation is to solicit advice on whether the action is or is not one which is permitted by Sec. 6 of CBRA and whether the action is or is not consistent with the purposes of the Act as defined in sec. 1 of CBRA.

(1) FEMA has conducted advance consultation with the Department of the Interior concerning such emergency actions. The result of the consultation is that the Secretary of the Interior through the Assistant Secretary for Fish and Wildlife and Parks has concurred that the emergency work listed in § 205.507(a) is consistent with the purposes of CBRA and may be approved by FEMA without additional consultation.

(2) *Notification.* As soon as practicable, the Regional Director will notify the designated Department of the Interior representative at the regional level of emergency projects that have been approved. Upon request from the Secretary of the Interior, the Associate Director, SLPS, or his or her designee will supply reports of all current emergency actions approved on CBRS units. Notification will contain the following information:

(i) Identification of the unit in the CBRS;

(ii) Description of work approved;

(iii) Amount of Federal funding; and

(iv) Additional measures required.

(c) *Permanent Restoration Assistance.* For each permanent restoration assistance action including but not limited to those listed in § 205.507(b), the Regional Director shall meet the requirements set out below.

(1) *Essential links.* For the repair or replacement of publicly owned or operated roads, structures or facilities which are essential links in a larger network or system:

(i) No facility may be expanded beyond its predisaster design.

(ii) Consultation in accordance with § 205.509 shall be accomplished.

(2) *Channel improvements.* For the repair of existing channels, related structures and the disposal of dredged materials:

(i) No channel or related structure may be repaired, reconstructed, or replaced unless funds were appropriated for the construction of such channel or structure before October 18, 1982;

(ii) Expansion of the channel or related structures beyond predisaster design is not permitted;

(ii) Consultation in accordance with § 205.509 shall be accomplished.

(3) *Energy Facilities.* For the repair of facilities necessary for the exploration, extraction or transportation of energy resources:

(i) No such facility may be repaired, reconstructed, or replaced unless such function can be carried out only in, on, or adjacent to a coastal water area because the use or facility requires access to the coastal water body;

(ii) Consultation in accordance with § 205.509 shall be accomplished.

(4) *Special-purpose facilities.* For the repair of facilities used for the study, management, protection or enhancement of fish and wildlife resources and habitats and related recreational projects; air and water navigation aids and devices and access thereto; and facilities used for scientific research, including but not limited to aeronautical, atmospheric, space, geologic, marine, fish and wildlife and other research, development, and applications; and, nonstructural facilities that are designed to mimic, enhance, or restore natural shoreline stabilization systems:

(i) Consultation in accordance with § 205.509 shall be accomplished;

(ii) No such facility may be repaired, reconstructed, or replaced unless it is otherwise consistent with the purposes of CBRA in accordance with § 205.510.

(5) *Other public facilities.* For the repair, reconstruction, or replacement of publicly owned or operated roads, structures, or facilities that do not fall within the categories identified in paragraphs (c) (1), (2), (3), or (4) of this section:

(i) No facility may be repaired, reconstructed, or replaced unless it is an "existing facility";

(ii) Expansion of the facility beyond its predisaster design is not permitted;

(iii) Consultation in accordance with § 205.509 shall be accomplished;

(iv) No such facility may be repaired, reconstructed, or replaced unless it is otherwise consistent with the purposes of CBRA in accordance with § 205.510.

(6) *Private nonprofit facilities.* For eligible private nonprofit facilities as defined in these regulations (44 CFR 205.70 et seq.) and of the type described in paragraphs (c) (1), (2), (3), or (4) of this section:

(i) Consultation in accordance with § 205.509 shall be accomplished.

(ii) No such facility may be repaired, reconstructed, or replaced unless it is otherwise consistent with the purposes of CBRA in accordance with § 205.510.

(7) *Grant-in-lieu.* A grant-in-lieu may not be made for a facility in the CBRS if such grant is to be combined with other funding, resulting in an expansion of the facility beyond the predisaster design. If a facility is exempt from the expansion prohibitions of CBRA by virtue of falling into one of the categories identified in paragraph (c) (1), (2), (3), or (4) of this section, then a grant-in-lieu for such facilities is not precluded.

(8) *Flexible funding.* A new or enlarged facility may not be constructed on a unit of the CBRS under the flexible funding provisions of section 402(f) or section 419 of Pub. L. 93-288 unless the facility is exempt from the expansion prohibition of CBRA by virtue of falling into one of the categories identified in paragraph (c) (1), (2), (3), or (4) of this section.

§ 205.509 Consultation.

As required by section 6 of CBRA, the FEMA Regional Director will consult with the designated representative of the Department of the Interior (DOI) at the regional level before approving any action involving permanent restoration of a facility or structure on or attached to a unit of the CBRS.

(a) The consultation shall be by written memorandum to the DOI representative and shall contain the following:

(1) Identification of the unit within the CBRS;

(2) Description of the facility and the proposed repair or replacement work; including identification of the facility as an exception under section 6 of CBRA; and full justification of its status as an exception;

(3) Amount of proposed Federal funding;

(4) Additional mitigation measures required; and

(5) A determination of the action's consistency with the purposes of CBRA, if required by these regulations, in accordance with § 205.510.

(b) Pursuant to FEMA understanding with DOI, the DOI representative will provide technical information and provide an opinion on whether or not the action meets the criteria for an exception, and on the consistency of the action with the purposes of CBRA when such consistency is required. DOI is expected to respond within 12 working days from the date of the FEMA request for consultation. If a response is not received within the time limit, the FEMA Regional Director shall contact the DOI representative to determine if the request for consultation was received in a timely manner. If it was not, an appropriate extension for response will be given. Otherwise, he or she may assume DOI concurrence and proceed with approval of the proposed action.

(c) For those cases in which the regional DOI representative believes that the proposed action should not be taken and the matter cannot be resolved at the regional level, the FEMA Regional Director will submit the issue to the FEMA Assistant Associate Director for Disaster Assistance Programs (DAP). In coordination with the Office of General Counsel (OGC), consultation will be accomplished at the FEMA National Office with the DOI consultation officer. The comments of the DOI consultation officer will be carefully considered before the Assistant Associate Director, DAP, determines whether or not to approve the proposed action.

§ 205.510 Consistency determinations.

Section 6(a)(6) requires that certain actions be consistent with the purposes of CBRA if they are to be carried out on a unit of the CBRS. The purpose of CBRA as stated in section 2(b) is to minimize the loss of human life, wasteful expenditure of Federal revenues, and the damage to fish, wildlife, and other natural resources associated with the coastal barriers along the Atlantic and Gulf coasts. For those actions where a consistency determination is required the FEMA Regional Director shall evaluate the action according to the following procedure, and it shall be included in the written request for consultation with DOI.

(a) *Impact Identification.* FEMA shall identify impacts of the following types that would result from the proposed action:

(1) Risks to human life;

(2) Risks of damage to the facility being repaired or replaced;

(3) Risks of damage to other facilities;

(4) Risks of damage to fish, wildlife, and other natural resources;

(5) Condition of existing development served by the facility and the degree to which its redevelopment would be encouraged; and

(6) Encouragement of new development.

(b) *Mitigation.* FEMA shall modify actions by means of practicable mitigation measures to minimize adverse effects of the types listed in paragraph (a) of this section.

(c) *Conservation.* FEMA shall identify practicable measures that can be incorporated into the proposed action and will conserve natural and wild life resources. The Regional Director may require such measures at the expense of the applicant if they are not otherwise eligible for FEMA funding.

(d) *Finding.* For those actions required to be consistent with the purposes of CBRA, the above evaluation must result in a finding of consistency with CBRA by the Regional Director before funding may be approved for that action.

Dated: August 30, 1985.

Samuel W. Speck,

Associate Director, State and Local Programs and Support.

[FR Doc. 85-22826 Filed 9-20-85; 8:45 am]

BILLING CODE 6718-02-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 150

[CGD 83-047]

Compatibility of Cargoes

Correction

In FR Doc. 85-19441 beginning on page 33037 in the issue of Friday, August 16, 1985, make the following corrections:

1. On page 33040, in TABLE I, first column, under "Chemical name", eighth line, remove the "l" before the word "citrate".

2. On the same page, second column, under "Chemical name", third and fourth lines from the bottom, remove the words "Dichlorophenoxyacetic acid".

3. On page 33042, third column, in TABLE II, under *"Unassigned Cargoes"*, eighth line, insert the word "oxide" after "Ethylene".

4. On page 33044, third column, under "34. *Esters*", twenty-third line, remove the asterisk (*) after "Dimethyl polysiloxane".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73, 74, 76 and 78

Oversight of the Radio and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order updates and corrects the alphabetical indexes in 47 CFR Parts 73, 74, 76 and 78.

EFFECTIVE DATE: September 23, 1985.

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

FOR FURTHER INFORMATION CONTACT: Steve Crane, Policy and Rules Division, Mass Media Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 73

Radio broadcasting, Television.

47 CFR Part 74

Radio, Television.

47 CFR Part 76

Cable television.

47 CFR Part 78

Cable television.

Order

In the matter of oversight of the Radio and TV Broadcast Rules.

Adopted: September 11, 1985.
Released: September 18, 1985.

By the Chief, Mass Media Bureau.

1. In this Order, the Commission corrects, updates and adds listings to the Alphabetical Indices to Parts 73, 74, 76 and 78 of its rules. 47 CFR Parts 73, 74, 76 and 78.

2. Our experience in alphabetically indexing the broadcast rules clearly indicates that this data makes possible the location of regulations quickly and easily. This fast access has brought about a better understanding of our rules by broadcasters and practitioners as a result of the rules' ready availability. We also perceive that providing easy access to the rules has reduced considerably the number of letters and phone calls to the FCC requesting help in rule location, thereby minimizing paperwork and administrative workload on the FCC staff, broadcasters and their legal and engineering advisors.

3. No substantive changes are made herein which impose additional burdens or remove provisions relied upon by

licensees or the public. We conclude, for the reasons set forth above, that these revisions to Parts 73, 74, 76 and 78 will serve the public interest.

4. These amendments are implemented by authority delegated by the Commission to the Chief, Mass Media Bureau. Inasmuch as these amendments impose no addit.onal burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rule making, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B).

5. Since general notice of proposed rule making is not required, the Regulatory Flexibility Act does not apply.

6. Therefore, it is ordered, that pursuant to sections 4(i), 303(r) and 5(c)(1) of the Communications Act of 1934, as amended, and §§ 0.61 and 0.283 of the Commission's Rules, Parts 73, 74, 76 and 78 of the FCC Rules and Regulations are Amended as set forth in the attached appendices, effective on the date of publication in the **Federal Register.**

7. For further information on this Order, contact Steve Crane, Mass Media Bureau, (202) 632-5414.

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

PART 73—[AMENDED]

Appendix A

47 CFR Part 73 is amended as follows:

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154 and 303.

2. The alphabetical index for Part 73 is revised and updated and placed at the end of Part 73 to read as follows:

Alphabetical Index—Part 73

RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE

[Policies of FCC are indicated (*)]

RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE—Continued

[Policies of FCC are indicated (*)]

RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE—Continued

[Policies of FCC are indicated (*)]

RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE—Continued

[Policies of FCC are indicated (*)]

B

C

D

E

RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE—Continued

[Policies of FCC are indicated (*)]

RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE—Continued

[Policies of FCC are indicated (*)]

RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE—Continued

[Policies of FCC are indicated (*)]

RULES APPLY TO ALL SERVICES, AM, FM, AND TV, UNLESS INDICATED AS PERTAINING TO A SPECIFIC SERVICE—Continued

[Policies of FCC are indicated (*)]

Appendix B

PART 74—[AMENDED]

47 CFR Part 74 is amended as follows:

1. The authority citation for Part 74 continues to read as follows:

Authority: 47 U.S.C. 154 and 303.

2. The alphabetical index in 47 CFR Part 74 is revised and updated and located at the end of Part 74 to read as follows:

Alphabetical Index—Part 74

Appendix C

PART 76—[AMENDED]

47 CFR Part 76 is amended as follows:

1. The authority citation for Part 76 continues to read as follows:

Authority: 47 U.S.C. 154 and 303.

2. The alphabetical index for Part 76 is revised and updated and placed at the end of Part 76 to read as follows:

Alphabetical Index—Part 76

Appendix D

PART 78—[AMENDED]

47 CFR Part 78 is amended as follows:

1. The authority citation for Part 78 continues to read as follows:

Authority: 47 U.S.C. 154 and 303.

2. The alphabetical index in 47 CFR Part 78 is revised and updated and located at the end of Part 78 to read as follows:

Alphabetical Index—Part 78

[FR Doc. 85-22692 Filed 9-20-85; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 31012-199]

Atlantic Tuna Fisheries; General Category Closure

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

ACTION: Notice of General category closure.

SUMMARY: NOAA issues this notice to close the fishery for Atlantic bluefin tuna conducted by vessels permitted in the General category in the regulatory area. Closure of this fishery is necessary because the adjusted annual catch quota of 689 short tons (st) will be attained by the effective date. Vessels permitted in the General category may continue to fish for a special 50 st quota in the special regulatory area west of a straight line originating on the southern shore of Long Island at 72°50' W. longitude and running SSE 150° true. The intent of this action is to insure that the overall U.S. quota for Atlantic bluefin tuna in the Western Atlantic Ocean will not be exceeded.

EFFECTIVE DATES: The General category fishery is closed 0001 hours Eastern Daylight Time (EDT) September 23, 1985, through December 31, 1985, except that vessels in the General category may continue to fish for the 50 st allocation for that area west of a straight line originating at a point on the southern shore of Long Island at 72°50' W. longtitude and running SSE 150° true.

FOR FURTHER INFORMATION CONTACT: William C. Jerome, Jr. 617-281-3600, extension 325, or David S. Crestin, 617-281-3600, extension 253.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971-971h) regulating the take of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisidiction were published in the **Federal Register** on June 17, 1983 (48 FR 27745). They were amended by rules published in the **Federal Register** on July 24, 1984 (49 FR 29796).

The Assistant Administrator is authorized under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator, further, is authorized under § 285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by the type of vessels subject to the quotas.

The Assistant Administrator has determined, based on the reported catch of giant Atlantic bluefin tuna, that the annual quota of 689 st, as adjusted on September 23, 1985, of giant Atlantic bluefin tuna available to vessels permitted in the General category has been attained. Therefore, fishing for, and retention of, giant Atlantic bluefin tuna by vessels in the General category must cease at 0001 hours EDT on the effective date given above: Except that vessels in the General category may continue to fish for the 50 st allocation for that area west of a straight line originating on the southern shore of Long Island at 72°50' W. longitude (approximately the town of Moriches) and running SSE 150° true.

Notice of these actions has been mailed to all Atlantic bluefin tuna dealers and vessel owners holding a valid vessel permit for this fishery.

Other Matters

This action is taken under the authority spcified at 50 CFR 285.20(b)(1) and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 285

Administrative practice and procedure, Fish, Fisheries, Fishing, Imports, International operations, Penalties, Reporting and recordkeeping requirements.

(16 U.S.C. 971 *et seq.*)

Dated: September 18, 1985.

Carmen J. Blondin,

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

[FR Doc. 85-22653 Filed 9-18-85; 1:02 pm]
BILLING CODE 3510-22-M

50 CFR Part 642

[Docket No. 21021-216]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic

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

ACTION: Final rule, technical amendment.

SUMMARY: NOAA issues this final rule implementing a technical amendment to the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic (FMP). In § 642.25, the terms "field order" and "order" are replaced by "notice in the **Federal Register**" and "notice", respectively. The intent is to remove inappropriate language from the implementing regulations.

EFFECTIVE DATE: September 13, 1985.

FOR FURTHER INFORMATION CONTACT: William B. Jackson, Fisheries Management Office, 202-634-7432.

SUPPLEMENTARY INFORMATION: NOAA published a final rule on February 4, 1983 (48 FR 5270) implementing the FMP for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic. NOAA has determined that the use of the terms "field order" and "order" at § 642.26 are not appropriate descriptors of how preseason and inseason actions are reported to the public through notice in the **Federal Register.** Therefore, "notice in the **Federal Register.**" and "notice" are inserted in § 642.26 wherever "field order" and "order" appear, respectively.

List of Subject in 50 CFR Part 642

Fisheries.

Dated: September 13, 1985.

William G. Gordon,

Assistant Administrator For Fisheries, National Marine Fisheries Service.

PART 642—[AMENDED]

For the reasons set forth in the preamble, 50 CFR Part 642 is amended as follows:

1. The authority for Part 642 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

§ 642.26 [Amended]

2. Section 642.26 is amended by removing the term "field order" and inserting the term "notice in the **Federal Register**" in the titles of paragraphs (a) and (c) and within paragraphs (a), (b), (c) (1) and (2), (3)(ii) (A) and (B), (4) and (5) and removing the term "order" and inserting the term "notice" in paragraph (c)(3).

[FR Doc. 85-22649 Filed 9-20-85; 8:45 am]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 50, No. 184
Monday, September 23, 1985

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

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Parts 323 and 399

[Docket No. 43403; Notice No. 85-12]

Limited-Entry Markets; Certificate Duration, Notice Requirements for Carriers Leaving During a Selection Case, and Procedures and Criteria for Selecting Carriers

AGENCY: Department of Transportation.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: The Department of Transportation is proposing that all certificates awarded to U.S. air carriers on limited-entry routes be issued for five-year periods and be experimental certificates issued under section 401(d)(8) of the Federal Aviation Act. This proposal would not affect existing permanent certificates. This proposal would establish by rule what has been the practice for the past five years. The Department also is proposing to require any air carrier operating under an exemption in a limited-entry market which is the subject of a carrier selection proceeding to file a notice with the Department at least 90 days before it terminates service in that market. The purpose of this proposed rule is to prevent or minimize service gaps in those international markets where the exemption carrier loses the selection case and wants to leave the market before the selected carrier enters that market. Finally, the Department is requesting comments on the criteria used by the Civil Aeronautics Board (Board or CAB) in carrier selection cases as well as on its practice of varying the weight accorded each criterion depending on each case's particular circumstances. The Department has adopted these Board practices but would like interested persons to have the opportunity to comment on them. Any changes from the existing criteria will be implemented on a case-by-case, rather then rulemaking, basis.

DATE: Comments on the proposal must be received on or before November 7, 1985.

ADDRESS: Comments on the proposal may be mailed in duplicate to Docket Clerk, Room 4107, Office of the Secretary, Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590, or delivered in duplicate to Room 4107, 400 Seventh Street, SW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Peter M. Bloch, Office of the Assistant General Counsel for International Law (202) 472-5621, or Robert Goldner, Office of the Assistant Secretary for Policy and International Affairs, Proceedings Division (202) 426-2912.

SUPPLEMENTARY INFORMATION:

Executive Order 12291, Regulatory Flexibility Act, and Paperwork Reduction Act of 1980

This action has been reviewed under Executive Order 12291, and it has been determined that this is not a major rule. It will not result in an annual effect on the economy of $100 million or more. There will be no increase in production costs or prices for consumers, individual industries, Federal, State or local governments, agencies, or geographic regions. Furthermore, this rule will not adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, a regulatory impact analysis is not required.

These regulations would primarily adopt former CAB practices on carrier selection and certification which the Department has reviewed and tentatively decided to adopt. The notice requirement should impose little additional cost to the carriers. The situation which this rule is meant to address occurs very infrequently and the amount of time that a carrier would be involuntarily kept in the market would be minimal. Consequently, we believe it to be very unlikely that this rule will impose an economic hardship on any carrier. This regulation is significant under the Department's Regulatory Policies and Procedures, dated February 26, 1979, because it involves important Departmental policies and is of unusual public interest. Because its economic impact should be minimal, however, a full regulatory evaluation is not required.

I certify that this rule will not have a significant economic impact on a substantial number of small entities. Most international air transportation is provided by large air carriers and, as noted above, there will be little economic impact on any carrier.

This regulation does not significantly affect the environment. An environmental impact statement is not required under the National Environmental Policy Act of 1969.

The collection of information requirements in this notice are being submitted to the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act of 1980. A notice will be published in the Federal Register when those requirements are approved by OMB. The notice will incorporate the OMB approval numbers into the regulations.

Comments Invited

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on the two proposed rules and on carrier selection criteria. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions. The comments should carry the docket number and be submitted in duplicate to the address above. Requests for comments on specific matters are discussed below.

Comments on the proposed notice requirement also should be submitted to Sam Fairchild, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

All comments received as well as a report summarizing any substantive public contact with Department of Transportation personnel on this rulemaking will be filed in the docket. The docket will be available for public inspection in Room 4107 on weekdays between 9:00 a.m. and 5:00 p.m. both before and after the closing date for making comments.

Before taking any final action on this proposal, the Assistant Secretary for Policy and International Affairs will consider the comments made on or before November 7, 1985, and the proposal may be changed in light of the comments received. The Department is allowing only 45 days for comments on this NPRM because air carriers must begin filing renewal applications for a large number of international routes on September 26, 1985. A large number of renewal applications are due on various dates between September 26, 1985 and April 1, 1986. This shortened comment period followed by the expeditious issuance of a final rule will allow the rule to issue before most of these applications must be filed. The results of this rulemaking will assist incumbents in structuring their renewal applications and other carriers in deciding whether they wish to file competing applications.

The Department will acknowledge receipt of a comment if the commenter includes a self-addressed, stamped postcard with the comment. The postcard should be marked "Comments to Docket No. 43403." When the comment is received by the Department, the postcard will be dated, time stamped, and returned to the commenter.

Availability of the NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Department of Transportation, Office of the Secretary, Documentary Services Division [C–55], 400 Seventh Street, SW., Washington, DC 20590, or by calling (202) 426–7634. Communications must identify the docket number of the NPRM wanted.

I. Certificate Duration

The United States' bilateral aviation arrangements with a foreign country govern whether the air routes between the U.S. and that country are open to any number of U.S. carriers or only to a limited number. In open-entry routes, there are no governmentally-established limits on the number of U.S. carriers that may operate. In limited-entry routes, which are the subject of this rulemaking, the bilateral arrangements typically permit only one or two U.S. carriers to operate.

Before the passage of the Airline Deregulation Act of 1978, Pub. L. 95–504 (ADA), carriers were generally awarded permanent certificates for international routes. However, in certain limited-entry markets, including most of the transatlantic markets, carriers received temporary certificates; The Civil Aeronautics Board (Board) chose not to grant much permanent transatlantic authority because it wanted to retain the ability to respond to changes in market conditions or the international situation. *See, Transatlantic Route Proceeding*, Order 78–1–118.

Before the ADA, certificates for scheduled authority could be awarded only under sections 401(d)(1) and (d)(2) of the Federal Aviation Act, governing permanent and temporary certificates, respecitvely. A carrier would be issued a certificate if the proposed transportation was found to be required by the public convenience and necessity.[1]

The ADA gave the Board a significant new option for limited-entry routes. It added a new section 401(d)(8) to the Federal Aviation Act. The provision empowered the Board—and empowers the Department—to grant an experimental certificate under sections 401(d)(1) and (d)(2) upon determining that a test period is desirable, either to see if projected results will materialize and remain over time or to evaluate or assess the effects of new services.

Section 401(d)(8) also provides that an experimental certificate may later be revoked if the carrier fails to provide the innovative or low-priced air transportation it was selected to provide. This supplements provisions already in section 401(g) for deleting or suspending a certificate if the public convenience and necessity so require and for revoking a certificate for violating the Act or the Board's—and now the Department's—rules or orders. Section 401(g) was amended by IATCA to add section 401(g)(3), permitting suspension or revocation of an incumbent's authority without a hearing for failure to provide regularly scheduled service to the point at issue for 90 days.

After the ADA, although the Board continued to award permanent authority under subsection 401(d)(1) for open-entry markets, it began to grant three-year temporary, experimental certificates in limited-entry markets. *See Spokane-Vancouver Route Proceeding*, Order 80–3–170. The Board anticipated deciding *de novo* what carriers should serve the routes when these certificates expired. It would not entertain replacement applications before an incumbent had had a reasonable opportunity to inaugurate service and establish itself in the market. In late 1981, beginning with the *New Gateways to Brazil Case*, Order 81–11–137, the Board began granting five-year experimental awards for limited-entry routes. The Board was concerned that three years might not be enough time for a carrier to establish itself on a route and realize a return on its investment. The Board continued to award five-year experimental certificates for the balance of its existence.

On September 3, 1982, Congress extended for two years the terms of all temporary certificates issued under section 401(d)(8), as well as those of certificates awarded in the *Transatlantic Route Proceeding* and the *California/Southwest—Western Mexico Route Proceeding*.[2] Finally, in anticipation of the Board's sunset, the Department asked the Board to extend the expiration dates of most international route certificates scheduled to expire between January 1, 1985, and January 15, 1986. The Board responded by issuing Order 84–8–107, served August 27, 1984, directing all intersted persons to show cause why these certificates should not be extended for 12 to 14 months. Order 84–8–107's tentative conclusions were finalized by Order 85–1–1. By this action, the Board sought to facilitate the orderly transfer of its carrier selection function to the Department and to allow us to establish our own procedures for carrier selection before beginning to process applications.

Summary of Comments on Certificate Duration

The issue of certificate duration has been examined twice in the past three years. First, in July 1982, the Civil Aeronautics Board issued an Advance Notice of Proposed Rulemaking (PSDR–78, Docket 40832) on the duration of the experimental certificates awarded to US. carriers for limited-designation international markets.[3] The Board asked for comments on whether it should continue to award five-year temporary, experimental certificates; whether there should be a rebuttable presumption of renewal for temporary certificates issued under sections 401(d)(2) or (d)(8) of the Federal Aviation Act; whether the Board should issue indefinite experimental certificates and adopt an effective mechanism for repacing ("bumping") incumbents whose

[1] The ADA Changed "required by" to "consistent with" for domestic route authority; the International Air Transportation Competition Act of 1979; Pub. L. 96–192 (IATCA) applied the new language to international route authority.

[2] Airport and Airway Improvement Act of 1982, section 531, Pub. L. 97–248, 96 Stat. 671, 701 (1982) (Title V, Tax Equity and Fiscal Responsibility Act of 1982, 96 Stat. 324).

[3] The Board noted a letter it had received from Senators Kassebaum and Cannon advocating that all temporary certificates be converted to indefinite certificates.

performance is unsatisfactory; what criteria should be used to develop either a rebuttable presumption or a replacement mechanism; and whether any changes the Board might adopt should be made retroactive to existing certificates.

The Board's ANPRM elicited responses from eleven air carriers and two communities. Republic, USAir, Trans World Airways, and United endorsed changing to a policy of awarding indefinite experimental certificates; Transamerica also endorsed such a change provided that an effective bumping mechanism were implemented contemporaneously. Frontier, Pan American, Houston, and Puerto Rico supported the existing practice of awarding five-year certificates. In two other responses, Northwest proposed changing to permanent certificates issued under section 401(d)(1), and Delta suggested that five-year experimental certificates be granted initially but that permanent authority be granted to an incumbent if its temporary certificate was renewed.

Certificate duration was also the subject of hearings held on May 31, 1984, by the Aviation Subcommittee of the House Committee on Public Works and Transportation. Legislation had been proposed to convert all temporary certificates to certificates of indefinite duration which could be altered or revoked only if required by the public convenience and necessity. Six carriers testified in support of the legislation: Trans World, Pan American, Northwest, World, Delta, and Eastern. Testifying in opposition were People Express, American, Transamerica, Federal Express, Northeastern International, the Aviation Consumer Action Project, and the Civil Aeronautics Board. The Department of Transportation opposed the legislation on procedural grounds, arguing that this question should instead be addressed in a rulemaking proceeding.

The views expressed in these two proceedings have served as the bases for the tentative conclusions set forth in this rulemaking and are summarized below.

1. Comments Supporting Indefinite Experimental Certificates

First, the proponents argue, indefinite certificates would both encourage and enable carriers to expend sufficient resources to develop their routes properly. Freed of the imminent burden of renewal proceedings and the attendant risk to their authority, some carriers claim, they would find it easier to attract capital, recoup their high start-up costs, gain footholds in their markets, and thereby succeed over the long term. Second, the renewal proceedings that temporary certificates make necessary even when an incumbent has performed satisfactorily consume much valuable time and money while accomplishing an affirmative good. Although routes have not been lost in these proceedings, these routes have been costly to defend—TWA claims, for example, that it spent $500,000 in legal fees on the last transatlantic route case at the Board, a case in which no carrier lost authority. Moreover, not only are these expenses grossly excessive, but, proponents argue, they put U.S. carriers at a disadvantage vis-a-vis their foreign flag competitors, since the latter enjoy permanent authority. Finally, it is argued, renewal proceedings unduly protect inefficient incumbents because there is little chance that a selection proceeding will be instituted prior to the expiration of a temporary certificate, regardless of how poorly the incumbent is serving the market.

Temporary certificates also hurt incumbents, it is claimed, by constraining them from rasing their fares while renewal procedures are pending, even when economic circumstances would warrant such action. They also result in an unfair anomaly: sometimes, in the same market, one carrier holds permanent authority while another carrier holds authority that is temporary. The latter has the burden and expense of having to defend its authority periodically, while the former does not.

In defense of indefinite experimental certificates, carriers claim that they would not harm new entrants unduly because most international routes are open to entry by all comers. Moreover, such indefinite certificates would not prevent the government from replacing an incumbent that was performing unsatisfactorily—the Federal Aviation Act makes ample provision for revocation of route authority and for suspension of fares.

This last point notwithstanding, proponents of indefinite experimental certificates did make suggestions for a bumping mechanism to replace ineffective incumbents. Some support a full oral evidentiary proceeding in which the challenger bears the burden of showing good cause and the incumbent has ample opportunity to explain how the lower level of service of higher fares it is offering actually serve the market's needs. One favors selecting the procedures *ad hoc* as each particular case arises. The challenger's burden would be to show not only defects in the incumbent's performance but also how it would make a significant improvement and, specifically, how it would overcome the problems the incumbent faced. One carrier suggested that a challenge be allowed only when the incumbent has suspended service or is not offering the fares or service it initially proposed. Failure to maintain proposed capacity might also be grounds for revocation if capactiy was a basis for the incumbent's original selection. All agree that a challenge should be denied if the incumbent has been offering fares and service reasonably consistent with its proposal or has given valid reasons why it has not.

2. Comments Supporting Temporary Experimental Certificates

The case for temporary experimental certificates rests largely on the public interest in simulating free market competition in limited-designation routes to as great a degree as possible. Proponents claim that the threat of losing authority for the route in a renewal proceeding works to keep an incumbent's fare and service offerings competitive in much the same way that the threat of potential entry works in domestic markets. As a corollary, the certainty of renewal procedures also preserves opportunities for potential new entrants, many of whom will not have existed when temporary authority for any particular market was first granted. Some proponents of temporary experimental certificates do not trust replacement procedures, which the Civil Aeronautics Board never used. They maintain that changing to policy of awarding indefinite experimental certificates would create tremendous barriers to entry into limited-designation markets, an undesirable result because new carrier entry has greatly stimulated pricing and service innovations. Other temporary experimental certificate proponents have different apprehensions: that with indefinite experimental certificates, the constant threat of replacement proceedings at any given time would create instability and uncertainty, and that the need to guard against carriers' improper exploitation of their monopoly positions could well mean increased governmental interference.

They further argue that temporary certificates make it easier to replace a carrier that is no longer the best choice for the route due to subsequent events, for example, a significant change in its domestic route structure. These temporary certificates also limit carrier's ability to traffic in route authority. At least one proponent of temporary certificates believes that foreign governments would interpret a change

to indefinite certificates as tacit U.S. acceptance of the principle of limited designation, a result contrary to U.S. policies favoring open-entry competition in international markets.

Proponents deny that temporary experimental certificates discourage or hinder incumbents from investing the resources necessary to develop limited-designation markets or that they dampen carrier's enthusiasm in seeking authority for these routes. To the contrary—temporary certificates provide a greater developmental incentive than indefinite or permanent certificates could, because carriers with temporary authority know that they will have to perform well in order to retain their authority. Proponents also deny that renewal proceedings are necessarily costly or otherwise burdensome. Contrary to TWA's claim, former CAB Chairman Dan McKinnon testified at the House Aviation Subcommittee hearings that a carrier's cost for a constested renewal proceeding now ranges from $40,000 to $50,000. Nor need renewal proceedings be protracted or complicated: simplified, non-oral, show-cause proceedings can be used in the majority of cases. If anything, it is the incumbent that is most likely to ask for a hearing, not a challenger.

Also in defense of temporary certificates, proponents argue that incumbents' reduction of fares and expansion of service as expiration and renewal approach is an advantage, not a liability. It shows that the intended simulation of competitive market forces is actually succeeding. Finally, they assert that no convincing evidence that temporary certificates limit U.S. carriers' ability to compete with foreign flag carriers has been produced.

The issue of whether replacement proceedings should be allowed during a temporary certificate's term has also been addressed. One commenter suggested that replacement be allowed after one year if the incumbent's service level falls to or below half of what it proposed in its application, or if its fares rise by 25 percent or more. In any replacement proceeding, the incumbent's performance, the circumstances surrounding its service, and all challengers' proposals should be considered. Another commenter proposed that replacement proceedings not be allowed for the first two years of a route award unless the incumbent fails to adhere to its proposal, that bumping procedures be triggered when a challenger files a proposal, and that show-cause procedures be used.

Carrier proponents of temporary experimental certificates favor a strong rebuttable presumption of renewal: the incumbent should receive authority again unless its performance has been significantly inferior to what another willing operator might realistically be expected to provide. In one carrier's view, once a carrier has performed well under a temporary certificate, the rationale behind experimental certificates will have been served—*i.e.*, its actual performance will have matched its proposal. Such merit having been demonstrated once, there would be no need to test that carrier further. The community proponents of temporary certificates have different views on presumptions from those of the carriers. One submits that there should be no presumption in favor of an incumbent that has failed to adhere to its fare or service proposal unless such failure has been due to foreign government disapproval; in no case should the presumption be so strong that the incumbent does not have to show that it can and will offer the best fares and service in the future. Another opposes rebuttable presumptions altogether on the grounds that conflicts over their meanings would be inevitable.

DOT Proposal

On the basis of both the comments summarized above and our own analysis, we have tentatively decided to adopt the Board's practice of awarding five-year temporary experimental certificates under section 401(d)(8) of the Act for limited-entry routes. We request comments on this proposal as well as on any of the other options. To assist in the drafting of comments, we shall set forth our views of the pros and cons of each of the four options presented thus far; we also invite commenters to suggest (and substantiate) other options.

Five-Year Temporary Experimental Certificates

We tentatively believe that this option strikes the best balance between the incumbent's need for time to develop its market and recoup its investment, on the one hand, and the public interest in the incumbent's continued responsiveness to the market's needs, on the other. It also preserves opportunities for new entrants that otherwise would probably not exist, and it gives the Department the greatest flexibility available under the Act to respond to changed circumstances, when necessary. Finally, we consider it highly unlikely that this option will result in protracted or costly renewal proceedings when the incumbent is performing well.

We believe that temporary certificates work to keep incumbents responsive to market needs in much the same way that potential competition works for open-entry routes. The certainty of renewal proceedings acts as both a carrot and a stick: it encourages carriers to adhere to their fare and service proposals; it discourages complacency and exploitation of monopoly power.

In light of the evidence at hand, we also find merit in the suggestion that five years is enough time for a carrier to develop a route and realize a return on its investment. The Board's ANPRM expressly directed carriers to document their developmental costs and the time it had taken to recover them. We find it telling that no carrier provided any such data. Indeed, according to Delta, "5-years duration for a fixed-term certificate (when temporary certificates are employed) is a suitable benchmark for both market development and recovery of costs for that development." Comments at 5 and 6. The use of temporary certificates does not appear to have kept carriers from competing for route authority, and we have not yet seen any evidence that carriers have failed to expend the resources necessary to develop their new routes. While opponents argue that fixed-term certificates reduce a carrier's incentive to develop a market, it is at least as logical that five-year experimental certificates would increase development incentives by raising the spectre that the route will otherwise be lost.

Another critical advantage we see in awarding five-year temporary experimental certificates is that new entrants then have recurring opportunities to vie for limited-entry routes. We believe that these opportunities would be much less frequent were we to issue certificates of indefinite duration; new entrants would, as a practical matter, be virtually foreclosed if permanent certificates became the norm. Temporary certificates are thus more consistent with IATCA's pro-competitive policies than are any of the other available options.

Similarly, with regular review, the Department will have a clear opportunity to appraise each market's changing needs periodically and, with each appraisal, to pick the applicant best situated to meet those needs. This flexibility would be sacrificed were we to issue indefinite experimental certificates under section 401(d)(8) or permanent certificates under section 401(d)(1). With permanent certificates, the Department could replace an operating incumbent only under section 401(g)(1), which allows the Department to delete or suspend a certificate only if

such action is required by the public convenience and necessity.[4]

We would also lose much flexibility if we were to begin awarding experimental certificates of indefinite duration under section 401(d)(8). In addition to the section 401(g) standard described above, section 401(d)(8) empowers us to revoke the certificate of a carrier that has not performed according to its original proposal. While this would give us some additional flexibility, it would not allow us to replace a carrier in response to changing market conditions or the emergence of a more efficient carrier, unless the incumbent had deviated significantly from its proposal. With temporary certificates, in contrast, we have the opportunity to review a market every five years, determine how its needs have changed over that period, and select the applicant that can best meet those needs. Fare and service proposals cannot unfailingly anticipate events over which carriers have no control, and we believe that the public interest is better served by ensuring that each market's evolving needs will be reevaluated periodically.

As for claimed disadvantages to five-year certificates, we think that the carriers' fears of unnecessary, cumbersome, protracted, and costly renewal proceedings are overblown. We anticipate handling uncontested renewal applications through expedited paper proceedings. Even when an incumbent is challenged, oral evidentiary hearings need not necessarily follow; the Department is free in renewal cases to conduct paper proceedings under the simplified procedures of section 401(p) when circumstances warrant and there are no material facts in dispute. Also, in a proceeding heard by Administrative Law Judge, the judge may dispense with a hearing if he believes the written record sufficient to support a decision.

If a renewal case does go the hearing, it can be processed at a lower cost and in a shorter time than cases that were conducted before deregulation. Then, as there were no statutory deadlines, route cases could last years and often did. Now, as a result of the expedition imposed by statutory deadlines, route cases cost less to conduct. Former Chairman McKinnon contends that litigating a renewal case should cost no more than $40,000 to $50,000. People Express claims to have spent less than $50,000 to obtain its Newark-London route even with full oral evidentiary hearing procedures. Our own review of the Board's carrier selection decisions in the past six years reveals that route case hearing rarely go beyond two or three days and that issues are far more narrow than before deregulation. The *Transatlantic Route Proceeding*, in which TWA claims to have incurred legal costs of $500,000, had 60 days of hearings. Under the statutory deadlines for decision imposed by the ADA, such a case would be extremely unlikely.

In continuing to issue five-year temporary experimental certificates, we do not intend to automatically apply a rebuttable presumption in favor of the incumbent, regardless of the carrier's performance in the market. Rather, we intend to continue the Board's practice of using incumbency as a positive carrier selection criterion in those cases where the incumbent has performed satisfactorily. Where it has not, it will be accorded no incumbency advantage, and the case will be decided based on a *de novo* review of the applicants' proposals.

In such instances, we see no need to engage in a determination of fault, *i.e.*, attempting to determine why a carrier failed to provide the fares and service it orginally proposed and whether its actions were "justified" by the presence of factors over which it had no control. Such issues are very difficult, if not impossible, to resolve, and their inclusion would greatly increase the time and effort required to complete a renewal proceeding. The Board believed that a review which rewarded good service and penalized poor service would be an incentive to incumbents to serve their markets properly because their service would have a direct bearing on their chances for renewal. However, according an advantage to incumbents that perform well should provide sufficient incentive for incumbents to provide the service and fares required by the market without also having to examine why carriers failed to provide satisfactory service. While we might, where relevant, use an incumbent's past performance to evaluate the credibility of its renewal proposal, we do not anticipate using it as an independent factor to be weighed against it in a renewal proceeding. Its proposal will simply be compared on an equal footing with those of the other applicants, and the better proposal will be selected.

Indefinite Experimental Certificates

The primary advantage we see in indefinite experimental certificates is that renewal proceedings would not be conducted for any route where the incumbent had consistently met the market's needs and the route was not contested. With five-year temporary experimental certificates, however, there is not much practical difference: in such cases, the incumbent's authority can be renewed quickly and at little public or private cost.

A second advantage to indefinite experimental certificates is that they will allow the Department to take action against an incumbent when needed. It may thus offer a more expeditious means of replacing a poorly performing carrier. Another advantage advocated by the proponents of indefinite experimental certificaters is that carriers will be encouraged to expend greater resources to develop their markets because incumbents would not face the prospect of automatic review of their certificate authority every five years.

The critical disadvantage we perceive in indefinite certificates is that our ability to replace incumbents who are no longer best serving the public interest could be curtailed, because the legal standard for removing an operating incumbent is higher than for declining to renew an incumbent's temporary authority. Furthermore, incumbents would be freed from the simulated potential competition that fixed-term certificates now provide, and opportunities for new entrants would be foreclosed. (Even if many international routes are open to unlimited entry, still, many of the more lucrative routes are not.) Finally, notwithstanding the higher standard for removal of an incumbent, incumbents would be vulnerable to challenge and removal at any time, thereby creating far more potential instability and uncertainty than exist with five-year certificates.[5] This in turn would require far more regulatory oversight than the current approach does. Thus, while indefinite experimental certificate might obviate the need for some automatic renewal proceedings, we believe, on balance, that the public interest would be best served through a regular review of an incumbent carrier's performance in a limited-entry market.

Five-Year Temporary Experimental Certificate Converting To Permanent Certificates Upon Renewal

This option has all the disadvantages of indefinite experimental certificates after the incumbent's first five years: upon renewal, it would remove all the

[4] It also allows certificate revocation as a punitive measure for violations of the Act or Department rules or orders.

[5] Although a five-year temporary experimental certificate is subject to challenge at any time, challengers are more likely to make such a bid in the context of a renewal proceeding because the evidentiary burdern that they must meet is lower in a renewal case than in a mid-term challenge.

performance incentives temporary certificates provide. As we have already stated, we believe that continuing to simulate the threat of potential competition in limited-entry routes serves the public interest far better. Also, as with indefinite experimental certificates, we think that the carriers' interests in having route security and avoiding the costs of renewal proceedings are heavily outweighted by the public's interest in both competitive fare and service offerings and preserved opportunities for new entry.

Permanent Certificates

In permanent certificates, we see all the disadvantages that we noted above in connection with indefinite experimental certificates. We also see a further disadvantage: Unlike indefinite certificates, they do not allow for removal even for fully unjustified and unexplained failure to adhere to fare and service proposals or because of changed circumstances. They would thus give carriers much more freedom than they have now to provide inferior service, charge excessive fares, or otherwise exploit their positions as monopolists or oligopolists. We believe that these disadvantages to the public far outweight the advantages permanent certificates would bring to carriers: the highest available degree of route security, the freedom to fully develop routes, and no expenses for renewal or bumping proceedings.

II. Withdrawal From a Route by a Carrier With Exemption Authority Before the Replacement Carrier's Entry

The Department also solicits comments on a proposed rule to minimize service gaps in limited-entry international routes. A number of carrier selection cases involve routes in which no U.S. carrier is providing service. Often, one of the applicants will be authorized to serve the route by a *pendente lite* exemption, following a determination that interim U.S.-carrier service is in the public interest. If the exempted carrier is not subsequently selected for certificate authority, it is likely to leave the market before the selected carrier is in a position to inaugurate service. If it is the only U.S. carrier in the market, the disruption in service to the communities involved can be significant.

We are proposing a rule to require any carrier providing service under a *pendente lite* exemption on a route that is at issue in a carrier selection proceeding to notify the Department at least 90 days before it ceases to serve that route. The rule would allow the exempted carrier to terminate service earlier if the replacement carrier initiates service before the 90-day period expires. At present all carriers have an exemption under 14 CFR 323.8 relieving them of their section 401(j) obligation to file notice when terminating, reducing or suspending service in foreign air transportation.[6] This rulemaking will scale back that exemption only to the extent necessary to address this problem.

Even with this rule, gaps in service may still occur if the replacement carrier needs more than 90 days to initiate service or if the exempted carrier decides to leave the market after an adverse recommended decision of an Administrative Law Judge but before the Department's final decision. Nevertheless, we do not believe that imposing any greater constraint on exemption carriers is consistent with the Act. Our solution represents a compromise between that concern and the public interest in minimizing service disruptions.

III. Carrier Selection Procedures

Summary of Comments

In 1983, the Department examined the issue of carrier selection procedures in preparation for our succession to the Board's international aviation responsibilities. We conducted a seminar on March 2 and 3 on the future administration of these responsibilities; we also opened a docket on November 30 to receive public comment on this issue. In both, we sought to explore not only the Board's procedures but also possible alternatives, such as auctions or lotteries. We have summarized below the views on lotteries and auctions submitted to the docket and expressed at the seminar. (Docket and seminar comments on traditional carrier selection procedures are summarized in the Carrier Selection Criteria section below.)

On record as opposing both lotteries and auctions as means of awarding route authority are the following: the National Air Carrier Association, the Committee of Practitioners (a group of six aviation lawyers and one law professor), the Calgary Transportation Authority, the Edmonton Air Service Authority, the Air Transport Association (ATA), the Aviation Consumer Action Project (ACAP), the Air Line Pilots Association (ALPA), John Flynn (President of Flynn Air Transport Advisors), and George Martin, Jr.

The basic argument made by commenters against both lotteries and auctions is that the distribution of important international route rights should not be left either to the luck of the draw or to interested carriers' financial wherewithal. Moreover, the commenters argue that these routes should not be distributed without any regard to the traveling public's needs, to the benefits of new entry, to the applicants' existing route structures, to their relative strengths and abilities to provide the best service, to their safety records, to the effects of each applicant's selection on U.S.-flag interests, to the preferences of affected civic groups, or to the public interest generally—none of which could readily be considered if route authority were distributed by lotteries or auctions. Rather, say these commenters, the public interest demands that international route authority be distributed on the basis of reasoned decisions: each market's needs must be assessed, the applicants' relative strengths determined, and the advantages of the competing proposals ranked in light of all relevant circumstances.

The perceived advantages of lotteries are that they would achieve political insulation, lower the public and private cost of route authority distribution, and facilitate participation by new entrants and small carriers. Commenters argue that the inevitable randomness of lotteries, however, would frustrate the goal of having international routes served by the carriers that are the most effective competitors and the most responsive to consumers. To offset such randomness, it has been suggested, the Department could impose threshold fitness standards or other qualifying criteria. However, those opposing lotteries contend that this solution would greatly reduce any saving in cost because the application of threshold standards would require keeping much of the existing machinery. Moreover, any threshold standard might well be subject to varying interpretations and possible court challenge.

Distributing international route authority for any particular market by auction would, it is argued, also pose problems. First, competition both in the market at issue and in other, related markets might well suffer, depending on what other route authority the winner had already. Second, the richest carrier

[6] Although the Board issued a NPRM in 1982 (47 FR 35433) to limit this exemption by requiring an air carrier to give notice when it intends to terminate or suspend service to a foreign point, the Board terminated that rulemaking at the end of 1984 (50 FR 481), on the grounds that such notice was not necessary and discouraged carrier flexibility. The rule we are now proposing is for more narrow than the one terminated in 1984 and is directed at those few situations where there is a greater likelihood that a service disruption could occur.

would usually win. Third, either the winner would pass its cost on to the public via higher fares or, if it absorbed the cost itself, it would be weakened.

Two variations on the auction theme were proposed at the Department's seminar. Professor Ramchandran Jaikumar of Harvard University proposed that carriers be required to "bid" an average fare for a government-established level of service. The low bidder would win. It would retain its authority as long as it provided the prescribed level of service and did not increase its fares above those of the next lowest bidder. Three challenges would be allowed each year. Professor Jaikumar claimed that this method is fair, objective, economically efficient, and relatively inexpensive. It would provide political insulation, and it would allow carriers some flexibility to vary service and fares.

In a second proposal, Professor Charles R. Plott of the California Institute of Technology suggested that the Department measure each applicant's proposal in any particular case by weights assigned to the proposal's service and fare characteristics. It would then compare all the proposals using a benefit/service index. The winning carrier would be required to perform at the fare and service level proposed by the next lowest bidder. If the winner failed, then another round of bidding would ensue.

The seminar participants, including TWA, Air Florida, and Northwest among others, responded negatively to both proposals. Both were perceived as fostering too much turnover and providing too little assurance that the winner would have adequate time to develop any route. Carriers would have little incentive to invest; short-term profits would be emphasized unduly. Any profit, short-term or long, would be unlikely, as carriers would probably bid too low in order to win the routes. Frequent turnover, in turn, would cause consumers to lose confidence in U.S. carriers and thereby disadvantage the overall U.S.-flag position. Both proposals were also criticized for making no allowance for events outside a carrier's control that might force it to violate the terms of its award. They were further criticized as impracticable: even if service and fares could be reduced to formulas, which carriers doubt, weighing the different price and fare factors would prove unduly difficult, costly, and time-consuming.

DOT Proposal

Having reviewed the comments summarized above, we have decided against using lotteries or auctions to distribute authority for limited-entry routes. To insure that these valuable aviation rights, which the U.S. government has secured through bilateral negotiations, are utilized with the maximum benefit to the public, we must assign them in the most reasoned and rational way possible. Sections 401 and 102 of the Act direct us to select the carrier that will best serve the public interest. Historically, the carrier selection process has often entailed a complex analysis of a market's current characteristics, including consideration of developments in related markets, our bilateral relationships, and the U.S. government's own procompetitive policies. The Board developed a set of criteria for evaluating competing proposals in order to discharge the same responsibility that we now bear. We believe that to distribute these valuable aviation rights by chance or to the highest bidder would violate the Congressional directive that we consider specified public interest factors in determining the public convenience and necessity.

The possibility of establishing threshold standards does not render the general use of lotteries or auctions acceptable. What would be a fitting threshold for one particular market might not make sense for another; thus, establishing thresholds would entail much of the effort for each case that lotteries or auctions purport to eliminate. So, too, would applying these thresholds. In addition, both the creation and the application of threshold standards would inevitably foster confusion.

We also believe that the public interest would not be well served were we to adopt either Professor Jaikumar's proposal or that of Professor Plott. We agree with the carriers that both would probably foster excessive turnover and uncertainty; we also doubt that fares and services can be reduced to a formula. An additional problem we have with both proposals lies in their omission of factors other than proposed services and fares: the public interest rarely boils down to just these two concerns.

IV. Carrier Selection Criteria

The Department will continue the Board's practice of awarding limited-entry route authority by determining which of the applicants in any particular case will provide the maximum public benefits. We have decided to adhere for the most part to the Board's carrier selection procedures; we also propose to adopt both its selection criteria, which are enumerated below, and its practice of varying the weight accorded each criterion from case to case depending on each case's peculiar circumstances. The Board's *ad hoc* approach recognizes the inherently dynamic nature of international aviation and allows the decisionmaker the flexibility to respond to whatever conditions pertain at the time of any particular proceeding. We believe that the public interest requires that this flexibility be retained. For this reasons, we do not intend to adopt any rule or policy that would abstractly assign weights or rankings to any of the criteria without regard to the circumstances surrounding any particular route case.

We are aware, however, that the Board's method of selecting carriers has not met with universal approval. We have already received some comments on carrier selection criteria at our March, 1983 seminar, noted above. While several seminar participants voiced general support, others criticized the Board's decisions on such grounds as unpredictability and inconsistent application of standards.

We invite comments on our proposal to continue the Board's practice of using carrier selection criteria on an *ad hoc* basis. We also invite comments on the criteria themselves, both on the validity of existing criteria and on whether or not the public interest would be well served by using other criteria as well. Those who object to our proposal to continue the Board's practice should submit their alternative suggestions and explain how they would serve the public interest better than the Board's approach has done.

The Board's Carrier Selection Criteria

For open-entry markets, where there are no artificial constraints on entry, the market has been deemed to be the best judge of the carriers' proposals, and permissive authority of unlimited duration has been awarded to all fit applicants. For limited-entry markets, however, the Board had to select the applicant it judged likely to provide the most public benefits. It developed a number of criteria by which to evaluate and compare competing applications, according these criteria different weight depending on the circumstances of each individual case.

1. Market Structure

Consideration of *market structure*, a primary criterion, enhances our analysis of which carrier would be most likely to enhance competition either in the primary route or in a broader international market. This criterion derives from Congressional directives in the Act's policy statement to place

"maximum reliance on market forces" and to encourage the development of an air transportation system that relies on competition to "provide efficiency, innovation, and low prices."

A principal way that the Board sought to enhance structrual competit on on routes between the United States and any foreign nation was through *intergateway competition.* In limited-entry markets, there is no threat of potential competition to discipline pricing behavior, because the U.S. cannot add another carrier at will. As a substitute for the threat of potential entry, the Board attempted to foster fare and service competition among carriers serving the same foreign destination from different U.S. gateway cities. Thus, the Board attempted to choose a different carrier for each of those gateways that could draw on a common pool of behind-gateway traffic. These carriers would then have to compete among themselves for the common traffic pool; optimally, they might even compete for traffic originating at each other's gateways. If, on the other hand, one carrier held exclusive authority to serve two such gateways, it would be under far less pressure to offer competitive fares and services and would have little incentive to maintain nonstop service at both gateways.

Intergateway competition was a major factor in the Board's selection of American in the *Dallas/Fort Worth-London Case,* Order 83–3–42, and in its selection of Air Florida to serve Newark in the *U.S.-London Case (1982),* Order 82–4–64. This criterion also figured prominently in the Department's decision in the *Houston-London Case,* which rested on the traditional carrier selection criteria because the case had been tried before the Board's sunset and under traditional assumptions.

A second way that the Board attempted to enhance competition is through *intragateway competition,* or competition in routes where two or more U.S. carriers may operate. In selecting a second or third carrier, the Board often chose the applicant that it believed could be a strong competitor in the market. For example, it chose Air Florida in the *Miami-London (Gatwick) Case,* Order 81–1–15, because of its perceived ability to meet strenuous competition from the three carriers (Pan American, British Airways, and Laker) already serving the Miami-London market. Similarly, the Board's selection of People Express in the *Newark-London Back-Up Case,* Order 83–5–60, rested partly on the carrier's perceived ability to compete effectively with the carriers serving London from Kennedy Airport.

The Board also sought to promote *destination competition—i.e.,* competition between carriers operating from the same U.S. point to different resort markets that attract the same pool of travelers. In the *Chicago/Texas/Southeast-Western Mexico Route Proceeding,* Order 81–6–65, the Board picked Republic over United for the Chicago-Western Mexico route because United already served the Chicago-Yucatan (Mexico's east coast) market. The Board reasoned that a Chicago traveler's decision whether to go to a seaside resort in Western Mexico or one in the Yucatan would depend largely on how the price and service options for both compared. Selection of United would have created a monopoly on Chicago traffic to both Mexican coasts and would have therefore foreclosed competition between the two destinations. Similarly, in the *Dallas/Ft. Worth-Yucatan Service Proceeding,* Order 81–1–83, the Board selected TXI largely because it had no Dallas-Mexican resort area route authority and American, the other applicant, was the dominant carrier in the Dallas/Ft. Worth-Western Mexican resort markets.

Another way the Board sought to increase competition was through increasing the number of U.S. carriers operating to a particular country or region. Thus, one reason for Continental's selection in the *Central Zone-Caracas/Maracaibo, Venezuela Service Case,* Order 83–4–49, was that it was the only viable applicant not already providing certificated service in the U.S.-South America market. Injecting a new carrier was deemed most likely to enhance competition in this broader market.

2. Route Integration

The *route integration* criterion entails assessment of each applicant's ability to flow traffic over the primary route to and from points behind the U.S. gateway or beyond the foreign gateway. This ability has figured significantly in carrier selection because it bears on both the economic viability of a carrier's proposal and the benefits it might bring passengers outside of the primary market. It can also bear on the extent to which selection of a particular carrier will foster intergateway competition.

In the *Miami-London Service Case (Gatwick Phase),* Order 81–1–15, a principal reason for selecting Air Florida was its extensive on-line connecting service, which the Board concluded would offer far greater consumer benefits than World's limited single-plane service to three U.S. points. Route integration also figured prominently in some of the carrier selections made in the *Texas/Great Lakes-Eastern Canada Service Case,* Order 80–5–91. The Board considered Braniff and American to be the leading candidates for the Houston-Dallas/Ft. Worth-Toronto/Montreal route because their route strengths would give them a significant advantage in developing the thin Texas-Canada primary markets and in competing with Air Canada, which had superior beyond strength and identity on the Canadian side of the route. The Board selected Braniff because it would provide more single-plane service and more connecting opportunities. Route integration also played a significant role in the *Dallas/Ft. Worth-London Case,* Order 83–3–42. Most recently, in the *Miami-London Competitive Service Case* (another DOT case decided under the traditional criteria), the Department selected Eastern over World on the grounds that Eastern's feed strength at Miami would make it a stronger competitor in this traditionally feed-heavy route. In the already mentioned *Houston-London Case,* Continental's extensive feed at Houston weighed in its favor in terms of intergateway competition: the Department concluded that Continental was in a better position than Pan Am to develop Houston as a competitor to other London gateways such as Dallas or St. Louis.

Route integration has assumed great significance in cases when fare or service proposals are deemed unreliable or cannot satisfactorily be reconstructed and analyzed. (Fare and service proposals are themselves a selection criterion, as discussed below.) In the *Central Zone-Caracas/Maracaibo, Venezuela Service Case,* Order 81–3–29, the Board disregarded the applicants' fare proposals, which the Administrative Law Judge had characterized as based "upon virtually unsupported judgment guesses," and selected Braniff over American and Republic, in part because its route structure provided the best promise for eventual success. In the *Chicago/Texas/Southeast-Western Mexico Route Proceeding,* Order 81–6–65, the Board deemed all five applicants' fare and service proposals suspect because they rested on questionable traffic forecasts: the markets at issue had not had nonstop service before, so the forecasts were constructed from such data as hotel occupancy rates in other markets. The Board looked beyond the paper proposals to the applicants' relative abilities to compete effectively at Chicago, among other things. It selected Republic, in part because its route strength equaled United's in the relevant midwestern areas.

Route integration has also figured prominently in cases where fares and service are subject to external constraints. Where fares and primary market frequencies are for practical purposes predetermined, service benefits in beyond markets may nonetheless be achieved. Moreover, to the extent that primary market load factors are maximized, the likelihood of obtaining additional frequencies is enhanced. In the *Central Zone-Caracas/Maracaibo, Venezuela Service Case*, Order 81–3–29, the Board gave extra weight to route integration because it was uncertain whether the Venezuelan government would accept any of the carriers' proposals. It selected Braniff, in part because it has substantial on-line traffic support beyond all three principal Central Zone destinations, large connecting complexes at both Dallas/Ft. Worth and Houston, and a significant pattern of service at New Orleans. On the other hand, route integration has been less important for routes whose traffic is largely local. In case such as the *U.S.-London Case (1982)*, Order 82–4–64, in which Air Florida was selected for the Newark-London Market, the carrier selected has had little or no behind or beyond feed.

3. Fare and Service Proposals

Applicants' fare and service proposals, to the extent they are credible, provide basic evidence on the public benefits to be had in selecting them—benefits such as low or innovative fares, high frequency and capacity, and a variety of service options, among others. How the applicants' proposals compare with one another can bear directly on which carrier will provide the greatest public benefits, again depending on their credibility. In some cases, this criterion has been decisional. In the *Seattle/Portland-Japan Service Investigation*, Order 78–10–42, for example, the Board chose United over four other carriers solely on the basis of its low fares and its service proposal. Similarly, in the *Yucatan Service Case*, Order 80–9–52, United received Chicago-Yucatan authority primarily because it proposed a lower and more comprehensive package of fare options and because its service proposal was superior.

As suggested above, a carriers' fare and service proposal can provide some basis for determining its commitment to serve the route and to offer low and innovative fares, especially if the proposal appears to be consistent with that carrier's previous performance and general marketing philosophy. (Conversely, a carrier's previous performance can bear negatively on its proposal's credibility.) The proposals and their underlying forecasts also indicate how the new route would integrate with each carrier's existing system and how much behind and beyond traffic each one might attract. (As noted above, route integration is itself a carrier selection criterion.)

Fare and service proposals, however, do pose certain problems. Comparing them can be difficult because carriers use different methodologies and assumptions in developing their traffic and financial forecasts. Also, depending on the validity of these methodologies and assumptions, the proposals themselves might be suspect. The Board addressed both problems by scrutinizing these forecasts carefully and, when necessary, adjusting them to conform to historically valid forecasting practices. It could then analyze each proposal's credibility and attempt to compare all of them on a common basis.

4. Incumbency

This criterion has come into play only in the context of renewal applications. The Board gave an incumbent's favorable performance positive weight in deciding whether or not to renew its authority; if the carrier had not performed favorably, incumbency conferred no advantage. Thus, in the *Yucatan Service Case*, Order 80–12–18, in renewing Eastern's New Orleans-Yucatan authority, the Board accorded its incumbency an advantage because it had adhered to the proposal for which it had initially been selected. As for Texas International's Houston-Yucatan authority, however, the carrier's incumbency did not weight in its favor, because its performance had fallen short of its proposal. The Board did consider whether Texas International had performed so unreasonably that its incumbency should be held against it, but it concluded that the carrier's actions did have some justification. It therefore accorded Texas International's incumbency no weight, positive or negative.[7]

5. Ability To Enter Quickly

The ability to enter a route quickly has occasionally played a role in carrier selection. Thus, in the *Dallas/Ft. Worth-Yucatan Service Proceeding*, Order 81–1–83, Texas International's ability to enter the Yucatan resort markets in time to exploit what remained of the peak season was given great weight.

6. Criteria Not Considered

In the era of deregulation, the Board expressly declined to consider certain factors in selecting carriers for limited-entry routes. These include a foreign government's possible response to particular fare or service proposals,[8] domestic hub dominance (unless excessive market poweer could be shown),[9] the diversionary effect a new entrant would have on the traffic and revenues of an incumbent,[10] the extent to which addition of the authority at issue would strengthen any applicant,[11] and applicants' relative economic efficiency.[12]

List of Subjects in 14 CFR Parts 323 and 399

Administrative practice and procedure, Advertising, Air carriers, Antitrust, Archives and records, Consumer protection, Essential air service, Freight forwarders, Grant programs-Transportation, Hawaii, Motor carriers, Puerto Rico, Railroads, Reporting requirements, Travel agents, Virgin Islands.

Issued in Washington, D.C., on September 17, 1985.

Elizabeth Hanford Dole,

Secretary of Transportation.

In consideration of the foregoing, the Department of Transportation proposes to amend Parts 323 and 399 of its Regulations (14 CFR Parts 323 and 399) as follows:

PART 323—[AMENDED]

1. The authority citation for 14 CFR Part 323 would continue to read as follows.

Authority: 49 U.S.C. 1324, 1371, 1381 and 1389, unless otherwise noted.

2. By adding a new § 323.19 to read as follows:

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[7] As noted on pp. 24–25, the Department intends to modify this approach.

[8] *See Central Zone-Caracas/Maracaibo, Venezuela Case*, Order 81–3–29; *Newark-London Back-up Case*, Order 83–5–60; and *Texas/Great Lakes-Eastern Canada Service Case*, Order 80–5–91. The Board preferred to address such issues in its instituting orders by giving less weight, in these cases, to fare and service proposals. *See, e.g., Central Zone-Caracas/Maracaibo, Venezuela Service Case*, Order 82–7–31.

[9] *See Dallas/Ft. Worth-London Case*, Order 83–3–42.

[10] *See U.S.-People's Republic of China Service Proceeding*, Order 83–4–42; *Alaska Bush Points Show-Cause Proceeding*, Order 80–9–149; and *Northeast Points-Puerto Rico/Virgin Islands Service Investigation*, Order 78–12–105.

[11] *See Spokane-Alberta Service Case*, Docket 41638 (Order sent to the President October 1, 1984, but later withdrawn because selected carrier chose not to serve).

[12] *See Transatlantic Route Proceeding*, Order 77–1–98, Appendix II, at 12. *See also* Orders 77–4–146 and 78–11–32.

§ 323.19 Withdrawal notice of exemption Carriers in Certain limited-entry markets.

An air carrier operating under exemption authority in a market which is the subject of a carrier selection proceeding shall file a notice with the Department at least ninety days before it terminates service in that market; provided, however, that such an air carrier may terminate its service on less than ninety days' notice once the air carrier chosen in the selection proceeding enters the market.

PART 399—[AMENDED]

3. The authority citation for 14 CFR Part 399 would continue to read as follows:

Authority: 49 U.S.C. 1301, 1302, 1305, 1324, 1371, 1372, 1373, 1374, 1375, 1376, 1377, 1378, 1379, 1381, 1382, 1384, 1386, 1461, 1482, 1502 and 1504, unless otherwise noted.

4. By amending Part 399 to add a new Subpart K consisting of § 399.120 to read as follows:

Subpart K—Policies Relating to Certificate Duration

§ 399.120 Duration of certificate in limited-entry markets.

All certificate authority that the Department grants to U.S. air carriers in carrier selection proceedings will be awarded in the form of experimental certificates of five years' duration pursuant to section 401(d)(8) of the Federal Aviation Act. This provision does not a later or amend permanent certificates issued prior to January 1, 1985.

[FR Doc. 85-22652 Filed 9-18-85; 1:00 p.m.]

BILLING CODE 4910-62-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9080]

Kaiser Aluminum & Chemical Corp.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Dismissal Order.

SUMMARY: The Federal Trade Commission has dismissed a complaint that charged Kaiser Aluminum & Chemical Corp. substantially lessened competition in the basic refractories industry by acquiring two basic refractories plants from International Mineral and Chemical Corp.'s Lavino Division. After the Commission placed a consent agreement with respondent that would settle the charges on the public record for comment (50 FR 19697), Kaiser sold all of its basic refractories plants to other companies and indicated that it has no indication of remaining in the business. As a result, the Commission has determined that it is in the public interest to reject the consent agreement and dismiss the complaint.

DATE: Dismissal Order Issued August 27, 1985.

FOR FURTHER INFORMATION CONTACT: John V. Lacci, FTC/L-501-7, Washington, D.C. 20580. (202) 254-8644.

SUPPLEMENTARY INFORMATION: In the Matter of Kaiser Aluminum & Chemical Corporation, a corporation.

List of Subjects in 16 CFR Part 13

Basic refractories, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46, Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

In the matter of Kaiser Aluminum & Chemical Corporation, a corporation; Docket No. 9080.

Final Order Returning Matter To Adjudication and Dismissing Complaint

Commissioners: James C. Miller III, Chairman, Patricia P. Bailey, George W. Douglas, Terry Calvani, Mary L. Azcuenaga.

On September 25, 1984, this matter was withdrawn from adjudication for consideration by the Commission of a proposed consent agreement. The Commission accepted the proposed consent and placed it on the public record on May 8, 1985, for comment pursuant to § 3.25(f) of the Commission's Rules of Practice and Procedures.

Having considered the views of the parties to the consent and the comment received from the public, the Commission has determined that the public interest would best be served by rejecting the consent agreement and dismissing the complaint. In this instance, the respondent has transferred control of all of its operating refractories facilities in the United States to other entities and has stated that it has no intention of engaging in the refractories business. Such being the case, the public interest no longer requires that respondent be subject to a Commission order. Therefore

It is ordered, that this matter be returned to adjudication and

It is further ordered, that the complaint issued in the matter be, and it hereby is, dismissed.

By the Commission.

Issued: August 27, 1985.

Emily H. Rock,

Secretary.

[FR Doc. 85-22627 Filed 9-20-85; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 884

[Docket No. 84N-0375]

Obstetrical—Gynecological Devices; Premarket Approval of the Contraceptive Intrauterine Device (IUD) and Introducer

Correction

In FR Doc. 85-19725 beginning on page 33500 in the issue of Monday, August 19, 1985, make the following corrections:

1. On page 33504, in the first column, in the second complete paragraph, in the third line, "the in" should read "in the".

2. On page 33504, in the second column, in paragraph 13, in the second line, "with the IUCD" should read "with an IUCD".

3. Also on page 33504, in the third column, in paragraph 28, in the second line, "Infections" should read "Infection".

4. On page 33505, in the first column, in paragraph 45, in the first line, "Schnidt" should read "Schmidt".

5. On page 33505, in the second column, in paragraph 52, in the second line, "and" should read "an".

6. On page 33505, in the third column, in paragraph 2, "§ 84.5360" should read "§ 884.5360".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD8-85-16]

Drawbridge Operation Regulation; Teche Bayou, LA

AGENCY: U.S. Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Louisiana Department of Transportation and Development (LDOTD) and St. Mary Parish (SMP), the Coast Guard is considering a change to the regulations governing the operation of two state owned drawbridges and two parish owned drawbridges over Teche Bayou, St. Mary Parish, Louisiana, as follows:

(1) The swing span bridge, mile 27.0, at Baldwin (parish owned).

(2) The swing span bridge, mile 32.5, on LA324 at Charenton.

(3) The swing span bridge, mile 37.0 on LA670 at Adeline.

(4) The swing span bridge, mile 38.9 at Sorrel (parish owned).

The proposed change would require the draw of each bridge to open on at least four hours advance notice from 6 p.m. to 10 a.m. and to open on signal outside these hours. Presently, the draws are required to open on at least four hours advance notice from 9 p.m. to 5 a.m. and to open on signal at all other times.

This proposal to extend the advance notice period from eight to 16 hours (6 p.m. to 10 a.m.) is being made because of infrequent requests to open the draws during that period. This action should relieve the bridge owners of the burden of having persons constantly available at the four bridges in the period from 6 p.m. to 10 a.m., while still providing for the reasonable needs of navigation. The draws would continue to open on signal between 10 a.m. and 6 a.m.

DATE: Comments must be received on or before November 7, 1985.

ADDRESS: Comments should be mailed to Commander (obr), Eighth Coast Guard District, 500 Camp Street, New Orleans, Louisiana 70130–3396. The comments and other material referenced in this notice will be available for inspection and copying in Room 1115 at this address. Normal office hours are between 8:00 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Perry Haynes, Chief, Bridge Administration Branch, at the address given above, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Eighth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulation may be changed in the light of comments received.

Drafting Information

The drafters of this notice are Perry Haynes, project officer, and Lieutenant Commander James Vallone, project attorney.

Discussion of Proposed Regulation

Vertical clearances of the bridges in the closed position range from 4.0 to 7.0 feet above high water and 7.0 to 12.0 feet above low water. Navigation through the bridges consists of commercial and pleasure boats. Data submitted by the LDOTD and the SMP show that this traffic has steadily declined over the past three years for all four bridges, as reviewed below:

(1) *Baldwin bridge (mile 27.0).* For 1982, 83 and 84, total openings were 449, 411 and 299, respectively. During the proposed advance notice period of 6 p.m. to 10 a.m., for these same years, there were 215, 184 and 139 openings, respectively. The 139 openings in 1984 averaged 11.6 openings per month or one opening about every three days.

(2) *Charenton bridge (mile 32.5).* For 1982, 83 and 84, total opening were 543, 487 and 410, respectively. During the proposed advance notice period of 6 p.m. to 10 a.m., for these same years, there were 250, 218 and 215 openings, respectively. The 215 opeing in 1984 averaged 17.9 openings per month or three openings about every five days.

(3) *Adeline bridge (mile 37.0.* For 1982, 83 and 84, total openings were 507, 490 and 363, respectively. During the proposed advance notice period of 6 p.m. to 10 a.m., for these same years, there were 213, 202 and 169 openings, respectively. The 169 openings in 1984 averaged 14.1 openings per month or one opening about every two days.

(4) *Sorrel bridge (mile 38.9).* For 1982, 83 and 84, total openings were 550, 481 and 350 respectively. During the proposed advance notice period of 6 p.m. to 10 a.m., for these same years, there were 225, 205 and 164 openings, respectively. The 164 openings in 1984 averaged 13.7 openings per month or one opening about every two days.

Considering the few openings involved, the Coast Guard feels that the current on site attendence at the four bridges can be discontinued, during the proposed advance notice period from 6 p.m. to 10 a.m., and that the bridges can be placed on four hours advance notice for an opening during that period. This will provide relief to the bridge owners, while still providing for the reasonable needs of navigation. Outside this 16 hour period, the bridges would continue to open on signal.

The advance notice for opening the draws would be given by placing a collect call at any time to the LDOTD District Office at Lafayette, Louisiana, telephone (318) 233–7304, for state bridges; and to the SMP at Franklin, Louisiana, (318) 828–1960, for parish bridges. From afloat, this contact may be made by radiotelephone through a public coast station.

Both the LDOTD and SMP recognize that there may be an annual occasion to open the bridges on less than four hours notice for a bona fide emerency or to operate the bridges on demand for an isolated but temporary surge in waterway traffic, and have committed to doing so if such an event should occur.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the 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. The basis for this conclusion is that few vessels pass the bridges during the proposed advance notice period from 6 p.m. to 10 a.m., as evidenced by the 1982, 83 and 84 bridge openings which show a steady decline and average well below one opening per day for the period. These vessels can reasonably give four hours advance notice for a bridge opening by placing a collect call to the bridge owner at any time. The mariners requiring the bridge openings are repeat users of the waterway and scheduling their arrival at the bridge at the appointed time during the proposed advance notice period should involve little or no additional expense to them. Since the economic 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 117

Bridges.

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; and 49 CFR 1.46(c)(5) and 33 CFR 1.05–1(g).

2. Section 117.501 is amended by revising paragraph (a) and paragraph (e) to read as follows:

§ 117.501 Teche Bayou.

(a) The draws of the following bridges shall open on signal; except that, from 6 p.m. to 10 a.m. the draws shall open on signal if at least four hours notice is given:

(1) St. Mary Parish bridge, mile 27.0 at Baldwin.

(2) S324 bridge, mile 32.5 at Charenton.

(3) S670 bridge, mile 37.0 at Adeline.

(4) St. Mary Parish bridge, mile 38.9 at Sorrel.

* * * * *

(d) The draws of the bridges listed in paragraphs (a) and (b) shall open on less than four hours notice for an emergency during the advance notice period, and shall open on signal should a temporary surge in waterway traffic occur.

Dated: September 4, 1985.

L.B. Acklin,

Captain, U.S. Coast Guard, Commander, 8th Coast Guard District, Acting.

[FR Doc. 85-22661 Filed 9-20-85; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Federal Insurance Administration

44 CFR Part 67

[Docket No. FEMA-6676]

Proposed Flood Elevation Determinations; Arizona, et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed modified base flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: John L. Matticks, Acting Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for selected locations in the nation, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations, together with the flood plain management measures required by Section 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

PART 67—[AMENDED]

The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
ARIZONA	
Paradise Valley (Town), Maricopa County	
Indian Bend Wash:	
3 feet upstream from center of Invergordon Road	*1319
38 feet upstream from center of Double Tree Ranch Road	*1330
Berneil Channel: 9 feet upstream from center of Double Tree Ranch Road	*1325
Echo Canyon Wash: 50 feet upstream from center of Tatum Road	*1324
Maps available for inspection at Office of the Town Engineer, 6401 East Lincoln Drive, Paradise Valley, Arizona.	
Send comments to the Honorable Joan R. Lincoln, 6401 East Lincoln Drive, Paradise Valley, Arizona.	
CALIFORNIA	
Capitola (City), Santa Cruz County	
Pacific Ocean: 100 feet south of intersection of Esplande with San Jose Avenue	*17
Maps available for inspection at the City Planning Department, 420 Capitola Avenue, Capitola, California.	
Send comments to the Honorable Michael Routh, 420 Capitola Avenue, Capitola, California.	
Chula Vista (City), San Diego County	
Sweetwater River: On the downstream side of Willow Road as it crosses stream	*64
Telegraph Canyon: 80 feet downstream of the centerline of Second Avenue as it crosses stream	*105
Telegraph Shallow Flooding:	
At the intersection of Colorado Avenue and J Street	*21
At the intersection of Colorado Avenue and K Street	#1
Otay River: 200 feet west of the centerline of Interstate 805 at a point 1200 feet south of its crossing of Main Street	*88
Poggi Canyon Creek: At the centerline of Otay Valley Road as it crosses stream	*128
San Diego Bay: 400 feet southwest of the intersection of Bay Boulevard and J Street	*5
Maps available for inspection at Engineering Department, 276 4th Avenue, Chula Vista, California.	
Send comments to the Honorable Greg Cox, 276 4th Avenue, Chula Vista, California 92010.	
Crescent City (City), Del Norte County	
Pacific Ocean: Intersection of Front Street and K Street	*13
Maps available for inspection at the Public Works Department, 450 H Street, Crescent City, California.	
Send comments to the Honorable C. Ray Smith, 450 H Street, Crescent City, California 95531.	
Del Mar (City), San Diego County	
Pacific Ocean:	
200 feet west from the center of the intersection of 27th Street and Ocean Front	*8
300 feet west from the center of the intersection of Ocean Avenue and Atchison, Topeka & Santa Fe Railroad	*9
450 feet west from the center of the intersection of Ocean Avenue and 13th Street	*10
375 feet west from the center of the intersection of Grand Avenue and Carmel Valley Road	*11

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
580 feet west from the center of the intersection of 7th Street and Stratford Court	*12
Soledad Canyon: 800 feet southwest from the center of the intersection of Carmel Valley Road and Grand Avenue	*11
San Dieguito River: 50 feet upstream from the center of Jimmy Durante Boulevard	*18
Maps available for inspection at City Hall, 1050 Camino Del Mar, Del Mar, California.	
Send comments to the Honorable Arlene Carstem, 1050 Camino Del Mar, Del Mar, California 92014.	
Del Norte County (Unincorporated Areas)	
Pacific Ocean: At the shoreline east of Crescent City's eastern boundary	*13
Maps available for inspection at Planning Department, 700 5th Street, Crescent City, California.	
Send comments to the Honorable Glenn Smedley, 450 H Street, Crescent City, California 95531.	
Escondido (City), San Diego County	
Citrus Wash:	
At the intersection of Obsidian Glen and Diamond Glen	#1
Just downstream of the intersection of Valley Parkway and Midway Drive	*686
South Midway Wash: At the intersection of Kingston Drive and Midway Drive	#1
Maywood and Midway Wash:	
At the intersection of Fern Street and Lincoln Avenue	#1
At the intersection of Tennyson Street and La Honda Drive	#1
100 feet southwest from the intersection of Midway Drive and Washington Avenue	*691
Country Club Creek:	
200 feet southwest from the intersection of Gary Lane and County Club Lane	#1
500 feet northwest from the intersection of Bernie Place and Cheshire Way	*702
Unnamed Tributary: At the intersection of El Norte Parkway and Country Club Lane	*702
Maps available for inspection at Public Works Department, 620 North Ash Street, Escondido, California.	
Send comments to the Honorable Ernie Cowan, 100 Valley Boulevard, Escondido, California 92025.	
Eureka (City), Humboldt County	
Humboldt Bay: At the western terminus of Del Norte Street	*6
Maps available for inspection at Department of Community Development, 531 K Street, Eureka, California.	
Send comments to the Honorable Fred J. Moore, 531 K Street, Eureka, California 95501-1165.	
Half Moon Bay (City), San Mateo County	
Pacific Ocean: Intersection of Santa Rosa Avenue and Balboa Boulevard	*27
Maps available for inspection at City Hall, Half Moon Bay, California.	
Send comments to the Honorable Helen Bedesen, P.O. Box 67, Half Moon Bay, California 94019.	
Humboldt County (Unincorporated Areas)	
Humboldt Bay: At the southeastern terminus of Perch Street at King Salmon	*6
Maps available for inspection at Department of Planning, 3015 H Street, Eureka, California.	
Send comments to Honorable Wesley Chesbro, 825 5th Street, Eureka, California 95501.	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Marin County (Unincorporated Area)	
Bolinas Lagoon: 350 feet northwest of the western intersection of Dipsea and Seadrift Roads	*6
Pacific Ocean: At the southern terminus of Calle Del Sierra	*23
Maps available for inspection at Department of Public Works, Marin County Courthouse, 3rd Floor, San Rafael, California.	
Send comments to the Honorable Bob Stockwell, Marin County Courthouse, Room 315, San Rafael, California 94903.	
Mendocino County, (Unincorporated Areas)	
Gualala River: At State Route 1	*17
Maps available for inspection at Department of Planning and Building Services, Mendocino County Courthouse, Ukiah, California.	
Send comments to the Honorable John Cimolino, Mendocino County Courthouse, Room 113, Ukiah, California 95482.	
Monterey (City), Monterey County	
Pacific Ocean: 400 feet north of the intersection of Cortes Street and Del Monte Avenue	*19
Maps available for inspection at Public Works Department, City Hall, Monterey, California.	
Send comments to the Honorable Clyde Roberson, City Hall, Monterey, California 93940.	
Monterey County (Unincorporated Areas)	
Pacific Ocean: 500 feet south of Elkhorn Slough along the Pacific shoreline	*17
Maps available for inspection at Monterey Flood Control and Water Conservation District, 855 E. Laurel Drive, Salinas, California.	
Send comments to the Honorable Dusan Petrovic, P.O. Box 1728, Salinas, California 93902.	
Pacifica (City), San Mateo County	
Pacific Ocean: 500 feet west of intersection of Beach Boulevard and Montecito Avenue	*27
Maps available for inspection at Engineering Department, 170 Santa Maria Avenue, Pacifica, California.	
Send comments to the Honorable Ginny Silva Jaquith, 170 Santa Maria Avenue, Pacifica, California 94044.	
Point Arena (City), Mendocino County	
Pacific Ocean: At the mouth of Point Arena Creek	*20
Maps available for inspection at City Hall, Point Arena, California.	
Send comments to the Honorable Kay Stack, P.O. Box 67, Point Arena, California 95468.	
Sand City (City), Monterey County	
Pacific Ocean: Intersection of Bay Avenue and Vista Del Mar Street	*24
Maps available for inspection at Planning Department, 1 Sylvan Park Street, Sand City, California.	
Send comments to the Honorable David Pendergrass, 1 Sylvan Park Street, Sand City, California 93955.	
San Mateo County (Unincorporated Areas)	
Pacific Ocean: Intersection of Magellan Avenue and Miranda Road	*27
Maps available for inspection at Department of Public Works, 401 Marshall Street, Redwood City, California.	
Send comments to the Honorable William Schumacher, 401 Marshall Street, Redwood City, California 94063.	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Santa Cruz (City), Santa Cruz County	
Pacific Ocean: 300 feet south of the intersection of Beach Street and Riverside Avenue	*15
Maps available for inspection at City Planning Department, 809 Center Street, Room 10, Santa Cruz, California.	
Send comments to the Honorable John Laird, 809 Center Street Room 10, Santa Cruz, California 95060.	
Seaside (City), Monterey County	
Pacific Ocean: 200 feet south of the intersection of Humboldt Street and Sand Dunes Drive	*21
Maps available for inspection at City Hall, Seaside, California.	
Send comments to the Honorable Lancelot C. McClair, P.O. Box 810, Seaside, California 93955.	
Sonoma County (Unincorporated Areas)	
Bodega Harbor: At Spud Point	*11
Salmon Creek: At State Highway 1 crossing over Salmon Creek	*11
Maps available for inspection at Sonoma County Water Agency, 2425 Cleveland Avenue, Santa Rosa, California.	
Send comments to the Honorable Helen Rudee, 575 Administration Drive, Room 100A, Santa Rosa, California 95401.	
Vista (City), San Diego County	
Buena Vista Creek: 100 feet upstream from the center of Indian Avenue crossing	*334
Shallow Flooding:	
100 feet northeast from the center of the intersection of West Broadway and Atchison, Topeka & Santa Fe Railroad	*321
200 feet northwest from the center of the intersection of Mesa Avenue and Vista Way	#1
Buena Vista Creek Tributary 1: 50 feet upstream from the center of Chelsea Court crossing	433
Shallow Flooding: 80 feet southeast from the center of the intersection of Alta Calle and South Santa Fe Avenue	381
Buena Vista Creek Tributary 3: At the interesection of East Drive and Santa Fe Avenue	*345
Maps available for inspection at Public Works Department, 600 Eucalyptus Avenue, Vista, California.	
Send comments to the Honorable Mike Flick, P. O. Box 1988, Vista, California 92083.	
CONNECTICUT	
Avon (Town), Hartford County	
Farmington River (Eastern Segment):	
At Avon-Simsbury corporate limits	*163
Approximately 200 feet upstream of U.S. Route 44	*166
At Old Farms Road	*168
At Avon-Farmington corporate limits	*169
Farmington River (Western Segment):	
At Farmington-Avon corporate limits	*208
At confluence of Hawley Brook	*232
Approximately 2.5 miles upstream of Farmington-Avon corporate limits	*260
Upstream side of Lower Collins Dam	*275
At most upstream corporate limits	*278
Roaring Brook:	
At downstream corporate limits	*240
At upstream side of Hollister Drive West	*252
Approximately 50 feet upstream of Country Club Road	*274
At upstream corporate limits	*285
Nod Brook:	
At confluence with Farmington River	*163
Upstream side of State Route 10	*174
Upstream side of Ensign Drive	*189
Upstream side of U.S. Route 44 (1st upstream crossing)	*215

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
At Darling Drive	*238
Downstream side of U.S. Route 44 (2nd upstream crossing)	*254
Upstream corporate limits	*255
Thompson Brook:	
At confluence with Farmington River	*168
Downstream side of Ofk Farms Road (2nd upstream crossing)	*202
At confluence with Big Brook and Chidsey Brook	*259
Chidsey Brook:	
At confluence with Thompson Brook	*258
Downstream side of State Route 167	*287
Approximately 25 feet upstream of Country Club Road	*284
Hawley Brook:	
At confluence with Farmington River	*232
At Bottonwood Hill Road	*300
Approximately 650 feet upstream Edwards Road	*378
Big Brook:	
At confluence with Thompson Brook	*259
Approximately 30 feet upstream of West Avon Road	*274
Approximately 60 feet upstream of Haynes Road (1st upstream crossing)	*320
At Haynes Road (2nd upstream crossing)	*342
Lake Erie Brook:	
At confluence with Farmington River	*163
Approximately 0.3 mile upstream of confluence with Farmington River	*168

Maps available for inspection at the Town Clerk's Office, Avon, Connecticut.

Send comments to Honorable Philip K. Schenk, Jr., Town Manager of the Town of Avon, 16 West Main, Town Hall, Avon, Connecticut 06001.

Fairfield (Town), Fairfield County

Long Island Sound:	
6 shoreline of Sasco Creek at Connecticut Turnpike	*11
6 shoreline approximately 1,400 feet east of Sasco Creek	*17
6 shoreline at Willow Street (extended)	*15
6 shoreline of Mill River at Harbor Road	*11
6 shoreline at Pine Creek	*17
7 shoreline at Birch Road (extended)	*17
7 shoreline at Ash Creek at Black Rock Turnpike	*11
Grasmere Brook:	
Upstream side of Old Post Road	*11
Downstream side of dam	*33
Upstream side of Jennings Road	*48
Upstream side of Osborn Hill Road	*65
Approximately 100 feet upstream of Stony Brook Road	*96
Rooster River:	
Downstream side of Black Rock Turnpike	*11
Upstream side of Interstate 95	*17
Approximately 100 feet upstream of Stratfield Road	*45
Approximately 1,300 feet upstream of Cornell Road	*78
Horse Tavern Brook:	
At confluence with Rooster River	*79
Upstream side of Merritt Street	*104
At upstream corporate limits	*133
Londoris Brook:	
At confluence with Rooster River	*78
Upstream side of dam	*97
Approximately 850 feet upstream of Fairfield Woods Road	*107
Brown's Brook:	
Confluence with Mill River	*21
Upstream side of Wayside Court	*53
Approximately 550 feet upstream of Governor's Lane	*99

Maps available for inspection at the Town Planning and Zoning Department, Independence Hall, Fairfield, Connecticut.

Send comments to Honorable Jacquelyn Durrell, First Selectman of the Town of Fairfield, Fairfield County, Independence Hall, Fairfield, Connecticut 06430.

Simsbury (Town), Hartford County

Hop Brook:	
At confluence with the Farmington River	*158
At upstream side of Hopmeadow Road	*162
At downstream side of dam	*185
At upstream side of West Street	*200
At upstream side of Cedar Glen Road	*225
At upstream side of Hop Brook Road	*249
At upstream side of Old Farms Road	*299
Approximately 250 feet upstream of West Ledge Road	*320
Stratton Brook:	
At confluence with Hop Brook	*209
At upstream side of Stratton Brook Road	*240
At upstream side of Town Forest Road	*256
At upstream side of dam above John Peel Road	*297
At upstream side of dam above West Mountain Road	*324
At upstream side of Shingle Mill Road	*336
At downstream side of Woodchuck Hill Road	*460
Nod Brook:	
At downstream corporate limits	*255
At upstream side of Fernwood Drive (west)	*279
At upstream side of Notch Road	*309
Approximately 50 feet upstream of Rocklyn Drive	*329
Minister Brook:	
At confluence with Farmington River	*161
At upstream side of Conrail	*173
At upstream side of Red Stone Drive	*240
Approximately 1,200 feet downstream of Pine Glen Road	*306
Approximately 60 feet downstream of Park Road	*337
Munnisunk Brook:	
At confluence with Farmington River	*154
At upstream side of dam above Conrail	*169
At downstream side of County Road	*279

Maps available at the Town Clerk's Office, Town Hall.

Send comments to Mr. Leonard Tolisano, Town Hall, P.O. Box 495, Simsbury, Connecticut 06070.

FLORIDA

Bay County (Unincorporated Areas)

Econfina Creek:	
At downstream county boundary	*81
About 3.4 miles upstream of Scott Road	*147
Sweetwater Creek:	
At confluence with Econfina Creek	*106
About 3.2 miles upstream of confluence with Econfina Creek	*172
Juniper Creek:	
At downstream county boundary	*139
About 300 feet upstream of Atlanta and St. Andrews Bay Railroad	*158
Bear Creek:	
Just downstream of County Highway 2301	*8
Just downstream of Atlanta and St. Andrews Bay Railroad	*127
Just upstream of Atlanta and St. Andrews Bay Railroad	*132
About 1.1 miles upstream of Atlanta and St. Andrews Bay Railroad	*137
Little Bear Creek:	
At confluence with Bear Creek	*26
About 400 feet upstream of confluence of Double Branch	*57
Little Bear Creek Tributary:	
At confluence with Little Bear Creek	*51
About 500 feet upstream of U.S. Route 231	*56
Deer Point Lake:	
Along entire shoreline	*8
Double Branch:	
At confluence with Little Bear Creek	*56
About 2300 feet upstream of confluence with Little Bear Creek	*63
Clear Creek:	
At confluence with Bear Creek	*10
About 2.3 miles upstream of Camp Flowers Road	*49
Bayou George:	
Just upstream of U.S. Route 231	*8
Just downstream of John Pitz Road	*16
Mill Bayou:	
Just upstream of County Highway 390	*7
About 0.7 mile upstream of confluence of Mill Bayou Tributary	*38
Mill Bayou Tributary:	
At confluence with Mill Bayou	*28
About 1060 feet upstream of Avon Road	*34
Callaway Bayou Tributary:	
About 1390 feet downstream of County Highway 22	*25
Just downstream of County Highway 22	*28
Callaway Creek:	
About 0.6 mile upstream of County Highway 22	*4
About 3.1 miles upstream of County Highway 22	*28
Choctawatchee River:	
About 1.1 miles downstream of Walton County-Washington County Boundary	*16
About 8 miles upstream of Washington County-Walton County boundary	*21
Martin Lake: Entire shoreline	*10
West Bay:	
Along shoreline from Hathaway Bridge to about 700 feet south of Shell Point	*4
At the mouth of Burnt Mill Creek	*11
Along shoreline from the mouth of Intracoastal Waterway near the Town of West Bay to the mouth of Big Crooked Creek	*12
North Bay:	
Along shoreline from Pretty Bayou to Posten Bayou	*4
At mouth of Alligator Bayou	*7
At north end of the west side of North Bay Bridge	*9
Along shoreline from Gainer Bayou to Beslly Bayou	*11
St. Andrew Bay:	
Along shoreline from Dupont Bridge to Davis Point	*4
Along shoreline from Beacon Beach to Davis Point	*6
Along shoreline just southeast of Beacon Beach	*7
East Bay:	
Along shoreline from Dupont Bridge to Stringe Bayou	*4
Along the shoreline from Murray Bayou to Allanton	*7
Along shoreline from mouth of Horseshoe Bayou to the mouth of Wetappo Creek	*10
Gulf of Mexico:	
Along shoreline beginning about 8500 feet southeast of St. Andrew Bay inlet to a point about 9000 feet southeast of Crooked Island Point	*7
Along shoreline in the vicinity of Laguana Beach	*9

Maps available for inspection at the Bay County Building Department, 517 East 9th Street, Panama City, Florida.

Send comments to Honorable Helen Ingram, Chairman, Bay County Commission, P.O. Box 1818, Panama City, Florida 32401.

Bunnell (Town), Flagler County

Black Branch:	
About 0.8 mile downstream of Old Haw Creek Road	*15
About 3000 feet upstream of Old Haw Creek Road	*17

Maps available for inspection at the Town Hall, Bunnell, Florida.

Send comments to Honorable John Brice Hosford, Mayor, Town of Bunnell, P.O. Box 756, Bunnell, Florida 32010.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Callaway (City), Bay County	
East Bay:	
Along shoreline of Callaway Bayou from about 0.5 mile south of Boat Race Road to State Road 22	*4
Along shoreline from about 0.25 mile west of South Gay Avenue to mouth of Dotys Cove	*6
St. Andrew Bay: Along shoreline of Pitts Bayou within corporate limits	*4
Martin Lake: Within corporate limits	*10
Callaway Bayou Tributary:	
Just upstream of Berthe Avenue	*4
Just downstream of Old Dam at Sudduth Pond	*10
Just upstream of Old Dam at Sudduth Pond	*17
Just downstream of Cherry Street	*17
Just upstream of Cherry Street	*22
About 0.5 mile upstream of Cherry Street	*26
Maps available for inspection at the City Building, Callaway, Florida.	
Send comments to Honorable Ted Czupryk, Mayor, City of Callaway, City Building, 5708 Cherry Street, Callaway, Florida 32401.	
Freeport (City), Walton County	
Choctawhatchee Bay: Along Lafayette and Four-mile Creeks downstream of State Road 20	*8
Maps available for inspection at the City Building, Freeport, Florida.	
Send comments to Honorable Wray Caswell, Mayor City of Freeport, P.O. Box 339, Freeport, Florida 32439.	
Lynn Haven (City), Bay County	
North Bay:	
Just south of the intersection of 5th Street and Virginia Avenue	*6
Just east of Haven Point	*9
Maps available for inspection at the City Building, 825 Ohio Avenue, Lynn Haven, Florida.	
Send comments to Honorable Pat Mercer, Acting City Manager, City of Lynn Haven, City Building, 825 Ohio Avenue, Lynn Haven, Florida 32444.	
Mexico Beach (Town), Bay County	
Gulf of Mexico:	
Along entire shoreline of inland canal system	*6
Along entire shoreline within community	*9
Maps available for inspection at the Town Hall, Mexico Beach, Florida.	
Send comments to Honorable James Heathcock, Mayor, Town of Mexico Beach, P.O. Box 13425, Mexico Beach, Florida 32410.	
Panama City (City), Bay County	
St. Andrew Bay:	
Entire shoreline of Lake Huntington	*4
Along shoreline from Hannah Avenue to one block west of Michigan Avenue	*6
North Bay:	
Along shoreline from about 950 feet southwest of mouth of Robinson Bayou to southwestern corporate limits	*4
Along shoreline from mouth of Robinson Bayou to Goose Bayou	*7
Maps available for inspection at City Hall, Panama City, Florida.	
Send comments to Honorable Girard Clemons, Mayor, City of Panama City, P.O. Box 1880, Panama City, Florida 32402.	
Panama City Beach (City), Bay County	
Gulf of Mexico:	
Just west of intersection of Seventh Street and Georgia Avenue	*5
Along shoreline from De Luna Place to about 1000 feet northwest of Gulf Resort Beach	*9
St. Andrew Bay: Just west of State Route 392 near Grand Lagoon	*4

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at City Hall, 110 South Arnold Road, Panama City Beach, Florida.	
Send comments to Honorable Richard Jackson, City Manager, City of Panama City Beach, City Hall, 110 South Arnold Road, Panama City Beach, Florida 32407.	
Parker (City), Bay County	
Along shoreline of Parker Bayou	*4
Along shoreline from Martin Lake to Parker Bayou	*5
East Bay:	
Along shoreline from Long Point to about 1.2 miles northeast of Long Point	*4
Along shoreline from about 1.2 miles northeast of Long Point to about 1.25 miles northeast of Long Point	*6
Martin Lake: Within Community	*10
Maps available for inspection at City Hall, Parker, Florida.	
Send Comments to Honorable Earl Gilbert, Mayor, City of Parker, P.O. Box 10745, Parker, Florida 32404.	
Walton County (Unincorporated Areas)	
Choctawhatchee:	
About 500 feet upstream River of mouth	*8
At upstream county boundary	*52
Alaqua Creek:	
At mouth	*5
About 2000 feet upstream of State Road 20	*7
Choctawhatchee Bay:	
At shoreline about 0.8 mile north of Stewart Lake	*2
Northern shoreline at eastern county boundary	*4
At Little Bayou	*6
At Motes Point	*8
At mouth of Choctawhatchee River	*10
Gulf of Mexico:	
At Oyster Lake	*5
At shoreline about 1500 feet south of Morrison Lake	*9
Maps available for inspection at the Building Official's Office, County Courthouse, Defuniak Springs, Florida.	
Send comments to Honorable W.F. Miles, Chairman, Walton County Commission, P.O. Box 260, Defuniak Springs, Florida 32433.	
ILLINOIS	
Hancock County (Unincorporated Areas)	
Mississippi River:	
About 16.5 miles downstream of Toledo, Peoria and Western Railroad	*495
About 6 miles upstream of Atchison, Topeka, and Santa Fe Railway	*528
Maps available for inspection at the Supervisor of Assessments Office, Hancock County Courthouse, Carthage, Illinois.	
Send comments to Honorable Robert Mapes, Chairman, Hancock County Board, Hancock County Courthouse, Carthage, Illinois 62321.	
MASSACHUSETTS	
Gosnold (Town), Dukes County	
Vineyard Sound:	
Approximately 0.5 mile west of Jobs Neck	*11
Shoreline at Fox Point	*16
Shoreline of Nashawena Island south of Middle Pond	*28
Shoreline of Cuttyhunk Island south of intersection of Bayberry Hill Road and Bayview Drive	*30
Buzzards Bay:	
Shoreline at Knox Point	*11
Shoreline of Western Pond	*12
Shoreline at Timmy Point	*13
Entire shoreline of Weepecket Islands	*14
Shoreline of Nashawena Island east of North Point	*16

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Town Hall, Cuttyhunk, Massachusetts.	
Send comments to Honorable William Monast, Chairman of the Board of Selectmen for the Town of Gosnold, Gosnold Town Hall, Cuttyhunk, Massachusetts 02713.	
Marshfield (Town), Plymouth County	
Hannah Eames Brook:	
Upstream side of Damons Point Road	*21
Approximately 1,300 feet upstream of New Main Street (State Route 3A)	*48
Massachusetts Bay:	
Shoreline at southern corporate limits	*16
Shoreline at Careswell Street (extended)	*24
Shoreline at Satucket Avenue (extended)	*30
At the intersection of Surf Avenue and Monitor Road	*7
Shoreline at Parker Street (extended)	*15
Massachusetts Bay Shallow Flooding:	
Area along Bay Avenue	#2
Area between Plymouth Avenue and Foster Avenue, and between Surf Avenue and seawall	#2
Area approximately 200 feet east of Rawleigh Road	*12
Area along East Street	*15
North River:	
Confluence with South River	*13
Shoreline at Main Street bridge	*10
Upstream corporate limits	*9
South River:	
Northeast shoreline of Troyant's Island	*16
Confluence of Littles Creek	*12
Shoreline at Bayberry Road bridge	*10
Shoreline at Bourne Park Avenue (extended)	*9
At downstream side of Main Street	*8
Green Harbor River:	
Shoreline at Beach Street (extended)	*13
At intersection of South and Island Streets	*10
Shoreline at Webster Street crossing	*4
Pine Point River:	
Shoreline at Elmhurst Avenue	*9
Downstream corporate limits	*12
Little Wood Island River: Shoreline at Perry Way (extended)	*11
Bourne Wharf River:	
Upstream side of Colby Hewitt Lane	*9
Downstream corporate limits	*11
Maps available for inspection at Marshfield Planning Board, Marshfield, Massachusetts.	
Send comments to Honorable James Robinson, Chairman of the Board Selectmen of the Town of Marshfield, Town Hall, Marshfield, Massachusetts 02050.	
Scituate (Town) Plymouth County	
Massachusetts Bay:	
At intersection of Spaulding Avenue and Otis Street	*10
At intersection of Egypt Avenue and Priscilla Lane	*13
Shoreline at Cavar Avenue (extended)	*18
Shoreline at east end of Prospect Avenue (extended)	*25
Shoreline east of intersection of Parker Avenue and Collier Road	*35
Dune areas along Massachusetts Bay Shoreline	#1 & #2
500 feet south of Ocean Side Drive between 5th and 11th Avenues	*13
North River:	
Shoreline 100 feet east of State Route 3A	*10
Approximately 0.5 mile south of intersection of Collier Road and Brown Road	*16
South River:	
Approximately 1,500 west of intersection of Silver Road and Central Avenue	*12
At intersection of Central Avenue and Cliff Road	*10
Herring River:	
Approximately 1,000 feet south of intersection of The Driftway and Old Driftway	12

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 900 feet southwest of intersection of Cliff Avenue and Moorland Road	*16
Musquashcut Brook:	
Shoreline approximately 500 feet upstream of Hollet Street	*8
Shoreline approximately 1,000 feet downstream of Hollet Street	*12
Musquashcut Pond:	
At Old Farm Road	*13
At Seagate Circle	*12
Branch of Musquashcut Brook:	
At Gannet Road	*8
Approximately 1,000 feet upstream of Hollet Street	*9
The Gulf:	
Approximately 750 feet north of intersection of Wood Island Road and Gardner Road	*11
Approximately 500 feet downstream of Mordecai Lincoln Road	*8
Bound Brook:	
Upstream side of Mordecai Lincoln Road	*15
Upstream side of Country Way	*19
At upstream corporate limits	*31
Satuit Brook:	
Approximately 1,000 feet upstream of Front Street	*10
At downstream side of Stockbridge Road	*21
At downstream side of Beaver Dam Road	*25
At upstream side of Abandoned Railroad Culvert	*34
First Herring Brook:	
Approximately 50 feet upstream of The Driftway	*11
Approximately 50 feet downstream of State Route 3A	*43
Approximately 150 feet upstream of Grove Street	*65
At upstream corporate limits	*67

Maps available for inspection at the Town Engineering Department, Town Hall, Route 3A, Scituate, Massachusetts.

Send comments to Honorable Joseph Norton, Chairman of the Board of Selectmen for the Town of Scituate, Town Hall, Route 3A, Scituate, Massachusetts 02066.

MISSOURI

Fulton (City), Callaway County

Stinson Creek:	
About 1,800 feet downstream of the confluence of Smith Branch	*692
About 1,000 feet upstream of U.S. Highway 54	*770
Smith Branch:	
At mouth	*696
Just downstream of County Highway 0	*721
About 0.7 mile upstream of Westminster Avenue	*820
Whitlow Branch:	
At mouth	*712
Just downstream of Mokane Road	*724
Just upstream of Mokane Road	*730
About 900 feet upstream of East Reed Street	*794
Big Hollow Creek:	
About 700 feet downstream of Cote Sans Dessein Road	*780
About 270 feet downstream of U.S. Highway 54	*792
Just upstream of U.S. Highway 54	*799
About 500 feet upstream of U.S. Highway 54	*801
Westminster Branch:	
At mouth	*735
About 1,200 feet upstream of West Seventh Street	*782
Dunlap Creek:	
Just upstream of Old Hanley Mill Road	*772
About 1.4 miles upstream of Old Hanley Mill Road	*833

Maps available for inspection at the City Hall, Corner of 4th & Market Streets, Fulton, Missouri.

Send comments to Honorable George L. Oestreich, Mayor, City of Fulton, City Hall, Corner of 4th & Market Streets, Fulton, Missouri 65251.

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
NEW JERSEY	
Fairfield (Township), Essex County	
Passaic River:	
Downstream corporate limits	*171
Upstream corporate limits	*174
Deepavaal Brook:	
At confluence with Passaic River	*172
Approximately 200 feet downstream of Clinton Road	*173
Green Brook:	
At confluence with Deepavaal Brook	*172
Downstream side of Passaic Avenue	*180
At upstream corporate limits	*227

Maps available for inspection at the Municipal Building, 230 Fairfield Road, Fairfield, New Jersey.

Send comments to Honorable Theodore Malesnik, Mayor of the Township of Fairfield, 230 Fairfield Road, Fairfield, New Jersey 07006.

Oradell (Borough), Bergen County

Hackensack River:	
Downstream corporate limits	*12
Upstream side of New Milford Avenue Dam	*16
Upstream side of Oradell Reservoir Dam	*25
Upstream corporate limits	*25
Hackensack River By-pass:	
At downstream confluence with Hackensack River	*12
Upstream side of Elm Street	*14
At upstream confluence with Hackensack River	*16

Maps available for inspection at the Oradell Borough Hall, Oradell, New Jersey.

Send comments to Honorable Carl Marggraff, Mayor of the Borough of Oradell, 355 Kinder Kamack Road, Oradell, New Jersey 07649.

NEW YORK

Attica (Village), Genesee and Wyoming Counties

Tonawanda Creek:	
Approximately 450 feet downstream of corporate limits	*954
Upstream side of Main Street	*969
Approximately 350 feet upstream of corporate limits	*975

Maps available for inspection at the Village Hall, 9 Water Street, Attica, New York.

Send comments to Honorable Dale L. Slocum, Mayor of the Village of Attica, Genesee and Wyoming Counties, 9 Water Street, Attica, New York 14011.

Attica (Town), Wyoming County

Tonawanda Creek	
Downstream corporate limits	*975
Approximately 200 feet downstream of Dunbar Road bridge	*984
Approximately 100 feet upstream of Dunbar Road bridge	*990
Approximately 3,800 feet downstream of State Route 98 bridge	*997
Approximately 2,500 feet downstream of State Route 98 bridge	*1003
Approximately 200 feet downstream of State Route 98 bridge	*1008

Maps available for inspection at the Town Clerk's Office, 106 West Avenue, Attica, New York 14001.

Send Comments to Honorable August C. Petri, Supervisor of the Town of Attica, Wyoming County, 1278 Golf Road, Attica, New York 14001.

Lake George (Town), Warren County

Schroon River:	
At downstream corporate limits	*687
Upstream side of U.S. Route 9	*688
At upstream corporate limits	*689

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)

Maps available for inspection at the Town Center, Old Post Road, Lake George, New York.

Send comments to Honorable Louis E. Tessier, Supervisor of the Town of Lake George, Town Center, Old Post Road, Lake George, New York 12645.

Mount Kisco (Village), Westchester County

Kisco River:	
At downstream corporate limits	*275
At confluence with Branch Brook	*281
At confluence with Kisco River Tributary	*283
Upstream side of Lexington Avenue	*294
Upstream side of NY Route 117	*326
Approximately 60 feet upstream of Byram Lake Road	*344
Kisco River Tributary 1:	
At confluence with Kisco River	*283
At upstream corporate limits	*285
Branch Brook:	
At confluence with Kisco River	*281
Upstream side of NY Route 133 and West Main Street	*285
At upstream corporate limits	*293

Maps available for inspection at the Village Engineer's Office, Village Hall, 104 Main, Mount Kisco, New York.

Send comments to Honorable Richard A. Flynn, Mayor of the Village of Mount Kisco, 104 Main, Mount Kisco, New York 10549.

Southeast (Town), Putnam County

Middle Branch Croton River:	
At confluence with Middle Branch Reservoir	*375
Upstream side of Barrett Road	*436
At upstream corporate limits	*495
East Branch Croton River:	
At confluence with Diverting Reservoir	*312
At Interstate 84	*341
Approximately 450 feet upstream of Interstate Route 684 and NY Route 22	*405
At confluence with East Branch Reservoir	*419
At upstream corporate limits	*429
Tonetta Brook:	
At downstream corporate limits	*411
Upstream side of Brewster North Station Road	*433
Approximately 400 feet upstream of Pumphouse Road	*448
Holly Stream:	
At confluence with East Branch Croton River	*273
Upstream side of NY Routes 22 & 202	*285
Upstream side of Guinea Road	*295
Upstream side of Interstate Route 684	*309
Approximately 650 feet upstream of Interstate Route 684	*313

Maps available for inspection at the Southeast Town Hall, Main Street, Brewster, New York.

Send comments to Honorable Douglas Scolpino, Supervisor of the Town of Southeast, Putnam County, Southeast Town Hall, Main Street, Brewster, New York 10509.

Wallkill (Town), Orange County

Wallkill River:	
At downstream corporate limits	*360
At confluence with Wallkill River Tributary I	*362
At confluence with Wallkill River Tributary II	*365
At confluence with Masonic Creek	*365
At upstream corporate limits	*366
Wallkill River Tributary I:	
At confluence with Wallkill River	*362
Upstream side of Route 84	*383
At upstream corporate limits	*395
Wallkill River Tributary II:	
At confluence with Wallkill River	*365
Upstream side of NY Route 17	*437
Upstream side of Route 84	*449
Upstream side of Ballard Road	*453
Upstream side of CONRAIL	*503
Upstream side of NY Route 211	*544

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Masonic Creek:	
At confluence with Wallkill River	*365
Upstream side of Route 84	*404
Upstream side of Main Street	*443
1st upstream side of CONRail	*473
Upstream side of NY Route 211	*520
2nd upstream side of CONRail	*535
Upstream side of dam just upstream of Bisch Road	*579
Upstream side of NY Route 302	*597
Upstream side of Bowser Road	*631
Mannayunk Kill:	
At downstream corporate limits	*357
Upstream side of second crossing of Vanamburgh Road	*366
At most upstream corporate limits	*409
Shawangunk Kill:	
At downstream corporate limits	*420
At confluence with Shawangunk Kill Tributary 1	*448
Upstream side of Hubbard Road	*482
At confluence with Little Shawangunk Kill	*515
Upstream side of Meyer Road	*541
At upstream corporate limits 565	*565
Shawangunk Kill Tributary I:	
At confluence with Shawangunk Kill	*448
Upstream side of York Road	*509
Upstream side of dam just upstream of Prosperous Valley Road	*563
Approximately 50 feet upstream of Dosen Road	*604
Shawangunk Kill Tributary II:	
At downstream corporate limits	*448
Upstream side of 1st upstream NY Route 17K crossing	*493
Upstream side of second upstream NY Route 17K crossing	*549
Upstream side of third upstream NY Route 17K crossing	*574
Little Shawangunk Kill:	
At confluence with Shawangunk Kill	*515
Upstream side of Brola Road	*554
At upstream corporate limits	*592

Maps available for inspection at the Town Hall, 600 Route 211 East, Middletown, New York.
Send comments to Honorable Dennis C. Cosgrove, Supervisor of the Town of Wallkill, Orange County, P.O. Box 398, Middletown, New York 10940.

NORTH CAROLINA

Brunswick County (Unincorporated Areas)

Atlantic Ocean:	
About 1 mile south of the mouth of New Inlet at Cape Fear River	*9
At Bowen Point	*14
At confluence of Lockwoods Folly River	*15
Along southern shoreline at Fort Caswell	*17
State Boundary line at southernmost tip of County	*19
Indian Creek:	
At mouth	*8
At 0.5 mile upstream of State Route 1453	*12
Cherry Tree Prong:	
About 2300 feet downstream of State Route 1426	*12
Just downstream of State Route 1426	*13
About 0.9 mile upstream of State Route 1426	*27
Jackeys Creek:	
At mouth	*10
About 2100 feet upstream of U.S. abandoned railroad	*22
Lockout Creek:	
At mouth	*11
About 1700 feet upstream of NC 130	*37
Mallory Creek:	
At mouth	*10
Just upstream of Wire Spur Road	*22
Mallory Creek Tributary:	
At mouth	*10
Just upstream of Wire Road	*23
Mulberry Branch:	
At mouth	*11
About 1550 feet upstream of SR 1348	*20
Calabash Creek: Within community	*13

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Calabash River: Within community	*13
Lockwoods Folly River:	
About 3,000 feet upstream of NC 211	*9
About 400 feet downstream of SR 1401	*32
Finch Gut Creek:	
About 400 feet downstream of SR 1401	*32
Just upstream of Rouark Road	*49
Shamon Creek: Along shoreline from the mouth to about 2.3 miles upstream	*11
Shallotte River:	
About 0.6 mile downstream of U.S. Route 17	*11
About 2400 feet upstream of U.S. Route 17	*13
At mouth	*14
Shallottee Creek:	
At mouth	*12
Just downstream of NC 130	*20
Just upstream of NC 130	*25
About 0.9 mile upstream of NC 130	*33
Shallotte Creek Tributary:	
At mouth	*12
Just downstream of NC 130	*18
Just upstream of NC 130	*22
About 1.0 mile upstream of NC 130	*29
Sturgeon Creek:	
At mouth	*9
Just upstream of State Route 1438	*29
Town Creek: Within community	*10
Mill Creek:	
About 1.0 mile upstream of State Route 1112	*12
At mouth	*14
Cape Fear River:	
At confluence with Indian Creek	*8
At Campbell Island	*10

Maps available for inspection at the Brunswick County Governmental Center, Bolivia, North Carolina.
Send comments to Honorable William D. Carter, Brunswick County Manager, Brunswick County Governmental Center, P.O. Box 249, Bolivia, North Carolina 28422.

Caswell Beach (Town), Brunswick County

Atlantic Ocean:	
About 0.8 mile West of Oak Island Coast Guard Station along NC 133	*11
At confluence of Intracoastal Waterway with Elizabeth River	*14
Along shoreline from eastern corporate limits to about 1.6 miles west	*17
Along shoreline from western corporate limits to about 1 mile east	*19

Maps available for inspection at the Town Hall, Caswell Beach, North Carolina.
Send comments to Honorable Jack B. Cook, Mayor, Town of Caswell Beach, 122 Caswell Beach Road, Caswell Beach, North Carolina 28461.

Unincorporated Areas of New Hanover County

Atlantic Ocean:	
Along Snows Cut shoreline from U.S. Route 421 crossing to about 2000 feet east	*10
Along eastern shoreline of Intracoastal Waterway from Nixon Channel to Carolina Beach Inlet	*12
Along shoreline from about 4.4 miles northeast of Carolina Beach Inlet to the Southern County boundary	*16
Along shoreline from about 3.5 miles southwest of Masonboro Inlet to about 1.2 miles northeast of Bridge Road	*17
Northeast Cape Fear River:	
Along shoreline from the confluence of Island Creek to the confluence of Prince George Creek	*8
At mouth	*10
Cape Fear River:	
At confluence of Catfish Creek	*8
At confluence of Northeast Cape Fear River	*10
Bradley Creek:	
Just downstream of U.S. Route 76	*11
About 2600 feet upstream of Mallard Street	*21

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Bradley Creek Tributary:	
At mouth	*11
Just upstream of Eastwood Road	*19
Island Creek:	
At confluence with Northeast Cape Fear River	*8
Just downstream of Sidbury River	*18
Kings Grant Tributary:	
At mouth	*10
Just downstream of Gordon Road	*32
Murrayville Tributary:	
At mouth	*20
About 1,100 feet upstream of Murrayville Road	*27
Ness Creek:	
At confluence with Northeast Cape Fear River	*9
About 200 feet upstream of Castle Hayne Road	*26
Prince George Creek:	
At mouth	*8
Just downstream of Sidbury Road	*28
Prince George Creek Tributary:	
At mouth	*15
Just upstream of Parmele Road	*23
Smith Creek:	
At mouth	*9
About 1.75 miles upstream of confluence of Murrayville Tributary	*36
Spring Branch:	
At mouth	*9
Just downstream of College Road	*21
Mott Creek:	
At mouth	*10
Just upstream of South College Road	*21

Maps available for inspection at the New Hanover County Administration Building, 320 Chestnut Street, Wilmington, North Carolina.
Send comments to Honorable G. Felix Cooper, County Manager, New Hanover County, New Hanover County Administration Building, 320 Chestnut Street, Wilmington, North Carolina 28401.

OHIO

Cuyahoga County (Unincorporated Areas)

West Branch Rocky River:	
About 1,500 feet downstream of Lewis Road	*687
About 2.5 miles upstream of Lewis Road	*696
Plum Creek:	
About 1.3 miles downstream of Interstate 80	*759
Just downstream of Sprague Road	*779
Chagrin River:	
Just downstream of downstream Village of More land Hills corporate limits	*792
At upstream Village of Moreland Hills corporate limits	*798

Maps available for inspection at the Regional Planning Commission, 415 The Arcade, Cleveland, Ohio.
Send comments to Honorable Carl S. Bohm, Director of the Regional Planning Commission for Cuyahoga County, 415 The Arcade, Cleveland, Ohio 44144.

Seville (Village), Medina County

Chippewa Creek:	
About 1,600 feet downstream of Main Street	*992
About 0.9 mile upstream of Greenwich Road	*990
Hubbard Creek:	
At mouth	*986
About 2,650 feet upstream of Liberty Street	*994
Unnamed Tributary:	
At mouth	*988
Just upstream of Greenwich Road	*1025

Maps available for inspection at the Village Hall, 6 Spring Street, Seville, Ohio.
Send comments to Honorable David Cooper, Mayor, Village of Seville, Village Hall, 6 Spring Street, Seville, Ohio 44273.

PENNYSLVANIA

Conewago (Township), Dauphin County

Conewago Creek East:	
Downstream corporate limits	*388

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 150 feet upstream of Mill Road	*395
At State Route 283	*417
Maps available for inspection at Conewago Township Building, Conewago, Pennsylvania.	
Send comments to Honorable John Graybill, Chairman of the Board of Supervisors of the Township of Conewago, RD 1, Box 151, Hershey, Pennsylvania 17033.	
Fountain Hill (Borough), Lehigh County	
Lehigh River:	
Upstream corporate limits	*239
Downstream corporate limits	*238
Maps available for inspection at the Office of Ralph Hutchison, Borough Manager, Fountain Hill, Pennsylvania.	
Send comments to Honorable George Laughlin, Mayor of the Borough of Fountain Hills, 843 North Clewell Street, Fountain Hill, Pennsylvania 18085.	
New Berlin (Borough), Union County	
Penns Creek:	
At upstream corporate limits	*495
At downstream corporate limits	*493
Maps available for inspection at the Community Center, 318 Vine Street, New Berlin, Pennsylvania.	
Send comments to Honorable Robert L. Wert, Mayor of the Borough of New Berlin, 506 Market Street, New Berlin, Pennsylvania 17855.	
Roaring Creek (Township), Columbia County	
Roaring Creek:	
At Legislative Route 19009	*874
Approximately 0.5 mile downstream of Legislative Route 19008	*896
Approximately 80 feet downstream of Legislative Route 19008	*921
Maps available for inspection at the Office of Township Secretary, Chatawissa, Pennsylvania.	
Send Comments to Honorable Earl Hoffman, Chairman of the Board of Supervisors for the Township of Roaring Creek, RD 1, Box 123, Chatawissa, Pennsylvania 17820.	
Southampton (Township), Franklin County	
Conodoguinet Creek:	
Downstream corporate limits	*545
Approximately 0.7 mile downstream of McClays Mill Road (Legislative Route 28010)	*548
At upstream side of McClays Mill Road (Legislative Route 28010)	*555
Approximately 1.3 miles downstream of Roxbury Road (Legislative Route 28009)	*559
Approximately 100 feet upstream of Roxbury Road (Legislative Route 28009)	*568
Approximately 1,200 feet upstream of confluence of Muddy Run	*577
Approximately 0.6 mile downstream of Tan Yard Hill Road (State Route 433)	*585
Approximately 400 feet upstream of Tan Yard Hill Road (State Route 433)	*591
Approximately 0.7 mile downstream of upstream corporate limits	*597
Upstream corporate limits	*603
Middle Spring Creek:	
At confluence with Conodoguinet Creek	*545
Approximately 0.9 mile upstream of confluence with Conodoguinet Creek	*551
Approximately 1.9 miles upstream of confluence with Conodoguinet Creek	*561
Approximately 0.7 mile downstream of McClays Mill Road (Legislative Route 28010)	*566
Upstream side of McClays Mill Road (Legislative Route 28010)	*575
Upstream side of dam just upstream of Stonewall Road (Township Route 626)	*586
Approximately 1.5 miles downstream of Bard Road	*592

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 0.7 mile downstream of Bard Road	*605
At downstream side of Bard Road	*618
Approximately 150 feet upstream of upstream corporate limits	*630
Approximately 1,300 feet downstream of Olde Scotland Road (State Route 696)	*657
Downstream side of Olde Scotland Road (State Route 696)	*666
At confluence of Gum Run	*669
At most upstream corporate limits	*671
Gum Run:	
Confluence with Middle Spring Creek	*669
Downstream side of Mainsville Road (Legislative Route 28018)	*676
Approximately 0.4 mile upstream of Mainsville Road (Legislative Route 28018)	*695
Upstream side of Access Road approximately 0.6 mile upstream of Mainsville Road (Legislative Route 28018)	*704
Approximately 125 feet downstream of Interstate 81	*711
Muddy Run:	
Confluence with Conodoguinet Creek	*575
Upstream side of Orrstown Road (State Route 533)	*580
At confluence of Rowe Run	*586
Approximately 100 feet upstream of Rowe Run Road (State Route 433)	*593
Approximately 500 feet upstream of Muddy Run Road (Township Route 604)	*602
Rowe Run:	
Confluence with Muddy Run	*586
Approximately 0.9 mile upstream of confluence with Muddy Run	*589
Approximately 700 feet downstream of Pinola Road (Legislative Route 28015)	*598
Approximately 1,500 feet upstream of Pinola Road (Legislative Route 28015)	*608
Approximately 0.5 mile downstream of upstream corporate limits	*618
Upstream corporate limits	*625
Maps available for inspection at the Municipal Building, Shippensburg, Pennsylvania.	
Send Comments to Honorable Raymond A. Mowery, Jr., Chairman of the Board of Supervisors of the Township of Southampton, Municipal Building, 705 Municipal Drive, P.O. Box 352, Shippensburg, Pennsylvania 17257.	
Washington (Township), Franklin County	
Middle Creek:	
Downstream corporate limits	*441
Upstream side of State Route 35	*446
Upstream side of Creek Route	*456
Upstream corporate limits	*458
Maps available for inspection at the Municipal Building, Waynesboro, Pennsylvania.	
Send Comments to Honorable T. R. Null, Chairman of the Board of Supervisors of the Township of Washington, 13013 Welty Road, Waynesboro, Pennsylvania.	
Washington (Township), Snyder County	
Middle Creek:	
Downstream corporate limits	*441
Upstream side of State Route 35	*446
Upstream side of Creek Road	*456
Upstream corporate limits	*458
Maps available for inspection at R.D. 3, Middleburg, Pennsylvania.	
Send Comments to Honorable Darren Moyer, Chairman of the Board of Supervisors of the Township of Washington, R.D. 3, Middleburg, Pennsylvania 17842.	
RHODE ISLAND	
Providence (City), Providence County	
Providence River:	
Upstream side of Fox Point Hurricane Barrier	*5
At confluence of Moshassuck River	*6

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Shoreline 1,000 feet west of southernmost tip of Fields Point	*21
Shoreline at Sassafras Point	*17
Intersection of Allens Street and Henderson Street	*16
Woonasquatucket River:	
Approximately 500 feet downstream of Francis Street	*6
Upstream side of Acorn Street	*9
Downstream side of Paragon Dam	*24
Upstream side of Glenbridge Avenue	*49
At upstream corporate limits	*69
Moshassuck River:	
At confluence with Woonasquatucket River	*6
Upstream side of Randall Street	*27
Upstream side of Interstate Route 95 entrance ramp	*30
Upstream side of Cemetery Street	*33
At upstream corporate limits	*34
West River:	
Downstream side of Interstate Route 95	*30
Upstream side of Charles Street	*33
Downstream side of Hawkins Street	*35
Approximately 100 feet downstream of Branch Avenue	*41
Downstream side of Veazie Street	*51
Downstream side of Whipples Pond Dam	*60
At upstream corporate limits	*78
Upper Canada Pond:	
At confluence with West River	*38
Upstream side of Upper Canada Pond Dam	*58
Pocasset River:	
At upstream corporate limits	*75
At downstream corporate limits	*75
Seekonk River:	
Shoreline at Goose Point	*20
Shoreline at east end of George H. Henderson Memorial Bridge	*19
Intersection of Gano Street and Wickenden Street	*16
Ponding Area: 100 feet northeast of intersection of Derry Street and Oregon Street	*25
Sheet flow: Along Amtrak from 900 feet north of Charles Street to 50 feet south of Smith Street	#2
Maps available for inspection at the Department of Inspection and Standards, 60 Eddy Street, Providence, Rhode Island.	
Send comments to Honorable Joseph Paolino, Mayor of the City of Providence, Executive Office Building, 25 Dorrance Street, Providence, Rhode Island 02903.	
West Warwick (Town), Kent County	
Pawtuxet River:	
At downstram corporate limits	*38
Crest of Natick Dam	*55
Confluence with North and South Branch Pawtuxet River	*56
North Branch Pawtuxet River:	
Confluence with Pawtuxet River	*56
Upstream side of Main Street bridge	*63
At upstream corporate limits	*102
South Branch Pawtuxet River:	
Confluence with Pawtuxet River	*56
Crest of Dam Number 147	*64
Upstream side of Dam Number 149	*130
Upstream corporate limits	*148
Lippitt Brook:	
Approximately 35 feet downstream of the downstream face of the Main Street culvert	*65
Upstream side of Packard Street bridge	*87
Downstream face of Bettez Street culvert	*109
Lippitt Brook: Sheet Flow:	
Along Main Street	#1
Between Main Street and Dam Number 155	#1
Hardig Brook:	
Upstream face of Quaker Lane culvert	*122
Upstream face of Glen Drive culvert	*123
Downstream side of Revere Avenue bridge	*163
Hardig Brook: Sheet Flow: on top of Colt Avenue culvert	#1
Hawkinson Brook:	
Confluence with South Branch Pawtuxet River	*147
Crest of Dam Number 195	*157

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Crest of dam located approximately 700 feet upstream of Turner Drive	*197
Approximately 550 feet downstream of Green Bush Road	*199
Tributary to Maskerchugg River:	
Upstream side of Quaker Lane culvert	*227
Downstream face of eastbound Interstate 95 culvert	*235
Upstream face of westbound Interstate 95 culvert	*244
Baker Street Brook:	
Confluence with South Branch Pawtuxet River	*130
Downstream face of Conrail culvert	*136
Upstream face of Conrail culvert	*148
Maps available for inspection at the Building Inspector's Office, Town Hall, West Warwick, Rhode Island (c/o John J. O'Hare, Town Planner).	
Send comments to Honorable George J. McKenna, President of the West Warwick Town Council, Town Hall, 1170 Main Street, West Warwick, Rhode Island 02893.	
TEXAS	
Garden Ridge (City), Comal County	
Garden Ridge Tributary:	
Approximately 250 feet downstream of corporate limits	*834
At Sundew Lane	*861
Approximately .4 mile upstream of Sundew Lane	*884
Maps available for inspection at the City Hall, Garden Ridge, Texas.	
Send comments to Honorable Paul A. Davis, Mayor of the City of Garden Ridge, Comal County, Route 3, Box 1047, San Antonio, Texas 78218.	

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

Source of flooding and location	Elevation in meters (NGVD)
Commonwealth of Puerto Rico, Rio Majada Basin	
Rio Nigua: Intersection of Palmer and Miguel Streets	10.0 m.
Caribbean Sea: Intersection of Puerto Rico Highway 1 and Rio Jueyes	2.3 m.
Maps available for inspection at Planning Board, P.O. Box 41119, Minillas Station, D-Diego Avenue, Santurce, Puerto Rico.	
Send comments to Honorable Rafael Hernandez Colon, La Fortaleza, San Juan, Puerto Rico	

Issued: August 16, 1985.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 85-22624 Filed 9-20-85; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FEMA-6640]

Proposed Flood Elevation Determinations; Missouri; Correction

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Chillicothe, Livingston County, Missouri, previously published at 50 FR 3553 on January 25, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Acting Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the correction to the Notice of Proposed Determinations of base (100-year) flood elevations for selected locations in the City of Chillicothe, Livingston County, Missouri, previously published at 50 FR 3553 on January 25, 1985, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a)). Accordingly, on page 3553, in the Federal Register on January 25, 1985, under the entry for the City of Chillicothe, Missouri, the correct address for the map repository is corrected to read: City Hall, 715 Washington, Chillicothe, Missouri.

Issued: September 12, 1985.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 85-22625 Filed 9-20-85; 8:45 am]

BILLING CODE 6718-09-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 10 and 157

[Docket No. CGD 84-060]

Licensing of Pilots; Manning of Vessels-Pilots

AGENCY: Coast Guard, Dot.

ACTION: Notice of extension of comment period.

SUMMARY: On June 24, 1985, the Coast Guard published a Notice of Proposed Rulemaking regarding the licensing of pilots and the manning of vessels-pilots (50 FR 26117). The comment period was scheduled to end September 23, 1985. Several requests have been received requesting additional time in which to submit comments. The notice of proposed rulemaking was published simultaneously with a final rule on the same subject and the provisions of the final rule may have detracted from the content of the NPRM. This notice extends the comment period for an additional 90 days in order to give interested persons an opportunity to submit comments.

DATE: Comments must be received on or before December 22, 1985.

ADDRESSES: Comments should be mailed to Commandant (G-CMC/21) [CGD 84-060] U.S. Coast Guard, Washington, D.C. 20593. Between 7:30 a.m. and 3:30 p.m., Monday through Friday, comments may be delivered to and will be available for inspection or copying at the Marine Safety Council (G-CMC/21), Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426-1477.

FOR FURTHER INFORMATION CONTACT: Mr. John J. Hartke, Office of Merchant Marine Safety (G-MVP/12), Room 1210, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C. 20593, (202) 426-2985.

September 18, 1984.

W.J. Ecker,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 85-22662 Filed 9-20-85; 8:45 am]

BILLING CODE 4910-14-M

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Denial of Petition for Rulemaking

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

ACTION: Denial of Petition for rulemaking.

SUMMARY: This notice denies the petition for rulemaking submitted by Horst Leitner of Tustin, California, for rulemaking to improve handling characteristics of motorcycles. The petition was denied, as was a previous petition of Mr. Leitner's for a defect

investigation of the same subject matter, because there is no evidence that the phenomenon described by the petitioner is a significant factor in motorcycle accident causation or occurs under ordinary conditions of operation.

FOR FURTHER INFORMATION CONTACT: Scott Shadle, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202) 426–2720.

SUPPLEMENTARY INFORMATION: On May 31, 1985 (50 FR 23221), the National Highway Traffic Safety Administration published a notice of its denial of a defect petition submitted by Horst Leitner. Mr. Leitner had called the agency's attention to an alleged motorcycle problem caused by ". . . the drive input or torque reaction input and the suspension, which loads and unloads suspension and brings a motorcycle out of control in critical situations." The agency could not discern that the rear suspension torque reaction effect was a causative factor in accidents, and denied the petition. However, it suggested to Mr. Leitner that he might wish to petition for rulemaking, and Mr. Leitner replied in the affirmative.

The agency has re-reviewed the petition. The alleged problem is that during hard cornering, if the rider applies significant power in an attempt to accelerate quickly, a torque reaction effect inherent in either shaft driven or chain-driven motorcycles will result in an effective stiffening of the motorcycle's rear suspension, making it more difficult for the motorcycle to negotiate bumps, etc. and for the rider to control a slide if the machine should lose traction due to the combined hard cornering and hard acceleration. To compensate for these effects, Mr. Leitner had developed a device designed to minimize this torque reaction effect during acceleration for chain-driven motorcycles. The device appears to be effective in improving handling characteristics at the extreme limit of torque output, and would find most effective application in competition events such as motorcross, enduro, flattrack, shorttrack, desert racing, and hillclimbing. The benefits derived by street motorcycles in normal operation are limited at best as the phenomenon does not occur except at extremely rapid accelerations or at high torque outputs.

No specific accident data on this problem had been uncovered. However, the agency has reviewed data covering 900 motorcycle accidents ("Motorcycle Accident Cause Factors and Identification of Countermeasures, Volume I: Technical Report (1981)). Those data indicate that acceleration while cornering does not appear to be a significant factor in motorcycle accident causation.

At the conclusion of the technical review, the agency determined that there was no reasonable possibility that at the end of a rulemaking proceeding a Federal motor vehicle safety standard would be issued of the nature requested by Mr. Leitner, and his petition was denied.

The program official and attorney principally responsible for the development of this agency position are Scott Shadle and Taylor Vinson respectively.

(Secs. 103, 119, and 124 Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407, and 1410); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: September 17, 1985.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 85–22647 Filed 9–20–85; 8:45 am]

BILLING CODE 4910–59–M

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49 CFR Part 571

Federal Motor Vehicle Safety Standards; Denial of Petition for Rulemaking

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

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies petition for rulemaking submitted by the Blue Bird Body Company concerning the assembly of school buses utilizing new and used components.

Title 49 of the Code of Federal Regulations, § 571.7, *Applicability*, provides that the motor vehicle safety standards apply to newly manufactured motor vehicles or items of motor vehicle equipment manufactured on or after the effective date of the safety standards. Section 571.7(e) states that when a new cab is utilized in the assembly of a truck, the vehicle is considered newly manufactured unless the engine, transmission, and drive axle(s), as a minimum, of the assembled vehicle are not new and at least two of these components were taken from the same vehicle. When an old chassis retains the above-listed component, the placing of a new body on the chassis does not amount to the manufacture of a new motor vehicle. In the past, NHTSA has applied § 571.7(e) to school buses that are assembled combining new and used components, because truck chassis are typically utilized in the manufacture of school buses.

Blue Bird petitioned for a change in the way the motor vehicle safety standards apply to reassembled school buses under § 571.7. The petitioner was particularly concerned about reassembled school buses incorporating a chassis manufactured before the April 1, 1977 effective date of the Federal safety standards applicable to school buses. Blue Bird requested that the agency consider a school bus consisting of a new body and an old chassis as newly manufacured.

This notice denies Blue Bird's petition because NHTSA is not aware of data indicating a need to change its requirements in the manner suggested by Blue Bird. The agency has concluded that the number of school buses manufactured by installing a new body on an old chassis is extremely small, and estimates that by 1995, the supply of used chassis manufactured before April 1977 will disappear entirely.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Williams, Crashworthiness Division, Room 5320, National Highway Trafic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590. Telephone (202) 426–2264.

SUPPLEMENTARY INFORMATION: This notice denies a petition for rulemaking submitted by the Blue Bird Body Company (hereinafter referred to as "Blue Bird") requesting a change in the applicability of the motor vehicle safety standards to school buses that are assembled with new and used components.

Background

Title 49 of the Code of Federal Regulations, § 571.7, *Applicability*, provides that the motor vehicle safety standards apply to newly manufactured motor vehicles or items of motor vehicle equipment manufactured on or after the effective date of the safety standards. Section 571.7(e) specifies that when a new cab is utilized in the assembly of a truck, the vehicle is considered newly manufactured unless the engine, transmission, and drive axle(s), as a minimum, of the assembled vehicle are not new. In addition, at least two of those components must be taken from the same vehicle. When an old chassis retains the above-listed components, the placing of a new body on the chassis does not amount to the manufacture of a new motor vehicle. In the past, NHTSA has applied § 571.7(e) to school buses that are assembled combining new and used components, because truck-like chassis are utilized in the manufacture

of school buses. Since a school bus that consists of a new body and an old chassis retaining the components listed in § 571.7(e) is considered by the agency to be used, the person installing the body on the old chassis does not have to recertify the bus as complying with any Federal safety standards.

The Petition

Blue Bird requested that the agency consider a school bus that had a new body installed on an old chasis a newly manufactured. If such a vehicle were considered new, manufacturers who combined the new body with the old chassis would have to certify that the bus complied with all applicable safety standards in effect on the date that the new body was installed on the old chassis.

Blue Bird's petition was based on its concern with the current inapplicability of the motor vehicle safety standards regulating school bus safety, *viz.* FMVSS Nos. 220, 221 and 222, to reassembled school buses using chassis manufactured before the April 1, 1977 effective date of these standards. In its petition, Blue Bird correctly stated that a bus manufactured by installing a new bus body on a 1975 chassis would not be considered a newly manufactured bus and therefore would not have to meet the requirements of the safety standards on school bus joint strength (No. 221) and seating systems (No. 222). Further, since the date of manufacture of the original vehicle was 1975, before the effective date of the school bus safety standards, the original vehicle did not have to comply with those standards. The petitioner argued that this situation is not acceptable in terms of school bus safety and urged that the agency changed the way in which the safety standards apply to school buses consisting of new bodies and old chassis.

The only information available to NHTSA indicates that although there are approximately 160,000 pre-April 1, 1977 school buses from which chassis could be taken to reassemble buses, few school buses are assembled using new bodies on pre-April 1, 1977 chassis. To determine the number of school buses assembled annually in that manner, and the duration of an average school bus chassis, the agency contacted the Truck Body and Equipment Association, Inc., (TBEA). TBEA was unable to supply those data. According to Blue Bird estimates, however, the number of school buses assembled industry-wide using new bodies on pre-1977 chassis is less than 10 per year. The agency does not have any figures or estimates for the number of assemblies using chassis manufactured on or after April 1, 1977.

Since the lifespan of chassis is limited, the practice of assembling school buses using pre-1977 chassis will diminish and eventually cease. Data available to the agency indicate that over the next 10 years, the number of school buses with pre-1977 chassis will be reduced to nearly zero. There are approximately 400,000 school buses registered, and approximately 25,000 new school buses sold annually. At that rate of sales, a complete turnover of the fleet will take at least 16 years. The agency estimates that by 1995, 18 years after the production of pre-April 1, 1977 buses ceased, virtually all large school buses of that vintage would be replaced by school buses manufactured after that date, and therefore subject to the school bus safety standards.

While people could continue to reassemble school buses with new bodies and used chassis manufactured on or after April 1, 1977, the agency notes that manufacturers who combine a new bus body with such a chassis are in effect required to complete the school bus to meet the school bus safety standards. This is the case even though the assembled school bus is not considered new. The reason for this is the prohibition found in section 108(a)(2)(A) of the Vehicle Safety Act against rendering inoperative components or elements of design installed in compliance with the minor vehicle safety standards. The reassembled school bus incorporating the new body must continue to meet the safety standards that it met before the reassembly, which would include FMVSS Nos. 220, 221 and 222.

For the reasons given above, the agency has concluded that there is no need to make the changes requested by the petitioner. However, NHTSA emphasizes that crash tests and accident data show that buses meeting the Federal school bus safety standards are one of the safest means of transportation for school children. NHTSA encourages operators of school buses to consider using post-1977 bus bodies meeting the school bus safety standards on their pre-1977 chassis when worn school bus bodies are replaced.

NHTSA intends to monitor the manufacture of school buses to determine whether the number of school buses manufactured by combining new bodies on old chassis significantly increases, and to ensure that a pattern of conscious avoidance of the school bus safety standards does not develop. In the event the agency discovers evidence of such developments, NHTSA will take appropriate actions to deal with those practices.

(Secs. 103, 119, and 124, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407 and 1410a); delegations of authority at 49 CFR 1.50 and 501.6)

Issued on: September 17, 1985.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 85-22646 Filed 9-20-85; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1206 and 1249

[Docket No. 39953]

Elimination of Accounting and Reporting Requirements for Motor Carriers of Passengers

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file comments to notice of proposed rulemaking.

SUMMARY: At 50 FR 26594, June 27, 1985, the Commission proposed to eliminate the Uniform System of Accounts and revise the periodic reporting requirements for Class I common and contract motor carriers of passengers. This notice was served on June 26, 1985. In those notices, the due date for comments was specified as October 8, 1985. In response to requests, this notice extends the time for filing comments for 60 days.

DATE: Comments must be received by December 9, 1985.

ADDRESS: Send comments (original and 15 copies) to: Docket No 39953, Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

SUPPLEMENTARY INFORMATION: The National Bus Traffic Association, Inc. (NBTA) and the United Bus Owners of America (UBOA), on behalf of their motor carrier members, have separately requested that the time for filing comments in this proceeding be extended 60 days. NBTA and UBOA state, among other reasons, that they need the extension to provide adequate time to assess the burdens and costs that the proposed reporting requirements will have on carriers.

The 60-day extension is warranted. The additional time will give all interested parties an opportunity to provide informed comments on this action while not unduly delaying the

Commission's consideration of the proposal.

It is ordered

The date for filing comments is extended to December 9, 1985.

By the Commission, Reese H. Taylor, Jr., Chairman.

Dated: September 11, 1985.

James H. Bayne,

Secretary.

FR Doc. 85-22722 Filed 9-20-85; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 50, No. 184
Monday, September 23, 1985

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

Agricultural Stabilization and Conservation Service

Feed Grain Donations for the Pine Ridge Reservation Indian Tribe in South Dakota

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Pine Ridge Reservation in South Dakota has been materially increased and become acute because of severe and prolonged drought, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Oglala Sioux Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation for livestock feed for such needy members of the tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of the tribe to be acute distress areas and authorize the donation of feed grain owned by the Commodity Credit Corporation to livestock owners who are determined by the Bureau of Indian Affairs, Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the Commodity Credit Corporation may commence upon signature of this notice and shall be made available through May 15, 1986, or to such other time as may be stated in a notice issued by the Department of Agriculture.

Signed at Washington, D.C., on Sept 17, 1985.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 85-22639 Filed 9-20-85; 8:45 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

[Docket No. 85-406]

Policy Statement on the Protection of Privileged or Confidential Business Information

This notice sets forth in full a document establishing the policy of the Animal and Plant Health Inspection Service for protecting certain privileged or confidential business information. This document reads as follows:

APHIS POLICY STATEMENT ON THE PROTECTION OF PRIVILEGED OR CONFIDENTIAL BUSINESS INFORMATION

I. Purpose

The purpose of this policy statement is to establish minimum requirements to control and protect documents received by the Animal and Plant Health Inspection Service (APHIS) that in its judgement contain privileged or confidential business information (CBI), as defined in section IV-E. of this policy statement, concerning biotechnology and the Veterinary Biologics Program.

II. Policy

Title 7, Code of Federal Regulations, sections 1.1-1.16 contain the regulations of the United States Department of Agriculture (USDA) implementing the Freedom of Information Act (FOIA) (5 U.S.C. 552). The FOIA generally provides that federal agencies must make available to the public all records not specifically exempt from disclosure. Section (b)(4) of the FOIA exempts from disclosure "trade secrets and commercial or financial information obtained from a person and privileged or confidential." 5 U.S.C. 552(b)(4). This policy statement applies to the disclosure of CBI concerning biotechnology and the Veterinary Biologics Program. APHIS will release such CBI ony if disclosure is otherwise required by law, such as a specific statute or court order, by the source of the information, or as provided herein. In addition, APHIS employees shall take whatever measures are necessary to preclude unauthorized disclosure.

APHIS employees who make unauthorized disclosures of information classified as CBI can be subject to prosecution under the Trade Secrets Act, 18 U.S.C. 1905. Under this staute, a federal employee who discloses trade secrets and certain confidential data without authorization shall be fined up to $1,000 and/or imprisoned for up to one year.

III. Applicable Statutes

A. Freedom of Information Act Section (b)(4), 5 U.S.C. 552(b)(4)
B. Trade Secrets Act, 18 U.S.C. 1905

IV. Definitions

A. Access

The ability and opportunity to gain knowledge of Confidential business Information in any manner.

B. Administrator

The Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture, or any other official of the Animal and Plant Health Inspection Service to whom the Administrator has delegated authority to act.

C. Authorized User

An APHIS employee or other person whom the Administrator has certified as requiring access to Confidential Business Information.

D. Biotechnology

Any technique that uses living biological systems to make or modify products, to improve plants or animals, or to develop microorganisms for specific uses.

E. Confidential Business Information (CBI)

Information that would be protected from disclosure under section (b)(4) of the Freedom of Information Act (5 U.S.C. 552(b)(4)) will be classified as Confidential Business Information (CBI). This includes trade secrets and commercial or financial information found to the confidential.

1. Trade Secrets

Documents containing trade secrets and which the person submitting asserts

are trade secrets will be deemed CBI. "Trade secrets" means information relating to the production process. This includes production data, formulas, and processes, and quality control tests and data, as well as research methodology and data generated in the development of the production process. Such information must be (1) commercially valuable, (2) used in one's business and (3) maintained in secrecy.

2. Commercial or Financial Information

Documents containing commercial or financial information will be deemed confidential if review establishes that substantial competitive harm would result from disclosure. Information such as safety data, efficacy or potency data, and environmental data may be such confidential information. Persons desiring protection for confidential information must submit a detailed statement containing facts to show that the person faces active competition in the area to which the information relates, and that substantial competitive harm would result form disclosure.

F. Destruction

Pulverization by a paper shredder, burning, or other approved method.

G. Information

Knowledge that can be communicated by any means.

H. Secured Storage Area

A room or equipment that is locked.

I. Staff Office

A staff administering a particular program within the Animal and Plant Health Inspection Service.

J. Unique Identification Number

The number permanently assisgned to a document containing CBI when the document is logged in, and which enables the document to be tracked. Each document containing CBI will be assigned a separate number.

V. Identification of Confidential Business Information

A. The applicable staff office shall review documents it receives to determine whether they contain Confidential Business Information.

B. The applicable staff office shall log in Confidential Business Information it receives, and shall assign unique identification numbers to allow for tracking.

C. A red cover sheet printed with the unique identification number shall be attached to the original and each copy of a CBI doucment.

D. In addition to the cover sheet, each page of each copy of a CBI document shall be stamped "CONFIDENTIAL".

E. A record of each copy of a CBI document and its disposition shall be maintained.

VI. Physical Security of Confidential Business Information

A. Storage of CBI Documents

1. CBI documents are to be stored in secured storage areas when not in use.

2. At the close of a business day, doors in secured work areas shall be locked, alarms activated if appropriate, and documents containing CBI in unsecured work areas shall be placed in secured storage.

B. Access To CBI Documents By Authorized Users

1. The APHIS Administrator's office will maintain a list of persons authorized to have access to Confidential Business Information, and will furnish this list to staff office supervisors.

2. Persons will receive training on safeguarding CBI before obtaining authorized user status.

3. Authorized users shall obtain CBI documents through a person in each applicable staff office designated to be responsible for document control.

4. Requestors must present identification when obtaining CBI material from the applicable staff office. The requestor's name must appear on the authorized user list.

5. For each person on the authorized user list, a charge-out record will be kept. Requestors shall sign the record when receiving and returning CBI documents.

6. Person who terminates USDA employment will not receive exit clearance until all CBI documents that were charged out to the employee have been returned.

7. When an authorized user no longer requires access to CBI, the locks to which the person has had access must be changed.

C. Safeguards During Individual Use of CBI Documents

1. All CBI documents must be handled by authorized personnel only.

2. Authorized users shall not in any manner disclose Confidential Business Information to unauthorized persons. Authorized users shall determine whether persons are authorized to have access to CBI before discussing CBI with them.

3. When unauthorized persons are present, CBI documents must be covered, turned face down, removed from the area, or otherwise protected.

4. All persons are individually responsible for securing any CBI documents in their possession. When persons are reviewing or processing documents containing CBI, the documents are their responsibility until they are returned to the staff person responsible for document control. Persons handling CBI documents must secure them before leaving their work area.

5. Where working areas cannot provide privacy, private meeting areas will be provided for review of CBI documents.

6. Each person must safeguard keys to files, safes, rooms, etc. Keys to CBI files must be kept in a secured place. Lost keys or suspected breaches of security must be reported immediately to the person responsible for document control, so that changes can be immediately effected.

D. Meetings

Precautions shall be taken so that unauthorized persons are not present at meetings where CBI is discussed.

VII. Copying and Destruction

A. Photocopying

1. Reproduction of documents containing Confidential Business Information shall be kept to a minimum.

2. A record of each copy of a CBI document and its disposition shall be maintained.

3. Bad copies shall be destroyed.

B. Destruction

1. The person responsible for document control in each applicable staff office shall keep records of copies of CBI documents and their disposition.

2. The person responsible for document control shall perform any destruction of documents containing CBI.

3. When users of CBI documents have no further need for them, they shall return CBI documents to the staff office from which they obtained them. Unneeded copes will be destroyed in the staff office.

VIII. Transfer of Confidential Business Information

A. Within APHIS

1. The applicable staff office shall assign unique identification numbers to CBI documents it receives. Copies to be sent to field offices or laboratories shall also be marked with the unique identification number.

2. All transfers of CBI materials within APHIS shall be recorded by the person responsible for document control in each applicable staff office.

3. All CBI documents transferred to field offices, laboratories, or other parts of APHIS must be logged in and out by a person responsible for document control in that office.

(a) Incoming CBI documents will be entered in the log, using the previously assigned unique identification number printed on the cover sheet. The date of receipt will be recorded.

(b) Documents will then be filed in secured file cabinets.

4. Field offices and laboratories shall maintain security procedures equivalent to those described in this document. Field offices and laboratories shall be responsible for tracking and disposition of the CBI documents in their files.

B. From APHIS to Other Parts of USDA, Other Federal Agencies, and Other Persons

1. Persons from outside of APHIS must show that they need Confidential Business Information for a proper official purpose.

2. Persons from outside of APHIS must maintain security procedures equivalent to those of APHIS before they may receive Confidential Business Information.

3. The person submitting the CBI will be notified of any requests by the public for disclosure and the scope of information to be disclosed, if any.

C. Mail

CBI documents shall be transmitted by registered mail, return receipt requested.

Effective date: September 18, 1985.

Dated: September 18, 1985.

Bert W. Hawkins,

Administrator Animal and Plant Health Inspection Service.

[FR Doc. 85-22715 Filed 9-20-85; 8:45 am]

BILLING CODE 3410-34-M

Foreign Agricultural Service

White or Irish Potato Production; 1985 Estimates

AGENCY: Foreign Agricultural Services, USDA.

ACTION: Notice of estimates with respect to 1985 white or Irish potato production.

SUMMARY: Headnote 2 of Subpart A of Part 8 Schedule 1 of the Tariff Schedules of the United States (TSUS) provides that, if for any calendar year the production in the United States of white or Irish potatoes, including seed potatoes, according to the estimate of the Department of Agriculture made as of September 1, is less than 21 billion pounds, an additional quantity of potatoes equal to the amount by which estimated production is less than 21 billion pounds shall be added to the 45 million pounds provided for TSUS item 137.25 for the 12-month period beginning September 15.

Notice

The estimate of the Department of Agriculture, made as of September 1, 1985, is that for the calendar year 1985 the production in the United States of white or Irish potatoes, including seed potatoes, will exceed 21 billion pounds.

Issued at Washington, D.C. this 6th day of September, 1985.

Richard A. Smith,

Administrator, Foreign Agricultural Service.

[FR Doc. 85-22718 Filed 9-20-85; 8:45 am]

BILLING CODE 3410-10-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-357-405]

Barbed Wire and Barbless Fencing Wire From Argentina: Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that barbed wire and barbless fencing wire from Argentina are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination. We are directing the U.S. Customs Service to continue to suspend the liquidation of all entries of barbed wire and barbless fencing wire from Argentina that are entered, or withdrawn from warehouse, for consumption, on or after May 3, 1985, and to require a cash deposit or bond for each entry in an amount equal to 69.02 percent *ad valorem*.

EFFECTIVE DATE: September 23, 1985.

FOR FURTHER INFORAMATION CONTACT: John J. Kenkel, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (20) 377-4929.

Final Determination

Based upon our investigation, we have determined that barbed wire and barbless fencing wire ("barbed wire") from Argentina are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(a)) (the Act).

We made fair value comparisons for all sales of merchandise to the United States during the period of investigation. Comparisons were based on the United States price and foreign market value. The weighted-adverse margin for barbed wire is 69.02 percent *ad valorem* and our final determination with regard to barbed wire is affirmative. We also found that critical circumstances do not exist with respect to imports of barbed wire from Argentina.

Case History

On November 19, 1984, we received a petition from the Forbes Steel & Wire Corporation on behalf of the domestic barbed wire industry. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petitioners alleged that imports of barbed wire from Argentina 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 Act, and that these imports ar materially injuring or are threatening material injury to a United States industry. We notified the ITC of our action and initiated an investigation on December 10, 1984 (49 FR 49126). On January 3, 1985, the ITC determined that there is a reasonable indication that imports of barbed wire from Argentina are materially injuring a U.S. industry.

We presented an antidumping duty questionnaire on February 19, 1985, to counsel for Acindar, the sole Argentine producer of the products under investigation for export to the United States.

On April 29, 1985, we made an affirmative preliminary determination (50 FR 23339).

On May 24, 1985, we extended the date for the final determination until not later than September 16, 1985.

We verified Acindar's questionnaire response in May, July and August. A hearing was held on August 1, 1985.

Products Under Investigation

The products under investigation are barbed wire and barbless fencing wire, currently provided for in items 642.0200 and 62.1105 of the *Tariff schedules of the United States, Annotated*.

According to the petition, Acindar accounted for substantially all of the

exports of this merchandise to the United States. We investigated all sales by Acindar of barbed wire during the period June 1 through November 30, 1984.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

We used the purchase price of the subject merchandise, as provided in section 772(b) of the Act, to represent the United States price because the merchandise was sold to unrelated U.S. purchasers prior to its importation into the United States. We calculated the purchase price based on the C&F price to U.S. unrelated purchasers. We deducted foreign brokerage and handling charges and ocean freight. We added a portion of the amount of indirect taxes which were later rebated by reason of exportation of the merchandise under investigation to the United States Act in accordance with section 772(d)(1)(C) of the Act.

Foreigh Market Value

In accordance with section 773(a)(1), we used home market prices for calculating foreign market value. We made comparisons of "such or similar" merchandise based on tensile grade as determined by the Department's expert on steel product classifications.

We deducted inland freight and discounts, and added in export packing. We made adjustments for differences in circumstances of sale related to commissions and credit expense pursuant to § 353.15 of our regulations. We also made adjustments for differences in the physical characteristics of the merchandise, pursuant to § 353.16 of the regulations. Where there were commissions in one market and not in the other, we offset the commissions with indirect selling expenses in the other market.

In calculating foreign market value, we made currency conversions from Argentine pesos to United States dollars in accordance with § 353.56(a)(1) of our regulations, using the certified daily exchange rates.

Negative Determination of Critical Circumstances

The petitioner alleged that imports of barded wire from Argentina present "critical circumstances." Under section 735(a)(3) of the Act, critical circumstances exist if we have a reasonable basis to believe or suspect that (1) there is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation; or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value; and (2) there have been massive imports of the class or kind of merchandise that is the subject of the investigation over a relatively short period.

In determining whether there have been massive imports over a relatively short time period, we considered the following factors: (1) Whether imports have surged recently, (2) recent trends in import penetration levels, (3) whether the recent imports are significantly above the average calculated over the last three years, and (4) whether the pattern of imports over that three year period may be explained by seasonal swings.

In considering this question, we analyzed recent trade statistics on import levels and import penetration ratios for barbed wire from Argentina for the periods immediately preceding and subsequent to the filing of the petition. Based on our analysis of recent trade data, we find that imports of barbed wire from Argentina do not appear massive over a relatively short period.

We, therefore, did not need to consider whether there is a history of dumping of barbed wire from Argentina or whether the person by whom or for whose account these products were imported knew or should have known that the exporters were selling these products at less than fair value.

For the reasons described above, we determine that "critical circumstances" do not exist with respect to barbed wire from Argentina.

Verification

In accordance with section 776(a) of the Act, we verified the information provided by the respondent by using standard verification procedures, including examination of relevant sales and accounting records of the company.

Petitioner's Comments

Comment 1

Petitioner suggests that in order to obtain comparable fair value comparisons only those home market sales that occurred within a relatively brief span of time prior to or subsequent to the date of sale to the United States should be considered as the basis for determining foreign market value.

DOC Position

We agree. We have compared sales to the United States with a monthly weighted-average home market price in order to take into account the effects of inflation.

Comment 2

Petitioner requests that we examine carefully the payment terms of Acindar's home market sales to determine whether accounts receivable are indexed to account for the effects of inflation.

DOC Position

We found that the respondent added the cost of credit to the base price of its barbed wire sales in the home market to account for the effects of inflation. We have treated this added revenue as an increase in the home market price. No other indexation occurs.

Comment 3

Second quality sales listed in respondent's original response should not be considered for the purpose of determining home market sales price and making fair value comparisons.

DOC Position

We agree. All second quality sales were removed from the respondent's revised response, and were not included in the Department's calculations.

Comment 4

The use of averaging techniques by the respondent to calculate the cost of inland freight is inappropriate. In addition, the cost of inland freight should be calculated monthly and not for the entire period of investigation due to the high rate of inflation in Argentina.

DOC Position

The cost use for inland freight was calculated using monthly data. The averaging technique employed by the respondent pertained only to shipments of barbed wire to customers. We checked freight invoices and found that the average used by the respondent was appropriate.

Comment 5

The respondent claims several types of deduction from the list price of the merchandise: Standard discount, supplemental discount, cash discount and deferred discounts in the form of credit notes. The Department should ascertain that these deductions are real, meet the criteria of the regulations and are applicable to the sales in question and not to future purchases.

DOC Position

We have allowed all of the above-mentioned deductions because they were granted on the sales under investigation and resulted on a reduction of the net return to the respondent.

Comment 6

The respondent appears to have used averaging techniques and not actual data in calculating credit costs in the home market.

DOC Position

The respondent submitted actual data on interest rates and days payment was outstanding for home market sales in its revised response. These data were used to compute average monthly credit costs.

Comment 7

The Department should not allow an offset for commissions paid in the United States. Respondent's payment of a commission to its own salesmen in the home market is simply an intra-company transfer of funds which does not qualify as an offset to the commission paid in the United States.

DOC Position

We disagree. When commissions are paid to unrelated parties in one market but not in the other, the Department's regulations allow an offset for other selling expenses, in this case in the home market. Therefore, we have allowed an adjustment for all indirect selling expenses, including salaries and commissions paid to the respondent's salesmen in the home market.

Comment 8

The Department should not allow an adjustment for bad debt losses because they are simply one of the general costs incurred by being in business and are indirect selling expenses which do not qualify as a circumstance of sale adjustment of foreign market value.

DOC Position

We agree. We did not allow this adjustment.

Comment 9

If the Department allows an adjustment to the U.S. price based on the "reembolso" (the rebate upon export of indirect prior and final stage taxes) it should limit the adjustment to that amount of the rebate that covers taxes directly imposed on inputs which are physically incorporated into the export product.

DOC Position

For the reasons set forth in our "Final Determination of Sales at Less Than Fair Value: Carbon Steel Wire Rod from Argentina" (49 FR 38170), we determine that the intent of Congress generally was to provide comparable treatment of indirect tax rebates in both antidumping and countervailing duty investigations. Unlike the wire rod investigation, there is no companion countervailing duty investigation covering barbed wire. For this reason, we do not know whether the amount of indirect taxes rebated upon export constitutes an over-rebate. However, the respondent in the current investigation was also the respondent in the wire rod investigation, and the respondent uses the wire rod it produces in manufacturing barbed wire. In the countervailing duty investigation of wire rod we determined that while the wire rod producer received a rebate of 10 percent of the FOB export price, the actual tax incidence on components physically incorporated in the exported product amounted to 7.6 percent of the FOB export price. Because the respondent in the current investigation is an integrated producer of barbed wire, it is reasonable to assume that the same tax incidence applying to wire rod also applies to barbed wire. Therefore, for purposes of this investigation, we have limited the addition to United States price to the amount established in the wire rod investigation as representing the tax incidence on components physically incorporated in the exported product.

Comment 10

If the respondent has insufficient short-term dollar loans to finance its exports and must borrow pesos to make up the shortfall, then the peso interest rate is the appropriate rate to use in making adjustments for differences in credit costs.

DOC Position

We disagree. It is the Department's practice that when a respondent borrows dollars in the short-term which are used to finance exports, it is not necessary to determine whether other short-term borrowings of other currencies also finance exports. Thus, in this investigation we have used the short-term interest rate for dollars to calculate the cost of credit for U.S. sales.

Comment 11

The Department erred in the preliminary determination in not finding that critical circumstances exist.

DOC Position

See the section above on our determination of critical circumstances.

Respondent's Comment

The Department should make an adjustment for bad debt.

DOC Position

We disagree. Bad debt could not be shown to be directly related to the sales under investigation. Therefore, we did not adjust for it.

ITC Determination

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether imports of barbed wire materially injure, or threaten material injury to, a U.S. industry within 45 days after we make our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to continue to suspend liquidation of all entries of barbed wire from Argentina that are entered, or withdrawn from warehouse, for consumption, on or after May 3, 1985. The United States Customs Service shall require a cash deposit equal to the weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-average margin percentage
Acindar	69.02
All others	69.02

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

William T. Archey,

Acting Assistant Secretary for Trade Administration.

September 16, 1985.

[FR Doc. 85-22703 Filed 9-20-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-471-501]

Carbon Steel Wire Rod From Portugal; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that carbon steel wire rod (wire rod) from Portugal is being, or is likely to be, sold in the United States at less than fair value, and that "critical circumstances" do not exist with respect to imports of the merchandise under investigation. We have notified the U.S. International Trade Commission (ITC) of our determination, and we have directed the U.S. Customs Service to suspend the liquidation of all entries of the subject merchandise as described in the "Suspension of Liquidation" section of the notice. If this investigation proceeds normally, we will make a final determination by December 2, 1985.

EFFECTIVE DATE: September 23, 1985.

FOR FURTHER INFORMATION CONTACT: Karen L. Sackett, 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) 377-1273.

SUPPLEMENTARY INFORMATION

Preliminary Information

Based upon our investigation, we preliminarily determine that wire rod from Portugal is being, or, is likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (the Act). We have preliminarily determined the weighted-average margin of sales at less than fair value to be 24.80 percent. We also found that critical circumstances do not exist with respect to imports of wire rod from Portugal.

If this investigation proceeds normally, we will make a final determination by December 2, 1985.

Case History

On April 8, 1985, we received a petition from Atlantic Steel Company, Continental Steel Corp., North Star Steel Texas, Inc., and Raritan River Steel Company, filed on behalf of the domestic producers of wire rod. In compliance with the filing requirements of § 353.36 of our regulations (19 CFR 353.36), the petitioners alleged that imports of wire rod from Portugal are being, or are likely to be, sold in the United States at less than fair value within the meaning of the Act, and that these imports materially injure, or threaten marterial injury to, a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated such an investigation on April 29, 1985 (50 FR 18900). On May 30, 1985, the ITC determined that there is a reasonable indication that imports of wire rod are materially injuring, or threatening material injury to, a U.S. industry (50 FR 23084).

On May 22, 1985, a questionnaire was presented to counsel for respondent. On June 11, 1985, petitioners further alleged that critical circumstance exist, as defined in section 733(e) of the Act. Siderurgia Nacional (SN) responded to our questionnaire on July 19, 1985.

Scope of Investigation

The merchandise covered by this investigation is carbon steel wire rod, a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.20 inch nor over 0.74 inch in diameter, not tempered, not treated, not partly manufactured, and valued over 4 cents per pound, as currently provided for in item 607.17 of the Tariff Schedules of the United States (TSUS).

Because SN accounted for at least 60 percent of exports of this merchandise to the United States, we limited our investigation to that firm. We investigated virtually all sales by SN of wire rod for the period November 1, 1984, through April 30, 1985.

Fair Value Comparison

To determine whether sales in the United States of the subject merchandise were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

A provided in section 772 of the Act, we used the purchase price of the subject merchandise to represent the United States price because the merchandise was sold to unrelated purchasers prior to its importation into the United States. We calculated the purchase price based on the F.O.B. port of export, packed price to unrelated customers in the United States. We made deductions for Portuguese inland freight, loading and lashing costs, and Portuguese customs clearance.

Foreign Market Value

In accordance with section 773 of the Act, we calculated foreign market value based on home market sales. We made comparisons of "such or similar" merchandise based on grade and dimension categories provided by respondent and approved by Commerce Department industry experts.

We calculated the home market prices for each product on the basis of the ex-factory F.O.B. or C.&F., packed prices for each product to unrelated purchasers. From these prices we deducted, where appropriate, Portuguese inland freight. We made adjustments, where appropriate, for differences in credit expenses between the two markets in accordance with § 353.15 of our Regulations (19 CFR 353.15). Since wire rod sold in both the United States and the home market was sold in the identical packed condition, no adjustments were made for packing. We made difference in merchandise adjustments based on differences in costs of producing the merchandise under consideration, in accordance with § 353.16 of the Regulations. Pursuant to § 353.56 of the Regulations, we made currency conversions at the rates certified by the Federal Reserve Bank.

Preliminary Negative Determination of Critical Circumstances

Counsel for the petitioners alleged that imports of wire rod from Portugal present "critical circumstances." Under section 733(e) of the Act, critical circumstances exist if we have a reasonable basis to believe or suspect that (1) there is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation; or the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value; and (2) there have been massive imports of the class or kind of merchandise that is the subject of the investigation over a relatively short period.

In determining whether imports of wire rod from Portugal in the United States have been massive, we generally

consider the following: (1) Recent trends in import penetration levels, (2) whether imports have surged recently, (3) whether the recent imports are significantly above the average calculated over the last three years; and (4) whether the pattern of imports over that three year period may be explained by seasonal swings.

In considering this question, we analyzed recent trade statistics on import levels and import penetration ratios for wire rod from Portugal for the periods immediately preceding and subsequent to the filing of the petition. Based on our analysis of recent trade data, we find that imports of wire rod from Portugal during the period subsequent to the receipt of the petition have not been massive when compared to recent import levels and import penetration ratios.

Since we do not find massive imports, the Department does not need to review history or importer's knowledge of dumping in order to make its negative critical circumstances determination. Therefore, we preliminary determine that critical circumstances do not exist with respect to imports of wire rod from Portugal.

Verification

As provided in section 776(a) of the Act, we will verify all data used in reaching the final determination in this investigation.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of wire rod from Portugal that are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeded the United States price, which was 24.80 percent of the ex-factory value. The suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we make our preliminary affirmative determination, or 45 days after we make our final determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 2:00 p.m. on November 4, 1985, at the U.S. Department of Commerce, room 3708, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room 3099B, at the above address within 10 days of this notice's publication. Requests should contain: (1) The Party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by October 28, 1985. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address in at least 10 copies.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

September 16, 1985.

[FR Doc. 85-22704 Filed 9-20-85; 8:45 am]

BILLING CODE 3510-DS-M

[A-791-502]

Low-Fuming Brazing Copper Rod and Wire From South Africa; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that low-fuming brazing copper rod and wire from South Africa is being, or is likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to suspend the liquidation of all entries of low-fuming brazing copper rod and wire from South Africa that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by December 2, 1985.

EFFECTIVE DATE: September 23, 1985.

FOR FURTHER INFORMATION CONTACT: Michael Ready, 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) 377-2613.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that low-fuming brazing copper rod and wire from South Africa is being, or is likely to be, sold in the United States at less than fair value as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). For low-fuming brazing copper rod and wire sold by McKechnie Brothers S.A. (Pty.) Limited, the only known exporter of the subject merchandise, we have found that the foreign market value exceeded the United States price on 100 percent of the sales compared. The margin of dumping ranged from 0.6 percent to 28.8 percent. The weighted-average margin was 12.48 percent.

Case History

On February 19, 1985, we received a petition filed proper form by American Brass, Century Brass, and Cerro Metal Products on behalf of the U.S. industry producing low-fuming brazing copper rod and wire. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from South Africa 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 Act (19 U.S.C. 1673), and that these imports are materially injuring, or threatening material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping investigation. We initiated

the investigation on March 11, 1985 (50 FR 10524), and notified the ITC of our action.

On April 5, 1985, the ITC found that there is a reasonable indication that imports of low-fuming brazing copper rod and wire from South Africa are materially injuring, or threatening material injury to, a U.S. industry (U.S. ITC Pub. No. 1673, April 1985).

On March 22, 1985, we presented a questionnaire to counsel for the manufacturer, McKechnie Brothers S.A. (Pty.) Limited (McKechnie), who accounts for all South African exports of the subject merchandise to the United States. On may 28, 1985, we received a reply to the questionnaire.

Pursuant to a request made by the petitioners, on July 9, 1985, we extended the period for making the preliminary determination until September 17, 1985 (50 FR 28826).

Also on July 9, 1985, the petitioners alleged that the respondent's home market sales were at prices below the cost of production and requested that the Department conduct a cost investigation. We therefore requested that McKechnie respond to a cost questionnaire. We received a reply to the cost questionnaire on August 21, 1985. We examined 100 percent of the sales made by McKechnie during the period of investigation. We made fair value comparisons between sales of such or similar merchandise which was sold by McKechnie in both the United States and South African markets. Such merchandise comprised 88 percent of McKechnie's sales to the United States.

Standing

On March 20, 1985, Aufhauser Brothers Corporation, ("Aufhauser") requested that we rescind our initiation of this investigation, alleging that the petitioners had not filed "on behalf of" the domestic industry, as required by section 732 of the Act. This allegation was also raised in the context of our countervailing duty investigation of low-fuming brazing copper rod and wire from South Africa. We investigated and found in the preliminary countervailing duty determination that there is no reason to conclude that petitioners do not have standing (50 FR 21328). We have received no further evidence to change that determination, as stated in our final countervailing duty determination (50 FR 31642).

Scope of Investigation

The products covered by this investigation are low-fuming brazing copper rod and wire, principally of copper and zinc alloy ("brass"), of varied dimension in terms of diameter, whether cut-to-length or coiled, whether bare or flux-coated, currently classified in the *Tariff Schedules of the United States Annotated* (TSUSA) under items 612.6205, 612.7220 and 653.1500. The chemical composition of the products under investigation is defined by Copper Development Association (CDA) standards 680 and 681.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772 of the Act, we used the purchase price of the subject merchandise to represent the United States price because the merchandise was sold to unrelated purchasers prior to its importation into the United States. We calculated the purchase price based on the CIF packed price to unrelated customers in the United States. We made deductions, where appropriate, for brokerage, handling, inland freight and inland insurance charges in South Africa, ocean freight, marine insurance, credit insurance and rebates.

Foreign Market Value

Petitioners have alleged that if the Department does not determine foreign market value on the basis of constructed value, it should determine foreign market value pursuant to section 773(d) of the Act. The Department preliminarily has determined that section 773(d) is not applicable to sales by McKechnie. Section 773(d) was designed to address the situation in which a multinational corporation effectively subsidizes low-priced sales to the United States from one country with high-priced sales by affiliated factories in the home market of a third country. S. Rep. No. 1298, 93d Cong., 2d Sess. 174–175 (1974). We have determined that while some portion of McKechnie's stock is owned by a corporation which owns other facilities for the production of such or similar merchandise, this ownership interest is not controlling and is far too tenuous to meet the requirements of section 773(d)(1).

In addition, we note that petitioner's allegation that reference should be made to section 773(d) only if the Department does not base foreign market value on constructed value is incorrect. For those sizes where we did not use constructed value (*i.e.*, where we found sufficient sales at or above the cost of production of comparable merchandise), the home market sales are adequate and therefore the Department would not be authorized to apply section 773(d), because the condition imposed by section 773(d)(2) has not been met. In accordance with section 773(a) of the Act, we calculated foreign market value based on either home market sales or constructed value.

McKechnie's reply to our cost questionnaire provided only one average cost for all sizes of brazing rod rather than a separate production cost for each size. It also provided insufficient information explaining and supporting the use of various bases employed in allocating costs. We therefore used the cost of production provided by the petitioners as the best information available, pursuant to section 776(b) of the Act, to represent McKechnie's cost of production. We compared the cost of production provided by the petitioners with the home market selling prices provided by McKechnie and found that for two sizes of brazing rod, sales were made at less than cost over an extended period of time, in substantial quantities, and at prices not permitting recovery of all costs within a reasonable period of time. We therefore used constructed value for these sizes to determine foreign market value. For two other sizes, we found there were sufficient sales at or above cost of comparable merchandise. Therefore, for these sizes we used home market sales prices to determine foreign market value.

We calculated constructed value based on the cost of production provided by the petitioners, who included the statutory minimum of 10 percent for general expenses. We added the statutory minimum of eight percent for profit and McKechnie's packing cost for sales to the United States. We made an adjustment for differences between McKechnie's home market and U.S. credit costs.

We calculated foreign market value based on home market prices on the basis of delivered prices to unrelated purchasers. From these prices, we deducted, where appropriate, inland freight, rebates, and cash settlement discounts. We made adjustments, where appropriate, for differences in credit expenses in accordance with §353.15 of our Regulations (19 CFR 353.15), and differences in physical characteristics in accordance with § 353.16 of our Regulations (19 CFR 353.16). We deducted home market packing costs and added U.S. packing.

We disallowed claimed adjustments for selling, warehouse labor, and inventory financing costs because these costs did not bear a direct relationship

to the sales which are under consideration as required by § 353.15.

Verification

As provided in section 776(a) of the Act, we will verify all information used in reaching our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of low-fuming brazing copper rod and wire from South Africa that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. The United States Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-average margin percentage
McKechnie Brothers S.A. (Pty.) Ltd.	12.48
All Others	12.48

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivieged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, eiher publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we make our preliminary affirmative determination or 45 days after we make our final affirmative determination.

Public Comment

In accordance with § 353.47 of our Regularions (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on October 22, 1985, at the United States Department of Commerce, Room B-841, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address wihin 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by October 15, 1985. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

September 17, 1985.

[FR Doc. 85-22705 Filed 9-20-85; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments; U.S. Geological Survey et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 85-275. Applicant: U.S. Geological Survey, 450 Main Street, Room 525, Hartford, CT 06103. Instrument: VLF Resistivity Meter. Manufacturer: Geonics, Limited, Canada. Intended use: The instrument is intended to be used for the rapid quantitative or qualitative description of subsurface aquifers and the chemistry of the fluids (ground water) in them. This includes the approximate grain size of aquifer material (which can be related to the electrical resistivity) and the water chemistry of the ground water in the aquifer. Application received by Commissioner of Customs: August 15, 1985.

Docket No. 85-277. Applicant: Texas A&M University, Mechanical Engineering Department, College Station, TX 77843. Instrument: Closed Loop Crystal Driver. Manufacturer: Solid State Equipment, New Zealand. Intended use: The instrument will form the essential component of the piezoelectric ultrasonic composite oscillator technique that is being set up. Measurements of elastic modulus and internal friction in a variety of materials under environmental conditions will be conducted. Application received by Commissioner of Customs: August 15, 1985.

Docket No. 85-278. Applicant: University of Hawaii, 1993 East-West Road, Honolulu, HI 96822. Instrument: Microforge. Manufacturer: Narishige Scientific Instrument Laboratory, Japan. Intended use: Studies of ionic channels through the surface membrane of nerve cells. These studies will be conducted to obtain a biophysical description of the membrane channels responsible for the ability of peptidergic neurosecretory terminals to produce regenerative electrical responses and to release hormones under control of electrical activity. Application received by Commissioner of Customs: August 22, 1985.

Docket No. 85-279. Applicant: University of New Mexico, School of Medicine, Department of Pathology, 915 Standford Drive, N.E., Albuquerque, NM 87131. Instrument: Electron Microscope, Model EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: Examination of diseased and normal human tissues, tissues of a variety of animals employed in experimental designs, as well as tissue cultures of human or animal origin. The following are to be investigated:

(1) the ultrastructural changes in cells and extracellular compartment in human diseases and experimentally induced conditions in animals;

(2) morphometric changes (changes in size and number of cells, their processes and various cytoplasmic organelles);

(3) ultrastructural localization of antigens, transport of antigenantibody complexes;

(4) identification of special cellular markers (such as lysosomes in Chediak Higashi disease); and

(5) changes in blood vessel permeability.

Application received by Commissioner of Customs: September 6, 1985.

Docket No. 85–280. Applicant: The Connecticut Agricultural Experiment Station, 123 Huntington Street, P.O. Box 1106, New Haven, CT 06504. Instrument: Electron Microscope, Model EM 10CA/C/CR. Manufacturer: Carl Zeiss, West Germany. Intended use: Studies of microbial pathogens of humans and domestic animals (spirochetes, rickettsiae, viruses, protozoa); microbial pathogens of mosquitoes and other biting flies and also vegetable and forest insect pests (protozoa, viruses, fungi, bacteria); pathogens of trees and annual crops (microplasma, viruses, bacteria, fungi). The ultrastructure of microbes will be determined so that they may be accurately described and identified. Interactions of infectious microbes in their arthropod and vertebrate tissues will be determined with the aid of the EM. Application received by Commissioner of Customs: September 6, 1985.

Docket No. 85–282. Applicant: Naval Research Laboratory, 4555 Overlook Avenue, Washington, DC 20375–5000. Instrument: Electron Microscope, Model EM 10CA with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: Studies to be conducted in support of research designed to elucidate the structure and function of polymerizable lecithin and other novel lipids. These materials form fine structural detail in monolayers and bilayers as well as liposomes and other novel structures. Experiments to be conducted will include:

(a) Fine structural sterology of TEM images of lipid materials.

(b) Diffraction studies of novel lipid materials.

(c) Freeze fracture of bilayer membranes formed from polymerizable lecithins.

(d) Freeze fracture of encapsulated materials.

Application received by Commissioner of Customs: September 9, 1985.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 85–22706 Filed 9–20–85; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Request for Public Comment on Bilaterial Textile Consultations With the Government of Japan To Review Trade in Categories 310/318 and 646

September 18, 1985.

On August 29, 1985 the Government of the United States requested consultations with the Government of Japan with respect to cotton yarn-dyed fabrics in Category 310/318 and to women's, girls' and infants' man-made fiber sweaters in Category 646. This request was made on the basis of the Agreement, effected by exchange on notes dated August 17, 1979, as amended and extended, between the Governments of the United States and Japan, relating to trade in cotton wool and man-made fiber textiles.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations between the two governments, the Committee for the implementation of Textile Agreements may request the Government of Japan to limit exports in Categories 310/318 and 646, produced or manufactured in Japan and exported to the Untied States during the twelve-month period which began on January 1, 1985 and extends through December 31, 1985, to levels of 18,422,890 square yards equivalent (Category 310/318) and 149,777 dozen (Category 646).

Summary market statements concerning these categories follow this notice.

Anyone wishing to comment or provide data or information regarding the treatment of these Categories under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of Japan, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in the categories, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted prompty. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreement considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect to the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Japan—Market Statement

Categories 310/318—Yarn-Dyed Fabric

August 1985.

Summary and Conclusions

United States imports of cotton yarn-dyed fabric, Categories 310/318 from Japan were 16.8 million square yards during the year ending June 1985, up 31 percent from the 12.8 million square yards imported a year earlier. Japan was the largest supplier of this fabric, accounting for one-third of the total imports.

The sharp and substantial increases of imports from Japan which are being offered at reduced prices are severely disrupting the U.S. markets for cotton yarn-dyed fabrics.

The U.S. industry producing yarn-dyed cotton and cotton/polyester blended fabrics has been adversely affected by imports. Recently two yarn-dyed mills closed and another sharply reduced production. Unfilled orders are down and profits have declined or disappeared.

Production and Market Share

U.S. production of cotton and cotton/polyester yarn-dyed fabrics fell sharply during the third quarter of 1984 and has continued at the depressed level. First quarter 1985 production was 32.5 million square yards, down 28.4 percent from the first quarter of 1984. Production in 1984, largely due to the drop during the last half of the year, was 152.0 million square yards, down 17.1 percent from 1983.

The domestic producers share of the market for domestically produced and imported fabric declined drastically from 86 percent in 1983 to 70 percent in 1984. In addition, the domestic producers experienced a declining market for fabric since imports of yarn-dyed apparel rapidly increased in 1984.

Imports and Import Penetration

Japan ships a wide variety of fabrics in both categories. Shipments include 100 percent cotton and blend fabrics such as 55 percent cotton/45 percent polyester. They also cover a wide range of yarn counts from the teens to the eighties. Most of the shipments are of thirties and forties yarn counts. The duty-paid landed values are below those of comparable U.S. produced fabrics. Representative examples of these differences are provided below.

Japan—Market Statement

Category 646—Women's Girls and Infants' (WGI) Man-Made Fiber Sweaters

August 1985.

Summary and Conclusion

Category 646 imports from Japan increased 72 percent during the year ending June 1985 to 143,493 dozens. WGI man-made fiber sweater imports from Japan totaled 117,123 dozens in 1984 compared with 72,895 dozens in 1983, a 61 percent increase. The U.S. market for Category 646 sweaters is being disrupted by imports. The sharp and substantial increase in imports from Japan is contributing to this disruption.

U.S. Production

Domestic Category 646 production was 4,950,000 dozens in 1984, two percent below the 1980–1984 annual average of 5,068,000 dozens. Production has actually been trending downward for more than a decade. For example the five year average prior to 1980 was 6,440,000 dozens. The high level of imports contributed to the decline in domestic production.

Imports

Category 646 sweater imports have increased by 800,000 dozens since 1980. Import levels have been significantly higher since 1982. Domestic production, on the other hand, has trended downward since the latter year. The import-to-production ratio was 175 percent in 1984 compared with 163 percent in 1980.

In addition to the Category 646 imports, U.S. man-made fiber sweater producers are being adversely affected by sweater imports of polyester and acrylic blended with chief weight and chief value non-MFA fibers such as ramie. In 1984, these imports equaled domestic Category 646 production and during January-June 1985 alone, non-MFA fiber WGI sweater imports reached 3,330,507 dozens.

U.S. Market and Domestic Producers Share

Despite a 1 million dozen increase in the domestic market for Category 646 sweaters, the U.S. producers share eroded to 36 percent in 1984 compared with 38 percent in 1980. If non-MFA fiber blended sweater imports are included, the U.S. producers' share of the market would be less than 30 percent.

Import Values and Domestic Producers' Price

Half of the Category 646 imports from Japan entered under TSUSA No. 383.8073—women's and girls non-ornamented sweaters and a third under 383.8071—infant girls non-ornamented sweaters. These sweaters are imported at landed, duty-paid values below the domestic producers' price for comparable garments.

[FR Doc. 85–22707 Filed 9–20–85; 8:45 am]

BILLING CODE 3510-DR-M

Import Control Limits for Certain Man-Made Fiber Textile Products Produced or Manufactured in the Republic of Korea

September 18, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on September 24, 1985. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

On May 7, 1985, the Government of the United States requested consultations with the Government of the Republic of Korea concerning man-made fiber yarn, other than cordage, in Category 605–O (all T.S.U.S.A. numbers in the category except 316.5500 and 316.5800) and man-made fiber woven fabrics in Category 611. This request was made on the basis of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated December 1, 1982, as amended, between the Governments of the United States and the Republic of Korea.

The purpose of this notice is to announce that agreement was reached in consultations to establish levels of 700,00 pounds for Category 605–O and 2,250,000 square yards for Category 611, produced or manufactured in Korea and exported during 1985. The United States Government has decided to control imports in these categories, not previously controlled in 1985, at the newly agreed levels. In addition, agreement was reached to further amend the bilateral agreement to increase the specific limit for man-made fiber swimwear in Category 659–S (only T.S.U.S.A. number 379.2340, 3769.3170, 383.1920, 383.2239, 383.8300, 393.8400, and 393.9255) from 273,684 pounds to 290,000 pounds for goods exported during 1985.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

SUPPLEMENTARY INFORMATION: On December 27, 1984, a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the **Federal Register** (49 FR 50237) which established import restraint limits for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea and exported during the twelve month period which began on January 1, 1985. The letter which follows this notice further amends the directives of December 21, 1984 and January 29, 1985 to establish new levels for Categories 605–O and 611 and to increase the existing specific limit for Category 659–S. The limits for Categories 605–O and 611 have not been adjusted to account for any imports exported during 1985. These changes will be made as the data become available.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 18, 1985.

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

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directives of December 21, 1984 and January 29, 1985 concerning cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea and exported during 1985.

Effective on September 24, 1985 paragraph one of the directive of December 21, 1984 is hereby further amended to establish the following restraint limits for man-made fiber textile products in Categories 605pt.[1] and 611:

Category	12-Mo. restraint limit [2]
605pt.[1]	700,000 pounds.
611	2,259,000 square yards.

Effective on September 24, 1985, the directive of January 29, 1985 is hereby amended to include an adjusted limit of 290,000 pound [3] for man-made fiber textile products in Category 659pt.[3]

[1] In Category 605, all T.S.U.S.A. numbers in the category except 316.5500 and 316.5800.

[2] The limits have not been adjusted to reflect any improts exported after December 31, 1984. Imports in Category 605pt. [1] have not amounted to 228,882 pounds during the January 1–July 31, 1985 period. Imports during the same period have amounted to 1,675,546 square yards in Category 611.

[3] In Category 659, only T.S.U.S.A. numbers 379.2340, 379.3170, 379.9100, 379.9570, 383.1920, 383.2239, 383.8300, 383.8400, and 383.9253.

Textile products in the foregoing categories which have been exported to the United States prior to January 1, 1985 shall not be subject to this directive.

Textile products in Categories 605pt. and 611 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-22708 Filed 9-20-85; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Department of Defense Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, October 1, 1985; Tuesday, October 8, 1985; Tuesday, October 15, 1985; Tuesday, October 22, 1985; Tuesday, October 29, 1985 at 10:00 a.m. in Room 1E801, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Force Management and Personnel) concerning all matters involved in the development and authorization of wage schedules for federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, meetings may be closed to the public when they are "concerned with matters listed in 5 U.S.C. 552b." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy & Requirements) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b.(c)(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D264, The Pentagon, Washington, D.C. 20301.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

September 18, 1985.

[FR Doc. 85-22638 Filed 9-20-85; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

September 16, 1985.

The USAF Scientific Advisory Board Armament Division Advisory Group will meet October 10, 1985, from 8:00 A.M. to 5:45 P.M. and October 11, 1985, from 8:00 A.M. to 3:00 P.M. at Eglin AFB, FL, Building 1, Room 118.

The purpose of this meeting is to review the Sensor Fuzed Weapon and Boosted Kinetic Energy Penetrator programs and results of the SALTY DEMO exercise.

This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Sceintific Advisory Board Secretariat at (202) 697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 85-22621 Filed 9-20-85; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF ENERGY

Energy Information Administration

Publication of Alternative Fuel Price Ceiling and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95-621) signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute that the ultimate costs of gas to the industrial facility should not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA, section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) computed natural gas ceiling prices and the high cost gas incremental pricing threshold which are to be effective October 1, 1985. These prices are based on the prices of alternative fuels.

FOR FURTHER INFORMATION CONTACT: Leroy Brown, Jr., Energy Informaion Administration, 1000 Independence Avenue, SW., Room BE-034, Washington, DC 20585, Telephone: (202) 252-6077.

Section I

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. FERC, by an Interim Rule issued on April 2, 1981, in Docket No. RM79-21, revised the methodology for calculating the monthly alternative fuel price ceilings for State regions. Under the revised methodology, the applicable alternative fuel price ceiling published for each of the continguous States shall be the lower of the alternative fuel price ceiling for the State or the alternative fuel price ceiling for the multistate region in which the State is located.

The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in section III.

[Dollars per million]

State	BTU's
Alabama	$3.15
Arizona [1]	3.53
Arkansas [1]	3.20
California [1]	3.53
Colorado [2]	3.37
Connecticut [1]	3.44
Delaware [1]	3.66
Florida	3.29
Georgia [1]	3.37
Idaho [2]	3.37
Illinois	3.19
Indiana [1]	3.27
Iowa [1]	3.23
Kansas	2.97
Kentucky [1]	3.27
Louisiana	3.13
Maine [1]	3.44
Maryland	3.54
Massachusetts	3.40
Michigan [1]	3.27
Minnesota [1]	3.23
Mississippi [1]	3.37
Missouri [1]	3.23
Montana [2]	3.37
Nebraska [1]	3.23
Nevada [1]	3.53
New Hampshire	3.43
New Jersey	3.61
New Mexico	3.07
New York [1]	3.66
North Carolina [1]	3.37
North Dakota [1]	3.23
Ohio	3.15
Oklahoma [1]	3.20
Oregon [1]	3.53
Pennsylvania	3.57
Rhode Island [1]	3.44
South Carolina	3.28
South Dakota [1]	3.23
Tennessee [1]	3.37
Texas [1]	3.20
Utah [2]	3.37
Vermont [1]	3.44
Virginia [1]	3.37
Washington	3.53
West Virginia [1]	3.27
Wisconsin [1]	3.27
Wyoming [2]	3.37

[1] Region based price as required by FERC Interim Rule, issued on April 2, 1981, in Docket No. RM-79-21.
[2] Region based price computed as the weighted average price of Regions E, F, G, and H.

Section II. Incremental Pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during July 1985 was $29.56 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective October 1, 1985, is $6.63 per million BTU's.

Section III. Method Used to Compute Price Ceilings

The FERC, by Order No. 50, issued on September 29, 1979, in Docket No. RM79-21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 167, issued in Docket No. RM81-27 on July 24, 1981, made permanent the rule that established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings. In addition, the FERC, by Order No. 181, issued on October 6, 1981, in Docket No. RM81-28, established that price ceilings should be published for only the 48 contiguous States on a permanent basis.

A. Date Collected

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: for each selling price, the number of gallons sold to large industrial users in the months of May 1985, June 1985, and July 1985.[1] All reports of volume sold and price were identified by the State into which the oil was sold.

B. Method Used to Determine Alternative Price Ceilings

(1) Calculation of Volume-Weighted Average Price

The prices which will become effective October 1, 1985, (shown in section I) are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, May 1985, June 1985, and July 1985. Reported prices for sales in May 1985 were adjusted by the percent change in the nationwide volume-weighted average price from May 1985 to July 1985. Prices for June 1985 were similarly adjusted by the percent change in the nationwide volume-weighted average price from June 1985 to July 1985. The volume-weighted 3-month average of the adjusted May 1985 and June 1985, and the reported July 1985 prices were then computed for each State.

(2) Adjustment for Price Variation

States were grouped into the regions identified by the FERC (see section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in section III.B.(1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

[1] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State, or Local), and the military are excluded.

(3) Calculation of Ceiling Price

The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices at the national level as discussed in section III.B(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3 months to determine the State's average low price. The adjusted weighted average price (as calculated in section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State alternative fuel price ceiling base. The State's alternative fuel price ceiling base was compared to the alternative fuel price ceiling base for the multistate region in which the State is located and the lower of these two prices was selected as the final alternative fuel price ceiling base for the State. The appropriate lag adjustment factor (as discussed in section III.B.4) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million BTU's).

There were insufficient sales reported in Region G for the months of May 1985, June 1985, and July 1985. The alternative fuel price ceilings for the States in Region G were determined by calculating the volume-weighted average price ceilings for Region E, Region F, Region G, and Region H.

(4) Lag Adjustment

The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 20 cities throughout the United States. The low

posted prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 high sulfur residual fuel oil for the ten trading days ending September 16, 1985, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of July 1985. A regional lag adjustment factor was similarly calculated for four regions. These are: one for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G combined; and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in section III.B.(3).

Listing of States by Region

States were grouped by the FERC to form eight distinct regions as follows:

Region A

Connecticut	New Hampshire
Maine	Rhode Island
Massachusetts	Vermont

Region B

Delaware	New York
Maryland	Pennsylvania
New Jersey	

Region C

Alabama	North Carolina
Florida	South Carolina
Georgia	Tennessee
Mississippi	Virginia

Region D

Illinois	Ohio
Indiana	West Virginia
Kentucky	Wisconsin
Michigan	

Region E

Iowa	Nebraska
Kansas	North Dakota
Missouri	South Dakota
Minnesota	

Region F

Arkansas	Oklahoma
Louisiana	Texas
New Mexico	

Region G

Colorado	Utah
Idaho	Wyoming
Montana	

Region H

Arizona	Oregon
California	Washington
Nevada	

Issued in Washington, D.C., September 18, 1985.

Dr. H.A. Merklein,

Administrator, Energy Information Administration.

[FR Doc. 85-22756 Filed 9-20-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Hydroelectric Application Filed With the Commission

September 18, 1985.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection:

a. Type of application: Transfer of License.

b. Project No.: 2609-006.

c. Date filed: August 19, 1985.

d. Applicant: International Paper Company and Curtis/Palmer Hydroelectric Company.

e. Name of project: Curtis/Palmer Falls Project.

f. Location: On the Hudson River near the Towns of Corinth, Hadley, and Lake Luzerne, Warren and Saratoga Counties, New York.

g. Filed pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact person: McNeil Watkins II, Bishop, Liberman, Cook, Purcell & Reynolds, 1200 17th Street NW., Washington, DC 20036.

i. Comment date: October 7, 1985.

j. Description of Proposed Transfer: On May 22, 1980, a license was issued to International Paper Company to construct, operate, and maintain the Curtis/Palmer Falls Project No. 2609. The Licensee intends to add Curtis/Palmer Hydroelectric Company to the license in order to obtain the necessary continued financing, and assistance in the operation of the project. For that reason the Licensee and Curtis/Palmer Hydroelectric Company have filed a request to transfer the license to International Paper Company and Curtis/Palmer Hydroelectric Company (Transferees).

k. This notice also consists of the following standard paragraphs: B.

1. Filing and Service of Responsive Documents: Any filing must bear in all capital letters to the title "COMMENTS", "PROTESTS" or "MOTION TO INTERVENE", as applicable, and the Project Number of this application. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E. Springer, Director, Division of Project Management, Office of Hydropower Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Fred E Springer, Director, Division of Project Management, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 203 RB at the above address. A copy of any motion to intervene must also be served upon the representative of the Applicant specified herein.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-22645 Filed 9-20-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-5173-000 et al.]

Natural Gas Companies; Sun Exploration and Production Co. et al.; Applications for Abandonments of Service and a Petition To Amend a Certificate[1]

September 13, 1985.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendment which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before September 25, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure base
G-5173-000, D, Sept. 5, 1985	Sun Exploration and Production Co., P.O. Box 2880, Dallas, Texas 75221-2880.	Northern Natural Gas Company, Guymon-Hugoton Field, Texas County, Oklahoma.	(1)	
CI68-88-000, D, Sept. 9, 1985	Texaco Producing Inc., P.O. Box 52332, Houston, Texas 77052.	Arkansas Louisiana Gas Company, Southwest Lacy Field, Blaine County, Oklahoma.	(2)	
CI68-749-000, D, Sept. 9, 1985	Texaco Inc. P.O. box 52332 Houston, Texas 77052	Mountain Fuel Supply Company, South Baggs Area, Carbon County, Wyoming.	(3)	
CI73-427-001, D, Sept. 9, 1985	Sun Exploration & Production Co.	Northern Natural Gas Company, Tiger Ridge Field, Hill and Blaine Counties, Montana.	(4)	
CI75-680-001, D, Sept. 9, 1985	Texaco Inc.	Texas Gas Transmission Corporation, Eugene Island Block 342, Offshore Louisiana.	(5)	
CI77-438-001, D, Sept. 9, 1985	Texaco Producing Inc.	United Gas Pipe Line Company, High Island Area (E/2 of Block 110, W/2 of Block 111, Block 137 and N/2 of Block 138, Offshore Texas.	(6)	
CI78-1026-001, D, Sept. 9, 1985	Sun Exploration & Production Co.	Arkansas-Louisiana Gas Company, Stage Stand, S.E. Field, Stephens County, Oklahoma.	(7)	
CI85-650-000, B, Sept. 6, 1985	Cummins & Walker Oil Company, Inc. P.O. Box 718 Corpus Christi, Texas 78403.	Transcontinental Gas Pipe Line Corporation, Washburn Ranch Area, La Salle County, Texas.	(8)	
CI85-653-000, B, Sept. 9, 1985	Cummins & Walker Oil Company, Inc. P.O. Box 718 Corpus Christi, Texas 78403.	Transcontinental Gas Pipe Line Corporation, Washburn Ranch Area, LaSalle County, Texas.	(8)	
CI85-654-000, B, Sept. 9, 1985	Darrell Goe.	Consolidated Gas Supply Corporation, Conneaut Township, Erie County, Pennsylvania.	(9)	
CI85-655-000, B, Sept. 9, 1985	Dodds, *et al.* Darrell Goe Agent	Consolidated Gas Supply Corporation, Cherry Hill Field, Conneaut Township, Erie County, Pennsylvania.	(9)	
CI85-656-000, B, Sept. 9, 1985	J & J Enterprises, Inc.	Consolidated Natural Gas, Sandy Field, Clearfield County, Pennsylvania.	(10)	
CI85-657-000, B, Sept. 9, 1985	do	Consolidated Natural Gas, Brady Field, Clearfield County, Pennsylvania.	(10)	
CI85-658-000, B, Sept. 9, 1985	Cecil Meadows	Consolidated Gas Transmission Corporation, Nicut Field, Calhoun County, West Virginia.	(11)	
CI85-659-000, B, Sept. 9, 1985	The Bentre' Company, 423 Second Street, Marietta, Ohio 45750.	Consolidated Gas Transmission Corporation Erie County, Pennsylvania.	(9)	
CI85-660-000, B, Sept. 9, 1985	do	do	(9)	
CI85-661-000, B, Sept. 9, 1985	do	do	(9)	
CI85-662-000, B, Sept. 9, 1985	do	do	(9)	
CI85-663-000, B, Sept. 9, 1985	do	do	(9)	
CI85-664-000, B, Sept. 9, 1985	do	do	(9)	
CI85-665-000, B, Sept. 9, 1985	do	do	(9)	
CI85-666-000, B, Sept. 9, 1985	do	do	(9)	
CI85-667-000, B, Sept. 9, 1985	do	do	(9)	
CI85-668-000, B, Sept. 9, 1985	Kenn-Co Services, Inc., 2431 East 51st Street—Suite 701 Tulsa, Okla 74105.	Cities Service, SW/4 SW/4 Sec. 15-T22N-R9W, Major County, Oklahoma.	(12)	
CI85-669-000, B, Sept. 9, 1985	do	Cities Service, NE Sec. 32-T17N-R9W, Kingfisher County, Oklahoma.	(13)	
CI85-670-000, B, Sept. 9, 1985	do	Cities Service NE/4 Sec. 32-T17N-R9W, Kingfisher County, Oklahoma.	(14)	
CI85-671-000, B, Sept. 10, 1985	Agarita Oil Company, P.O. Box 333, Corpus Christi, Texas 78403.	Valley Gas Transmission, Inc. Live Oak County, Texas.	(15)	
CI85-672-000, B, Sept. 9, 1985	Service Drilling Co., 1800 Fourth Natl. Bank Bldg., Tulsa, Okla. 74119.	Transwestern Pipeline Company, Como SE Field, Beaver County, Oklahoma.	(16)	
CI73-443-000, D, Sept. 11, 1985	Sun Exploration & Production Co., P.O. Box 2880, Dallas, Texas 75221-2880.	Northern Natural Gas Company, Sherard Field, Chouteau County, Montana.	(17)	
CI84-396-003, C, Sept. 11, 1985	Sohio Petroleum Company, P.O. Box 4587, Houston, Texas 77210.	Texas Eastern Transmssion Corporation, Eugene Island Block 330, Offshore Louisiana.	(18)	14.73
G7193-005, D, Sept. 6, 1985	Union Oil Company of California, P.O. Box 7600, Los Angeles, Calif. 90051.	Williston Basin Interstate Pipeline Company, Worland Field, Big Horn and Washakie Counties, Wyoming.	(19)	

[1] Property No. 843020, Interstate "E" Gas Unit, sold to Cities Service Oil and Gas Corporation.
[2] On 5-21-85, Texaco Producing Inc. assigned to Bogert Oil Company all of its remaining interest in leases under the 6-28-67 contract.
[3] Assignment of a part of Texaco's interest under Docket No. CI68-749 to Shakespeare Oil Company.
[4] Sale of Tiger Ridge Gas Unit to Kenneth W. Cory.
[5] Assignment of a part of Texaco's interest under Docket No. CI75-680 to Huffco.
[6] Federal Lease OCS-G-3234 (High Island Block 137) was released on 11-2-82.
[7] J.K. Callaway Unit (18.75% W.I.) sold to Bill Bowers and Associates.
[8] South Texas Snydicate wells # 1-41 and 1-88 stopped producing and have been plugged. Well #1-67 is still producing and Applicant desires to retain the ability to sell gas from this well.
[9] Non-economic at current rate.
[10] Insufficient production.
[11] This well is barely making a sufficient amount of gas production to pay the meter charge. Therefore, it is not feasible to continue to produce this well.
[12] This lease was P&A due to the total depletion of production. Kenn-Co purchased this lease for salvage from Petro Lewis in May, 1983. The landowner would like to have his land cleared of all gas lines and meter loop. Applicant has been told, after talking with many people, that the only way this can be done is with an abandonment approval by FERC.
[13] This well was purchased from Petro Lewis for salvage. It had been shut in for P&A on 12-12-83. The surface owner justifiably wants his land cleared of all oil and gas related equipment now that the well bore has been plugged and abandoned. The one remaining problem is the gas lines and meter loop still on his property. Kenn-Co purchased this lease from Petro Lewis for salvage only—it was not produced by Kenn-Co.
[14] Well was depleted by Petro Lewis in August, 1982. Kenn-Co purchased this lease for salvage. The well has been properly plugged in compliance with the laws of Oklahoma. The landowner has, for two years, accused Kenn-Co of not fulfilling its contractual obligations of clearing said lease. All that remain are the gas lines and meter loop.
[15] Only well on dedicated lease watered out. Well plugged and abandoned.
[16] Inasmuch as neither Buyer nor Seller desires to compress the gas they have agreed that the production attributable to the Walton Lease located in Sec. 81-1N-25E, Beaver County, Oklahoma be released.
[17] Sale of USA #9-8 Well and equipment to Robert Klabzuba.
[18] Applicant is filing for an additional acquired working interest.
[19] The Phosphoria Formation which underlines the lands dedicated to the Worland Unit contains oil wells which produce associated sour gas. No facilities have existed to process the sour gas since July 1971. Consequently the gas is extracted from the oil via the oil processing system and flared, a practice which has continued to the present. Union has received an offer from the operator of a sour gas treating plant which has recently become operational and who will purchase, process and sweeten the gas for resale in intrastate markets.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

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Cliffs Electric Service Co. et al.; Order Granting Rehearing in Part, Granting in Part and Denying in Part Requests for Waivers, Denying Requests for Disclaimer of Jurisdiction, and Accepting Rate for Filing

Issued: September 17, 1985.

In the matter of: Cliffs Electric Service Company, Upper Peninsula Generating Company; Docket No. EL83-19-001; Elkem Metals Company, Docket No. EL83-30-000; Colockum Transmission Company, Inc., Docket No. EL83-28-000; Stonington and Deer Isle Power Company, Docket No. EL83-18-000.

Four petitioners have submitted requests for waivers of various Commission regulations. The petitioners are: Cliffs Electric Service Company (Cliffs Electric or Cliffs) and its 93 percent-owned affiliate, Upper Peninsula Generating Company (Generating Company); Elkem Metals Company (Elkem); Colockum Transmission Company (Colockum); and Stonington and Deer isle Power Company (Stonington).[1] Cliffs Electric and Generating Company have filed a joint request for rehearing of an earlier Commission order denying the requested waivers. 24 FERC ¶ 61,024 (1983). The petitioners have based their requests on similar waivers granted in whole or in part in *St. Joe Minerals Corp.*, Docket No. EL82-19-000, 21 FERC ¶ 61,323 (1982), *modified on reh'g*, 22 FERC ¶ 61,211 (1983) (*St. Joe*).[2]

In *St. Joe*, the Commission granted waivers of the Uniform System of Accounts, various reporting requirements, annual charges and our regulations respecting issues of securities and assumptions of liability. In addition, the Commission granted partial waivers of the regulations respecting property dispositions and consolidations and the holding of interlocking positions. The waivers were granted to St. Joe primarily because St. Joe was an industrial company selling incidental and interruptible power as a very small portion of its primary business to customers who were not dependent upon that power and because the sales of power were temporary and were to be reduced and eventually eliminated as St. Joe's business operations expanded. In addition, we found that the power sales appeared to be in the public interest because they promoted St. Joe's business operations and thereby benefited the depressed local economy and because coal-fired generating units may well have displaced oil-fired units.

The petitioners (with the exception of Stonington) are industrial companies which have entered into power transactions with traditional public utilities. Cliffs Electric and Elkem are selling excess capacity that is no longer required by their industrial parents. Colockum has entered into an energy/capacity exchange agreement to better regulate the delivery of electricity to its industrial parent. Stonington, a small electric distributor, sells power to a small island previously served by aged diesel generators. Because of the nature of the requests and the similar circumstances presented, the petitions have been considered together. As set forth below, with the exception of Generating Company, we shall grant the waivers requested.

Discussion

As noted, these petitions fall into two separate categories. Three involve industrial concerns; one involves a traditional but small public utility. We shall discuss these categories separately. With respect to the industrial firms, the waivers of our regulations are granted primarily to foster an efficient market for the sale of power and energy. At present, the cost to utilities of constructing additional capacity to meet increases in customer load is extremely high. According to the petitioners the proposed transactions may be hindered if certain of our regulations (particularly the Uniform System of Accounts) are not waived. Therefore, to the extent that waivers of certain of our regulations alleviate a regulatory burden on the petitioners, an efficient use of existing generation facilities may be promoted.

As discussed more fully below, each of these petitions presents circumstances in which sales of electricity by industrial firms may promote the public interest and foster an efficient market in different ways.

With the exception of Stonington, the waivers granted in this order, however, are not intended to apply to traditional public utilities under our jurisdiction. Companies whose primary business involves the sale of electricity at wholesale will remain subject to the Commission's regulations including the Uniform System of Accounts. In order to qualify in the future for the same waivers of our regulations accorded St. Joe Minerals Corporation, a petitioning company must be generally engaged in a non-utility business. That is, the proposed power transactions of a petitioning company must be incidental to the company's or its parent's primary industrial operations.

To accomplish this objective, we shall apply a two-part test for determining whether a petitioner qualifies for the *St. Joe* waivers. A threshold determination will be made as to whether the petitioner's generation, transmission or distribution facilities were built and are used primarily for a non-public utility purpose. If a petitioner can establish by clear and convincing evidence that its jurisdictional facilities were constructed solely for and are used primarily for its own internal industrial requirements, the *St. Joe* waivers will be granted provided that the jurisdictional transactions at issue meet the criteria discussed below. A rebuttable presumption will exist that power plant facilities were built solely for industrial needs if such facilities are owned, operated and constructed prior to the date of this order, by a company not engaged in a business having a public utility nature.

Factors relating to the transactions at issue will be examined in order to determine whether the facilities are used primarily for a non-public utility purpose and whether there are sufficient differences from traditional public utilities to warrant granting waivers from our regulations. Of necessity, waivers will be considered in a case-by-case analysis. Among the factors in *St. Joe* which warranted waivers of the Commission's regulations were: the small amount of revenues derived from the jurisdictional transactions relative to the total revenues of St. Joe; the temporary nature of the contractural obligation undertaken by St. Joe; and the interruptible nature of the transactions which were made on a convenience basis to customers not dependent upon the service. These factors, though not determinative, will continue to be scrutinized to assure that the jurisdictional transactions are in the

[1] Colockum and Stonington also request that the Commission disclaim jurisdiction over their proposed transactions.

[2] Stonington does not rely on *St. Joe* in its waiver requests. Stonington has requested, however, the same waivers that St. Joe requested.

public interest and justify the grant of waivers. The farther a set of facts departs from the facts in *St. Joe*, the greater the scrutiny that will be given the request for waivers. Finally, we will look at any other relevant factors to determine whether the proposed sales will generally accomplish the policy objectives set forth above of promoting a more efficient market for the sale of energy and power.

Stonington presents a somewhat different case from the other petitioners involved here because it is a traditional public utility rather than an industrial firm or a subsidiary of an industrial firm. For the reasons stated below, we shall grant its waiver request in part.

Consistent with *St. Joe*, waivers of our regulations shall be predicated upon requesting entities being able to provide evidence to show that their jurisdictional rates are just and reasonable. Therefore, cost support data must be filed by each entity. Furthermore, inasmuch as we continue to retain jurisdiction over all requesting entities, we shall also reserve the right to modify any order granting waivers should the underlying factual situations change. We shall reserve the right to require a further showing that neigther public nor private interests will be adversely affected by the grant of the requested waivers.

Cliffs Electric Service Company and Upper Peninsula Generating Company

On August 10, 1983, Cliffs Electric and Generating Company filed a joint request for rehearing of the Commission's order denying their request for waiver of certain regulations. 24 FERC ¶61,024 (1983). They specifically requested waiver of: the Commission's Uniform System of Accounts; the statements and reports required by Parts 41, 50, and 141 of the Commission's regulations; and the requirements of parts 45 and 46 of the Commission's regulations relating to interlocking directorates.

Cliffs Electric and Generating Company argue that their sales of excess energy are indistinguishable from those which the Commission found to be temporary in *St. Joe*. They also argue that compliance with the Commission's accounting and reporting requirements is burdensome, and leads to an unwarranted intrusion by the Commission in the internal affairs of their parent, Cleveland-Cliffs Iron Company.[3] In addition, Cliffs Electric and Generating Company contend that the Commission improperly considered the requests for exemption by lumping them together for consideration without distinguishing between the various regulations and, in particular, did not adequately justify its reason not to exempt them from the interlocking directorate requirements. Finally, they contend that the earlier order runs contrary to the Commission's goal of removing unnecessary regulatory burdens.

By order issued on August 30, 1983, the Commission granted rehearing solely to permit additional time in which to further consider the request for rehearing.

Elkem Metals Company

On July 7, 1983, Elkem, an industrial manufacturer of ferrorallys, filed a petition asking that the Commission waive certain of its regulations. Elkem specifically requests waiver of: the Commission's Uniform System of Accounts (Subchapter C of the regulations); the statements and reports governed by Parts 41, 50 and 141 of the Commission's regulations; and the annual charges required by section 36.1 of the regulations. Elkem requests, in lieu of full waiver, that the Commission apply minimum of abbreviated filing requirements with respect to prior Commission approval of property dispositions and consolidations and the holding of interlocking positions under Parts 33, 45, and 46 of the regulations and that the Commission grant blanket prior approval of security issuances and assumptions of liability under Part 34 of the regulations.[4]

In support of its request for waiver, Elkem states that it owns and operates a 200 MW coal-fired electric generating plant which provides the electric requirements for its Marietta, Ohio manufacturing facilities. Due to the depressed market for ferroalloys, Elkem has approximately 30 MW of excess capacity and associated energy at its Marietta plant which is sells to Monongahela Power Company (Monongahela) for resale to Atlantic City Electric Company (Atlantic City) pursuant to an agreement between Elkem and Monongahela. The agreement, *inter alia*, obligates Elkem to provide 30 MW for resale during the contract year beginning January 1, 1983, with amounts in any succeeding year to be determined by August 1 to the prior year.[5] By letter dated February 16, 1983, in Docket No. ER83-220-000, the Director of the Office of Electric Power Regulations accepted for filing Elkem's agreement with Monongahela and the corresponding resale agreement between Allegheny Power System (parent company of Monongahela) and Atlantic City effective January 1, 1983. In that docket, Elkem noted that it intended to file the instant request for waivers. Elkem contends that the surplus power will be made available on only a temporary convenience basis until the market for ferroalloys improves.[6] Elkem further contends that full compliance with the Commission's regulations would be so burdensome as to make the excess power sales impracticable and would be inconsistent with its status as an industrial manufacturer.

Colockum Transmission Company

On June 29, 1983, Colockum, a wholly owned subsidiary of the Aluminum Company of America (Alcoa), submitted an Exchange Agreement, date June 2, 1983, under which Colockum will assign 7.5%, or approximately 22 MW, of its entitlement in the Rocky Reach Hydroelectric Project, P-2145 (Rocky Reach), to Pacific Power & Light Company (PP&L) in exchange for uniform deliveries of firm energy from PP&L.[7] The agreement provides that the energy returned by PP&L will be at a rate of 1,947 kilowatt-hours per kw of capacity, which equates to approximately 43 million kilowatt-hours annually. The proposed agreement contains provisions for energy banking, subject to certain limitations, conditions, and banking charges, applicable whenever deliveries scheduled by PP&L are in excess of Colockum's immediate requirements. The proposed Exchange Agreement is to be effective for the five year period beginning June 30, 1983, and ending June 30, 1988. The same agreement was also filed by Pacific Power & Light Company in Docket No. ER83-770-000 and was accepted for filing by letter order dated December 21, 1983. Colockum requests a finding that it

[3] According to Cliffs Electric, several accounting changes recommended by the Commission Staff following an audit would impose upon Cleveland-Cliffs nearly five million dollars of additional expenses in the year such changes are made.

[4] Notices of the petitions of Elkem, Colockum, and Stonington were published in the **Federal Register**. No comments, protests, or interventions have been received.

[5] The agreement also provides for energy interchange and facilities coordination for the two year period beginning January 1, 1983, and for additional two year periods thereafter.

[6] Elkem states that Atlantic City is on notice that sales can be terminated upon one-year's notice.

[7] Rocky Reach has a capability of approximately 1284 MW. Colockum is entitled to purchase 23% of the output in accordance with a Power Sales Contract dated November 11, 1957, between Alcoa and the Public Utility District No. 1 of Chelan County which was assigned to Colockum under an Agreement dated August 10, 1964.

is not a public utility subject to the jurisdiction of the Commission. Alternatively,[8] Colockum requests that it be granted waivers similar to those afforded St. Joe, specifically abbreviated filing requirements under Parts 33, 45, and 46 of our regulations, and blanket approval under Part 34. Like Elkem, Colockum also requests waivers of §§ 35.15 and 36.1 and Part 35 of the regulations, and requests waiver of the Commission's Uniform System of Accounts (Subchapter C) and of Parts 41, 50, 131, and 141 of the regulations.

In support of its contention that it is not jurisdictional Colockum states that its facilities are not being used for purposes of sales for resale but instead are being used only for the limited purpose of local distribution to its sole retail customer, Alcoa. Colockum further states that the transactions proposed in the Exchange Agreement would involve no form of income for Colockum but merely the payment of firm energy in exchange for hydroelectric capacity and energy. Accordingly, Colockum contends that there would be little reason for requiring it to go through the detailed regulatory steps incumbent upon a jurisdictional entity. In support of its alternative request for waivers, Colockum contends that subjecting it to the Commission's regulations would create a burden on Colockum inconsistent with its primary function as a retail supplier of electric power to a single customer, a manufacturer which is its corporate parent.

Stonington and Deer Isle Power Company

On March 31, 1983, Stonington filed a request that the Commission disclaim jurisdiction with respect to Stonington's proposed sale of power to the Isle au Haut Electric Power Company (IaH) in favor of the Maine Public Utility Commission (Marine Commission). Subsequent to the filing, an underwater cable was built to interconnect Stonington and Iah and was energized on July 25, 1983. Stonington also attached to its request an advisory ruling from the Maine Commission which states that the Maine Commission would assert jurisdiction over the proposed sale if this Commission elected not to exercise its preemptive jurisdiction. The Maine Commission, on May 13, 1983, filed a request that this Commission either decline to exercise jurisdiction or, alternatively, reduce the regulatory requirements on Stonington.

On June 23, 1983, Stonington filed a petition for a declaratory order which repeats the request made in its March 31, 1983 petition. Alternatively, Stonington requests that the Commission waive all reporting, filing, accounting, notice and approval regulations under the Federal Power Act. Specifically, Stonington requests waiver of Parts 2.2 through 2.17 (General Policy and Interpretations), Part 32 (Interconnection of Facilities; Emergencies; Transmission to a Foreign Country), and Parts 33, 34, 45, and 46, Subchapter C, and Parts 41, 50, 131 and 141 of the regulations. Stonington is a small investor-owned electric distribution company serving approximately 2,000 (mostly residential) retail customers on Deer Isle, located off the Maine coast. Stonington owns no generation facilities and purchases full requirements wholesale service from Bangor Hydro-Electric Company.

Stonington, while not denying that it qualifies as a public utility under the Federal Power Act, argues that the Commission should decline to assert jurisdiction or, alternatively, waive the regulations noted above. In support of its request, Stonington argues that the expense of compliance with Commission procedures could endanger the proposed transaction because its current service area encompasses only two towns on the island and the proposed sale to IaH reflects the equivalent of only one percent of Stonington's annual sales. Stonington further states that the sale would provide IaH's customers with a cheaper, more reliable source of power.[9] In addition, Stonington contends that the sale is in the public interest because it tends to reduce dependence on foreign oil sources.

Discussion of Cliffs Electric and Generating Company Rehearing

Under the presumption established above in this order, we find that the generating units supplying the output required by Cliffs Electric were not constructed for a public utility purpose; we also find that they are not primarily used for a public utility purpose. From the representations made by Cliffs Electric, it appears that until the late 1970's the generating capacity required by Cliffs Electric closely matched the power requirements of Cleveland Cliff's mining operations. Since the late 1970's the sales of power by Cliffs Electric appear to be wholly incidental to the principal business of its parent. Sales of power have averaged less than five percent of Cliffs Electric's total generating capability and revenues from the excess power sales have been less than one percent of Cleveland-Cliff's total revenues.[10]

Notwithstanding our earlier findings to the contrary, upon further analysis, we are persuaded that the sales of Cliffs Electric also appear to be temporary in the same sense the sales in *St. Joe* were temporary. The sales are intended to dispose of excess energy until Cleveland-Cliffs ultimately requires all of the energy to which Cliffs Electric is entitled. The sales of excess energy are also opportunity sales—subject to termination on short-term notice. Under the circumstances presented by Cliffs Electric, there is not the same need for compliance with the Commission's accounting and reporting regulations as would be the case with more traditional public utilities. We also find these sales are in the public interest because they will promote the use of coal-fired generation that might otherwise be idled and provide power to utilities that might otherwise have to add expensive new capacity; these sales will also help Cleveland-Cliffs in a period in which its mining operations have not expanded as rapidly as anticipated. Accordingly, we find, upon further consideration, that the sales of excess energy are similar to the sales made by St. Joe and, therefore, we shall grant rehearing and modify our earlier order. We shall grant Cliffs' request for waivers as discussed below.

We shall, however, deny the request of Generating Company for waivers of the accounting and reporting requirements of our regulations. As noted in our earlier order, Upper Peninsula Power Company (UPPCO), an investor-owned utility, is entitled to 100 percent of the output of two generating units owned by Generating Company having a combined net tested capability of 94 MW. These two units provide most of UPPCO's generation requirement. Thus, a large portion of generating company's facilities clearly serve a public utility purpose; moreover, Generating Company has not argued that there facilities were ever used for any other purpose. Since the early

[8] In the event it is found to be a jurisdictional public utility, Colockum requests that its exchange agreement be treated as an initial rate schedule and further requests waiver of the notice requirements.

[9] Service was provided by several aged diesel generators.

[10] We note that this case involves a subsidiary of an industrial parent, unlike St. Joe's. We think it is relevant, in the parent-subsidiary context, to examine the subsidiary's revenues from utility sales as a percentage of the parent's revenues. However, if the subsidiary is large enough, it may be inappropriate to grant waivers from our regulations, regardless of the level of revenues in relation to its parents. Therefore, it may also be relevant, depending on the circumstances, to examine the absolute level of the assets and revenues of the subsidiary to determine whether the subsidiary's utility business is merely incidential to the industrial activities of the firm.

1970's, the company has been regulated as a public utility under the Federal Power Act. Therefore, there is no basis in Generating Company's pleadings on which we could conclude that these facilities were constructed for and are used primarily for a non-public utility purpose. Furthermore, the situation presented by Generating Company is distinguishable from the situation presented in *St. Joe*. Unlike the sales made by *St. Joe*, the sales made by Generating Company to UPPCO are not intended to be temporary, incidental sales of excess energy. In addition, Generating Company has derived a significant share of its revenue from its sales to UPPCO.[11] These facts do not warrant granting waivers of the Uniform System to Accounts and Parts 41, 50, and 141 of our regulations to Generating Company.[12]

Other Waiver Requests

We find that Elkem's jurisdictional facilities were built and are primarily used for a non-public utility purpose. The sales of excess power by Elkem appear to be wholly incidental to its principal manufacturing business; revenues from such sales are expected to comprise only a small portion of Elkem's total revenues; and the sales of excess power to Monongahela are temporary, convenience sales. We further find that the sales are in the public interest, because they will promote the use of coal fired generation, increase the utilization of existing generation facilities, lower the operating costs associated with ferroalloy production at Marietta during a period of depression in the ferroalloy market, as well as improve the employment opportunities in the area.[13] Therefore, on the basis of the facts presented, and consistent with the order in *St. Joe*, we shall grant Elkem's requests for waiver of our regulations, in part, as ordered below.

Colocum's request for disclaimer of jurisdiction is based on its assertion that its transmission facilities are being used not for purposes of sales for resale but for the limited purpose of local distribution to its sole retail customer, Alcoa. While Colockum's deliveries of power for direct, ultimate use by Alcoa constitute retail transactions, Colockum's assignment of a percentage of its Rocky Reach hydroelectric entitlement to PP&L, in exchange for comspensation in the form of firm energy, constitutes a sale of energy to PP&L for resale by PP&L.[14] Pursuant to Section 201(b) of the FPA, the Commission has jurisdiction over such sales. Accordingly, we shall deny Colockum's request for a disclaimer of jurisdiction.

We find, however, under the presumption set forth herein, that the jurisdictional transmission facilities were constructed and are primarily used for a nonpublic utility purpose. The only transmission facilities which Colockum owns are those interconnecting Alcoa's switchyard with Public Utility District No. 1 of Chelan County and Bonneville Power Administration. Those facilities are used exclusively for delivering power to Alcoa, and Colockum provides no transmission services to others over those facilities. In addition, we find that the purpose of the Exchange Agreement is to regulate the delivery of electricity to Colockum's parent, Alcoa. Presumably, PP&L will use its entitlement to Rocky Reach capacity to displace high cost generation during peak hours. Alcoa's smelting operations, supplied by Colockum, would benefit by Uniform deliveries of energy, as opposed to deliveries of hydroelectric energy subject to stream flow conditions. Accordingly, we find that the public interest part of our test has been met and we shall grant, in part, Colcokum's request for waivers of the Commission's regulations.

Given the fact that Colockum's facilities consist only of 2,100 feet of 13.8 KV transmission lines, we find that compliance with the reporting and accounting requirements of Parts 41, 50, 141 and Subchapter C (Uniform System of Accounts) of the regulations may be unnecessarily burdensome and may impede Colockum's and Alcoa's normal business operations, and we shall grant waivers as ordered below.

We find, on the basis of the facts presented, that Stonington's transaction with IaH constitutes a transmission and sale of electric power at wholesale in interstate commerce and, therefore, is jurisdictional. While not reaching the question of the limits of the Commission's authority to decline jurisdiction, we find that Stonington's sale to IaH is not *de minimis*.[15] Consequently, the request for the Commission to decline to assume jurisdiction is denied.

We recognize that Stonington's request is different from the other cases we are considering in this order. Stonington is a traditional public utility rather than an industrial concern such as Cleveland-Cliffs, Elkem, or Alcoa. The policy concern are different here. However, we have concluded it is appropriate to grant Stonington's requests in part because of the small size of both Stonington and the proposed sale, and the fact that the sale will replace expensive diesel generation. Furthermore, we note that under a final rulemaking issued on August 3, 1984, to become effective as of January 1, 1984, electric utilities have been reclassified for purposes of applying the Uniform System of Accounts. Revisions to Public Utility and Natural Gas Company Classification Criteria, Order No. 390, 28 FERC § 61,187 (1984); FERC Statutes and Regulations, § 30.586 (1984). Under Order 390, companies that have total sales, in each of three previous years, below 10,000 mWh and that do not otherwise qualify as major utilities are exempted from compliance with the Uniform System of Accounts. Under these criteria, it appears that Stonington is exempt from the Uniform System.[16]

With respect to the specific requests for waivers, our dispositions are as follows:

In view of the financial burdens, as discussed above, which may result from full compliance with the regulations, we shall grant waiver of our Uniform System of Accounts and Parts 41, 50 and 141 of our regulations as requested by Cliffs, Elkem, Colockum and Stonington. However, this waiver assumes that these entitles will be able to provide evidence that their rates are just and reasonable.[17]

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[11] According to the FERC Form 1, filed with the Commission in 1982, Generating Company collected almost $92 million in total revenues of which over $14 million was collected from UPPCO. In 1983, almost $100 million of total revenues was collected, of which $13.5 million was collected from UPPCO.

[12] The claim that we are unduly involving ourselves in the internal affairs of Cleveland-Cliffs is not compelling. Any time that this Commission exercises any authority over a jurisdictional company, there will be some effect on nonjurisdictional affiliates. The statutory mandate embodied in the Federal Power Act is to assure that jurisdictional rates and services are just, reasonable and not unduly discriminatory. The fact that such regulations affect non-jurisdictional companies is no justification for refusing to carry out that responsibility.

[13] We note that Elkem produces alloys (in particular manganese alloys) that are to be stockpiled for immediate use in case of national emergency pursuant to the Strategic and Critical Materials Stockpiling Revision Act of 1979.

[14] *See Tapoco, Inc.*, 13 FERC ¶ 61,193 (1980).

[15] *See Connecticut Light & Power Co.*, 324 U.S. 515, 536 (1945).

[16] By letter dated August 2, 1982 (attached to the March 24, 1983 petition), Stonington states that its annual sales are in the 8,000,000KWH range.

[17] We find it unnecessary to act on the requests of Elkem, Colokum, and Stonington for waivers of annual charges under § 36.1 of the regulations. The Commission has issued an order deferring billing for

Continued

As noted, Stonington requests waiver of the regulations which establish requirements for requesting Commission orders: (1) directing the interconnection of facilities; (2) establishing emergency connections; (3) authorizing the export of electric energy to a foreign country; and (4) approving construction of facilities at an international boundary. We note that these regulations are unlikely to apply to Stonington, because it serves only a small island off the coast of Maine and is a full requirements customer of Bangor. In any event, waiver cannot be granted as to any outstanding regulations concerning emergency interconnections under section 202(c) of the Federal Power Act, export authorization, or construction at international borders since the Commission no longer has jurisdiction with respect to these matters.[18] In the unlikely event that Part 32 were to apply to Stonington, we believe that the requirements concerning interconnection contained therein are not unduly burdensome. Therefore, we shall deny this request for waiver.

We shall deny Stonington's request for waiver of Parts 2.2 through 2.17 (the Commission's General Policy and Interpretations) and Stonington's and Colockum's requests for waiver of Part 131 of the regulations which lists the approval forms to be used in filings. These regulations delineate the general administrative framework for submissions to the Commission and would apply to Stonington only to the extent that the Commission regulates Stonington. These regulations do not appear to be burdensome, and Stonington and Colockum have not indicated what burden would be imposed by compliance with them.

With respect to Elkem's, Colockum's, and Stonington's requests that they be afforded an abbreviated filing requirement in lieu of the full requirements of Part 33 of having to satisfy the Commission's regulations requiring the submittal of reports by public utilities before obtaining Commission approval of any property disposition and consolidation, as we noted in *St. Joe*, the requirements set out in section 203 of the FPA (the statute implemented by Part 33 of the Commission's regulations) cannot be waived. However, we find that it is not necessary to impose the full filing requirements of Part 33 on the three petitioners. Thus, consistent with our treatment of St. Joe, we shall require Elkem, Colockum and Stonington to file only such information as will satisfy the minimum requirements of section 203 of the FPA. Further, we note that this section would not apply to any of their facilities which are not involved in the transmission or sale for resale of electric energy in interstate commerce.

Additionally, Elkem, Colockum and Stonington request blanket prior approval by the Commission of issuances of securities and assumptions of liability in lieu of having to satisfy Part 34 of the regulations requiring the filing by public utilities of applications for such Commission approval. As we noted in *St. Joe*, the purpose of section 204 of the EPA (the statute implemented by Part 34 of the regulations) in mandating Commission approval of issuances of securities and assumptions of liability only after making specific findings was to ensure the financial viability of public utilities obligated to serve consumers of electricity. Most, if not all, of Elkem's Alcoa's (Colockum's parent) and Stonington's securities issuances or assumptions of liability will be undertaken for purposes unrelated to the nominal electric sales subject to the Commission's jurisdiction. Accordingly, we shall grant a blanket prior approval for all future issuances of securities and assumptions of liability as ordered below, provided that no interventions or protests regarding such blanket approval are filed within 30 days of the issuance of this order.

With respect to all four petitioners' requests for waiver of Parts 45 and 46 of our regulations (applicable to interlocking directorates), we note that the Commission cannot waive the statutory requirement that an appropriate showing be made under section 305. However, we believe that an abbreviated filing should protect both public and private interests without discouraging the proposed sales. Accordingly, we shall waive the full requirements of Parts 45 and 46 of our regulations and shall instead require only the filing of an abbreviated statement identifying the interlock. We do not believe that authorizing the holding of these otherwise proscribed interlocks based upon the filing of an abbreviated application will adversely affect public or private interests. In order to protect against any potential harm, however, we shall reserve the right to require at any time a further showing that Commission authorization should continue and that neither public or private interests will be adversely affected by the holding of such interlocks.

Elkem and Colockum request waiver of § 35.15 of the regulations, which requires filing a notice of termination of any rate schedules required to be on file with the Commission. Section 205(d) of the FPA requires notice of changes in service or contracts filed with the Commission. This statutory requirement cannot be waived. Accordingly, we shall deny these requests for waiver. However, if termination of a rate schedule becomes necessary, the Commission will, upon good cause shown, waive the time restrictions for filing such notice of termination.

We shall also waive the cost support requirement of Part 35 for Stonington. Stonington proposes to recover only a very small amount (approximately $3,600 a year) from IaH above Stonington's pass-through of purchased power costs form Bangor to cover administrative costs and facilities additions. Under these circumstances, we believe that there is little need to require Stonington to further justify its rates. Accordingly, we shall accept Stonington's rates as an intitial rate schedule for filing to be effective as of the date of the interconnection between Stonington and IaH, which was July 23, 1983.

We shall grant Colockum's request to treat its filing as an initial rate filing under § 35.12 of the regulations and accept the agreement for filing. We also find that the cost support submitted by PP&L for the same agreement in Docket No. ER83-770-000 is adequate to support Colockum's filing. Therefore we do not need to consider its request to waive the cost support requirement of Part 35 of the regulatons. Colockum's request for waiver of the notice requirement so the agreement could go into effect on July 1, 1983 is now moot.

The Commission orders

(A) The joint request for rehearing is hereby granted with respect to Cliffs but denied with respect to Generating Company, as discussed in the body of this order.

(B) Stonington's and Colockum's requests for declaratory orders stating that the Commission will not assume jurisdiction over them as utilities under the Federal Power Act are hereby denied.

(C) The requests of Cliffs, Elkem, Colockum, and Stonington for waiver of the Commission's accounting regulations, specifically Parts 41, 50, and

annual charges due to a Supreme Court ruling. See 38 *Fed. Reg.* 3401, Feb. 6, 1973; see also *FPC* v. *NEPCO, et al.* 415 U.S. 345 (1974). We also find it inappropriate to act on Stonington's request for waiver of § 36.2 of the regulations, relating to fees, since that section is subject to a pending rulemaking. *Fees Applicable to Electric Utilities, Cogenerators, and Small Power Producers*, Docket No. RM82-38-000.

[18] There functions were transferred to the Department of Energy on 1977.

141 of Subchapter B and of Subchapter C, are hereby granted.

(D) The requests of Elkem, Colockum and Stonington for waiver of Part 33 of our regulations regarding property dispositions and consolidations are hereby granted; *Provided that* Elkem, Colockum and Stonington shall provide notice to and seek approval of the Commission prior to undertaking any such actions with respect to jurisdictional property.

(E) Within thirty (30) days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuance of securities and assumptions of liability by Cliffs, Elkem, Colockum, or Stonington 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 385.214).

(F) Absent a request for hearing within the period specified in paragraph (E) above, Elkem, Colockum, and Stonington are authorized, from the date of this order, to issue securities and assume obligations or liabilities as guarantor, indorser, surety, or otherwise in respect of any security of another person; *Provide* that such issue or assumption is for some lawful object, within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

(G) The Commission reserves the right to modify this order and to require a further showing that neither public nor private interests will be adversely affected by the continued Commission approval of Elkem's, Colockum's or Stonington's issuance of securities and assumptions of liability.

(H) Until further order of this Commission, any person now holding or who may hold an otherwise proscribed interlock involving Cliffs, Elkem, Colockum or Stonington is authorized to hold such positions; *Provided that* such person files the application required in paragraph (I) below.

(I) Until further order of this Commission, the full requirements of Parts 46 and 46 of the Commission's regulations, except as noted below, are hereby waived with respect to those persons subject to paragraph (H) above, and those persons instead shall file a sworn application providing only the following informaton:

(1) full name and business address; and

(2) all jurisdictional interlocks, identifying the affected companies and the positions held by that person.

(J) The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by the continued holding of the interlocks addressed above.

(K) Stonington's request for waiver of Part 2 of our regulations regarding General Policy and Interpretations is hereby denied.

(L) Stonington's request for waiver of Part 32 of our regulations regarding interconnections is hereby denied.

(M) Stonington's and Colockum's requests for wavier of Part 131 of our regulations regarding forms are hereby denied.

(N) Elkem's and Colockum's request for waiver of Section 35.15 of our regulations are hereby denied.

(O) Colockum's request that its filing be treated as an intiial rate filing under Section 35.12 of the regulations is hereby granted.

(P) Stonington's request for waiver of the cost support requirements of Part 35 is hereby granted.

(Q) Stonington's proposed rate is hereby accepted for filing to become effective as of July 23, 1983. The rate schedule designation is *Stonington and Deer Isle Power Company*, Rate Schedule FERC No. 1.

(R) Colockum's proposed rate is hereby accepted for filing, to become effective on June 2, 1983, the date of the Exchange Agreement between Colockum and PP&L. The rate schedule designation is *Colockum Transmission Company, Inc.*, Rate schedule FERC No. 1.

(S) Docket Nos. EL83-18-000, EL83-19-001, EL83-83-28-000 and EL83-30-000 are hereby terminated.

(T) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-22641 Filed 9-20-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER85-596-000]

New England Power Company; Order Accepting for Filing and Suspending Rates, Noting Interventions, Granting Summary Disposition, and Establishing Hearing Procedures

Issued: September 17, 1985.

Before Commissioners: Raymond J. O'Connor, Chairman; A.G. Sousa and Charles G. Stalon.

On June 28, 1985, New England Power Company (NEP) tendered for filing an unexcuted Agreement for Transmission of Firm Power between NEP and the Massachusetts Municipal Wholesale Electric Company (MMWEC), on behalf of various Massachusetts utilities.[1] The Agreement provides for transmission of power that the municipals have agreed to purchase from the New York Power Authority (NYPA) for the period July 1, 1985 through June 30, 1995. NEP proposes a formula rate for transmission services under the Agreement, with the rate for 1985 estimated at $11.24 per kW/year, subject to adjustment to actual costs. The proposed effective date is July 1, 1985, coincident with the commencement of the NYPA power flow, and NEP therefore requests a waiver of the notice requirements. NEP characterizes its filing as an initial rate.

On July 26, 1985, NEP filed a motion to amend its June 28 rate filing with testimony and cost support for the rate of return on equity component of its proposed rates, and renewed its request for waiver of the Commission's notice requirements so that the Agreement may be made effective July 1, 1985. The amendment was filed in view of a June 28, 1985 order in *New England Power Co.*, Docket No. ER85-475-000, *et al.*, in which the Commission declared its intent to reject all future rate filings containing a formula rate which automatically adjusts the rate of return on common equity. 31 FERC ¶ 61,378. NEP amended the original filing to replace the equity component of its formula rate with a fixed equity return.

Notice of NEP's filing was published in the Federal Register,[2] with responses due on or before July 23, 1985. Timely motions to intervene were filed by MMWEC and the Towns of Norwood, Concord, and Wellesley, Massachusetts (Towns).

MMWEC claims that the filed rate is not an initial rate, but is a changed rate subject to suspension, and requests a one-day suspension. It also seeks summary disposition with respect to NEP's treatment of investment tax credits (ITC's), opposes NEP's requested rate of return on equity, its method of allocating administrative and general (A&G) expenses, and the inclusion of transmission support payments for jointly-owned facilities. The Towns adopt the objections and arguments of MMWEC.

On August 6, 1985, NEP filed a response to the motions to intervene. NEP does not oppose either of the

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[1] *See* Attachment for rate schedule designations.

[2] 50 FR 29472 (1985).

motions to intervene. However, NEP disagrees that the proposed Agreement is not an initial rate, opposes the motion for summary disposition concerning ITC's, and opposes the arguments concerning rate of return, A&G expenses, and transmission support payments.

Discussion

Pursuant to 18 CFR 385.214(c)(1), the timely interventions of MMWEC and the Towns serve to make them parties to this proceeding.

In support of its argument that NEP's filing is a changed rather than an initial rate, MMWEC states that some of its members currently are transmission customers of NEP, and that many of its members in the past were either all requirements or contract demand customers. Citing *Florida Power & Light Co.* v. *FERC*, 617 F.2d 809 (D.C. Cir., 1980) (*FP&L*), it claims that as to NEP's prior customers, the present rate filing constitutes supplemental service and therefore is a rate change subject to suspension. MMWEC concedes that a minority of the customers have not had a comparable relationship with NEP, but submits that the absence of such a relationship is not reason to deny the protections of section 205 of the Federal Power Act to the many NEP customers who have paid to use the NEP transmission system in the past.

NEP responds that its filing does not supersede, supplement, cancel, or otherwise amend a presently effective rate schedule.

It argues that the *FP&L* case clearly contemplated a situation where the proposed service was sufficiently similar to existing services provided to existing customers so as to constitute a supplemental service, whereas here NEP's proposed rate is a fundamentally different service never before offered to any previous or existing customers. NEP further claims that the two wheeling services that will be provided to MMWEC are not similar because: (1) the proposed service is available only to MMWEC for transmission of the NYPA allocation, while the current traffic service generally is available to any party for transmission of non-firm power from any source, and (2) under the present filing, the rates are calculated on the basis of load, as opposed to the tariff service, for which rates are calculated on the basis of generating capacity.

We reject NEP's argument that its filing constitutes an initial rate. The fact that the existing non-firm and proposed firm transmission services have different qualities and applicability is irrelevant to determining whether the present filing constitutes a change in rates. For those MMWEC members who take non-firm transmission service under NEP's current tariff, the proposed service is a supplemental or additional service to the non-firm transmission service they already receive.[3] Additionally, since NEP currently provides unit power service to MMWEC, any additional transmission service to MMWEC members is supplemental, and thus a change in rate, regardless of whether MMWEC's internal composition changes.

Next, we address MMWEC's request for summary disposition concerning NEP's treatment of ITC's. MMWEC objects to NEP flowing all ITC benefits through to its shareholders (retained earnings), rather than sharing them with customers by amortizing the credits against Federal income taxes. MMWEC recognizes that the Commission denied a similar request for summary judgment in the June 28, 1985, order in *New England Power Co.*, Docket No. ER85-475-000, *et al.*, *supra*, but argues that this case is distinguishable because it involves firm service as opposed to the non-firm service at issue in the June 28 order.

NEP responds that the grounds on which the June 28 order denied summary disposition, *i.e.*, that failure to flow through a ratable portion of ITC benefits was not uncommon in the pricing of non-firm services, is equally applicable to this proceeding. NEP argues that MMWEC has confused the transmission of firm power with firm transmission service, and that the proposed NYPA transmission service is *non-firm* transmission of firm power, and thus subject to the same rationale contained in the June 28 order.

We conclude that MMWEC's request for summary disposition should be granted. As discussed below, NEP has failed to credit the income tax allowance with a ratable portion of ITC's, contrary to the Commission's consistent rulings that ITC benefits must be shared with a company's firm customers.

We note that, in its answer, NEP puts forward conflicting characterizations as to the nature of the service being provided under the Agreement, to suit its particular purposes. In arguing that the proposed service is an initial rate, NEP highlights the differences in the service provided to MMWEC under the new agreement and that provided under its current tariff (*i.e.*, transmitting firm power vs. transmitting non-firm power), and emphasizes the resultant need to develop a different rate to reflect those differences. Then, in arguing that its ITC treatment is appropriate, NEP argues that the services provided are the same, *i.e.*, that they are both non-firm transmission services. To reconcile this inconsistency, NEP fashions the strained hypothesis that the tariff provides for non-firm transmission of non-firm power, while the proposed agreement with MMWEC provides for non-firm transmission of firm power. NEP cannot have it both ways. Either the services are the same or they are different.

A comparison of the transmission tariff to the proposed agreement with MMWEC indicates that both agreements specify that service is subordinant to NEP's native load, and both services have a lower priority than service under agreements executed at an earlier time. The agreement with MMWEC, however, provides for a ten-year term. Accordingly, it will always have priority over all agreements under the tariff since service under the tariff is of an intermittent and short-term nature (weekly, monthly, etc.). NEP itself recognizes the difference in the firmness of the service when it argues in the initial rate segments of its answer that the proposed rate must be calculated on the basis of load since NEP will be transmitting firm power to be credited toward the municipals' firm load requirements.

The proposed rate assesses MMWEC for the cost of reserves—a clear reflection of the fact that, by its own terms, the service has priority over the tariff service. In short, the service provided to MMWEC is firmer than that Under the tariff, is of longer duration, and is priced differently to reflect these facts. It is clear that, in spite of the interruptibility provision in the proposed agreement, the service to be provided will have clear priority over that under NEP's tariff and will exhibit a firmness approaching that of NEP's native load. For this type of service, the Commission has consistently adopted a ratable flow through of ITC's.[4] This is certainly note

[3] See 18 CFR 35.1(c): "A rate schedule . . . which proposes to supersede, supplement, cancel or otherwise change . . . a rate schedule required to be on file . . . (such as providing for *other* or *additional* . . . services . . .) . . . shall be filed as a change in rate . . ." (emphasis supplied.)

[4] *See, e.g., Carolina Power & Light Co.*, Opinion No. 19 4 *FERC*, 653 F.3d 881 (D.C. Cir. 1981). In *Southwestern Public Service Co.*, Opinion No. 162, 22 FERC ¶ 61.341 (1983), We required the company to normalize its ITC benefits based on Commission percedent, but stated that we would reevaluate our policy on ITC's with respect to electric utilities and would issue a general policy statement on the matter. A new policy has not been issued.

a by-product service comparable to that under NEP's tariff, and NEP's reliance on the Comission's June 28 ruling in the tariff case is inapplicable.

Citing *New England Power Co.*, Docket Nos. ER83-647-000, *et al.*, 24 FERC ¶ 61,339 at 61,723 (1983), Nep contends that the Commissio n has refused to grant summary disposition on this issue in the past. In the case cited, we did not summarily dispose of the issue since we were then considering possibly imminent changes in our ITC policy. We have not adopted such policy changes, and we think it appropriate here to summarily follow our policy of adopting ratable flow through for firm services. Within thirty days, NEP shall file revised rates reflecting our ruling on this issue.

Our preliminary review of NEP's filings and the pleadings indicates that NEP's proposed formula rate, as amended by summary disposition, has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the Agreement, as amended by summary disposition, for filing and suspend it as ordered below.

In *West Texas Utilities Co.*, 18 FERC ¶ 61,189 (1982), we noted that rate filings ordinarily would be suspended for one day were preliminary review indicates that the proposed rates may be unjust and unreasonable, but may not generate substantially excessive revenues, as defined in *West Texas*. Our preliminary revenues suggest that NEP's prposed formula rate, as amended by summary disposition, may not result in excessive revenues.

NEP requests waiver of the notice requirements to permit a July 1, 1985, effective date, which is the date MMWEC's NYPA entitlement became available. MMWEC and the Towns do not object to the request for waiver. In the circumstances, we find that NEP has shown good cause for waiver. Accordingly, we shall accept NEP's rates as modified, for filing and suspend them, to become effective on July 1, 1985, subject to refund.

Finally, we note that although NEP's July 26, 1985, amendment to its proposed rate filing was intended to fix NEP's requested return on equity at 15.24%, NEP failed to submit revised rate schedules to incorporate that change. NEP shall therefore submit to the Commission a revised rate sheet incorporating a 15.24% fixed rate of return on common equity.

The Commission Orders:

(A) MMWEC's motion for summary disposition of NEP's treatment of ITC's is granted. NEP shall submit revised rate sheets incorporating this change within 30 days of the date of this order.

(B) NEP shall submit a revised rate sheet incorporating its fixed rate of return on equity of 15.24% within 30 days of the date of this order.

(C) NEP's request for waiver of the notice requirements is granted.

(D) NEP's proposed rates, as amended by summary disposition, are herby accepted for filing and suspended to become effective on July 1, 1985, subject to refund.

(E) Pursuant to the authority contained in and subject to the jurusdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 there of, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of NEP's rates.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) Docket No. ER85-596-000 hereby is terminated, and Docket No. ER85-596-001 is assigned to the evidentiary proceedings ordered herein.

(H) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission. Commissioner Sousa dissented in part with a separate statement attached.

Lois D. Cashell,

Acting Secretary.

Attachment

NEW ENGLAND POWER COMPANY, RATE SCHEDULE DESIGNATION, DOCKET NO. ER85-596-000

Designation	Description
(1) Rate Schedule FERC No. 323.	Transmission Agreement.

NEW ENGLAND POWER COMPANY, RATE SCHEDULE DESIGNATION, DOCKET NO. ER85-596-000—Continued

Designation	Description
(2) Supplement No. 1 to Rate Schedule FERC No. 323.	Exhibit A.
(3) Supplement No. 2 to Rate Schedule FERC No. 323.	Exhibit B.
(4) Supplement No. 3 to Rate Schedule FERC No. 323.	PTF Rate.
(5) Supplement No. 4 to Rate Schedule FERC No. 323.	Non-PTF Rate.

Sousa, A.G., Commissioner, *dissenting in part*:

Consistent with my dissents in *Arizona Public Service Co.*, Opinion No. 193, 25 FERC ¶ 61,092 (1983), rehearing denied, Opinion No. 193-A, 25 FERC ¶ 61,393 (1983), and RM83-8-000, 30 FERC ¶ 61,195 (1985), I respectfully disagree with my colleagues' grant of Massachusetts Municipal Wholesale Electric Company's (MMWEC) motion for summary dispositon of New England Power Company's (NEPCO) proposed treatment of investment tax credits (ITC).

NEPCO opposed MMWEC's motion citing *New England Power Co.*, 24 FERC ¶ 61,339 (1983) where the Commission refused to grant summary disposition on the ITC issue. In that case, the Commission found summary disposition inappropriate because it was then considering undertaking a re-evaluation of its ITC policy for electric utilities. (*See Southwestern Public Service Co.* Opinion No. 162, 22 FERC ¶ 61,341 (1983) at p. 61,587). The majority responded to NEPCO's opposition stating, "we have not adopted such policy changes, and we think it appropriate here to summarily follow our policy of adopting retable flow through for firm services."

The position taken by my colleagues places another "nail in the coffin" to a long overdue re-evaluation of ITC policy for electric utilities.

A.G. Sousa,

Commissioner.

[FR Doc. 85-22642 Filed 9-20 85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-7004-035]

Pennzoil Co.; Twenty-First Amendment to Application for Immediate Clarification or Abandonment Authorization

September 17, 1985.

Take notice that on September 12, 1985, Pennzoil Company (Pennzoil), P.O. Box 2967, Houston, Texas 77001, filed in Docket No. G-7004-035 an application for immediate clarification of Order dated November 24, 1980, in the above-

referenced docket or abandonment authorization for as much gas as is required to allow sales of gas to fourteen new applicants for residential service in West Virginia in addition to those applicants specified in Pennzoil's original application filed on October 25, 1982. In filing this Twenty-first Amendment to its original application, Pennzoil incorporates herein and renews each of the requests for clarification or abandonment authorization set forth in that application. Service to these applicants and existing customers would be provided from gas supplies that would otherwise be sold to Consolidated Gas Transmission Corporation (Consolidated), an interstate pipeline.

Pennzoil states the immediate action is necessary to protect the health, welfare and property of the applicants and customers in West Virginia who depend upon Pennzoil for their gas supply needs. Pennzoil also states that immediate action also is required because, by order dated October 21, 1982, the Public Service Commission of West Virginia directed Pennzoil "to show cause, if any it can, why it should not be found to be in violation of its duty . . . to provide adequate gas service to all applicants . . . and why it should not be required to provide serice to domestic customers in West Virginia when requests are received for same."

Consolidated has indicated that it has no objection to the requested authorization.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Theefore, any person desiring to be heard or to make any protest with reference to said amendment to the original application should on or before, September 24, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but well not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Any person previously granted intervention in connection with Pennzoil's original application in Docket No. G-7004-006 need not seek intervention herein. Each such person will be treated as having also intervened in Docket No. G-7004-035.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-22843 Filed 9-20-85; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[SAB-FRL-2901-6]

Science Advisory Board, Executive Committee; Open Meeting

Under Public Law 92-463, notice is hereby given of a meeting of the Science Advisory Board's Executive Committee on October 17-18, 1985, in the Administrator's Conference Room 1101, West Tower, of the Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. The meeting will begin at 12:00 noon on October 17 and will adjourn at approximately 12:00 noon on October 18.

The agenda for the meeting includes a review of the final report of the SAB Study Group on Biotechnology; a summary of the Clean Air Scientific Advisory Committee's review of nitrogen dioxide related health effects issues for the Consumer Product Safety Commission; and other issues of member interest.

The meeting is open to the public. Any member of the public wishing to attend, obtain information, or submit written comments should contact Dr. Terry F. Yosie, Director, Science Advisory Board or Mrs. Joanna Foellmer located at 401 M Street, SW, Washington, D.C. 20460 or call (202) 382-4126 by close of business October 11, 1985.

Dated: September 13, 1985.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 85-22863 Filed 9-20-85; 8:45 am]

BILLING CODE 6560-50-M

[SAB-FRL-2901-5]

Science Advisory Board's Environmental Effects, Transport and Fate Committee—Subcommittee on Water Quality Criteria; Open Meeting

Under Public Law 92-463, notice is hereby given that a meeting of the Science Advisory Board's Water Quality Criteria Subcommittee will meet October 10-11, 1985, in the Conference Room of the Environmental Protection Agency's Environmental Research Laboratory, 6201 Congdon Boulevard, Duluth, MN. The meeting will begin at 9:00 a.m. on October 10 and adjourn at approximately 5:00 p.m. on October 11.

The purpose of the meeting is to enable the Subcommittee to provide its independent technical evaluation of the scientific adequacy of the Office of Water Regulations and Standards' proposed Ambient Water Quality Criteria Document for Dissolved Oxygen. An announcement of the availability of the proposed criteria document was previously published in the **Federal Register** on April 19, 1985 (V.50 p.15634).

The meeting is open to the public. Any member of the public wishing to attend, obtain information, or submit written comments to the Subcommittee should notify Dr. Terry F. Yosie, Director, Science Advisory Board at (202) 382-4126 or Ms. Patti Howard, Staff Secretary, (A-101F), 401 M Street, SW, Washington, D.C. 20460 or call (202) 382-2552 by close of business October 4, 1985.

Dated: September 13, 1985.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 85-22864 Filed 9-20-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-00217; PH-FRL 2902-4]

State-FIFRA Issues Research and Evaluation Group (SFIREG) Working Committees; Open Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 2-day meeting of the Working Committee on Enforcement and Certification of the State FIFRA Issues Research and Evaluation Group (SFIREG) and a 2-day meeting of the SFIREG Working Committee on Registration and Classification to discuss various aspects of pesticides. The meetings will be open to the public.

DATES: The Working Committee on Enforcement and Certification will meet on Tuesday and Wednesday, October 8 and 9, 1985. The Working Committee on Registration and Classification will meet on Thursday and Friday, October 10 and 11, 1985. The meetings of both committees will start at 8:30 a.m. each day.

ADDRESS: The meeting will be held at: Lord Camden Inn, 24 Main St., Camden, Maine 04843 (207-236-4325).

FOR FURTHER INFORMATION CONTACT:
By mail, Philip H. Gray, Jr., Office of Pesticide Programs (TS-766C), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 1115, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-7096).

SUPPLEMENTARY INFORMATION: The meeting of the Working Committee on Enforcement and Certification will be concerned with the following topics:

1. Status of transfer of authority over feed-through pesticides to FDA.
2. Status of action levels on cancelled products.
3. Certification and training task force report.
4. Farm worker safety negotiated rule making.
5. Federal facilities policy.
6. Enforcement grant negotiation.
7. New restricted uses.
8. Uniform reporting format.
9. Office of Compliance Monitoring (OCM) strategy for enforcing registration standards.
10. OCM policy statement regarding tamper proof bait boxes.
11. Section 3(c)(2)(B) enforcement strategy.
12. Other topics as appropriate.

The meeting of the Working Committee on Registration and Classification will be concerned with the following topics:

1. Section 24(c) audit.
2. Labeling utility project.
3. Imprecise and unenforceable label language.
4. Status of terniticides.
5. Status of wood preservatives.
6. Chemigation policy.
7. Endangered species cluster project.
8. Availability of final printed labeling.
9. Advertising policy.
10. Other topics as appropriate.

Dated: September 17, 1985.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

[FR Doc. 85-22775 Filed 9-20-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-743-DR]

Major Disaster and Related Determinations; Florida

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Florida (FEMA-743-DR), dated September 12, 1985, and related determinations.

DATED: September 12, 1985.

FOR FURTHER INFORMATION CONTACT:
Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 646-3616.

Notice

Notice is hereby given that, in a letter of September 12, 1985, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288), as follows:

I have determined that the damage in certain areas of the State of Florida resulting from Hurricane Elena and flooding beginning on or about August 29, 1985, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Florida.

In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide necessary Individual Assistance in the affected areas. You are also authorized to provide necessary Public Assistance in the affected areas based on known requirements and an acceptable State commitment. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under Pub. L. 93-288 for Public Assistance will be limited to 75 percent of total eligible costs in the designated area.

Pursuant to section 408(b) of Pub. L. 93-288, you are authorized to advance to the State its 25-percent share of the Individual and Family Grant program, to be repaid to the United States by the State when it is able to do so.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, and redelegated to me, I hereby appoint Ms. Joan F. Hodgins of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Florida to have been affected adversely by this declared major disaster:

Franklin, Levy, Pinellas, and Manatee Counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 85-22630 Filed 9-20-85; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-741-DR]

Amendment To a Major-Disaster Declaration; Mississippi

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Mississippi (FEMA-741-DR), dated September 4, 1985, and related determinations.

DATED: September 13, 1985.

FOR FURTHER INFORMATION CONTACT:
Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 646-3616.

Notice

The notice of a major disaster for the State of Mississippi, dated September 4, 1985, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 4, 1985:

Hancock County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 85-22631 Filed 9-20-85; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL RESERVE SYSTEM

Citizens & Southern Georgia Corp. et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) 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 (12 CFR 225.21(a)) 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.

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 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.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 10, 1985.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW, Atlanta, Georgia 30303:

1. *Citizens & Southern Georgia Corporation,* Atlanta, Georgia; to engage *de novo* through its subsidiary, Citizens & Southern Agency, Inc., Tucker, Georgia, in general insurance activities pursuant to 4(c)(8)(G) of the Act. Citizens & Southern Georgia Corporation is a registered bank holding company and prior to January 1, 1971, was engaged directly or indirectly, in insurance agency activities as a consequence of Board approval prior to that date.

2. *First State Bancshares, Inc.,* Pensacola, Florida; to engage *de novo* through its subsidiary, First State Leasing Corporation, Pensacola, Florida, in leasing real or personal property activities.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Mid-America Bancorp,* Louisville, Kentucky; to engage *de novo* through its subsidiary, Eton Life Insurance Company, Louisville, Kentucky, in acting as underwriter for credit life insurance and credit accident and credit health insurance with respect to insurance limited to assuring repayment of the outstanding balance due on a specific extension of credit by a bank holding company or its subsidiary in the event of the death or disability of the debtor, pursuant to section 4(c)(8)(A) of the Act. These activities would be conducted in the company's offices or its subsidiaries' offices located in Kentucky. Comments on this application must be received not later than October 4, 1985.

Board of Governors of the Federal Reserve Systems, September 17, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-22618 Filed 9-20-85; 8:45 am]

BILLING CODE 6210-01-M

Finest Financial Corp. 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 (12 CFR 225.14) to become a bank holding company or to acquire a bank of 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 October 14, 1985.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Finest Financial Corp.,* Pelham, New Hampshire; to become a bank holding company by acquiring 100 percent of the voting shares of Pelham Bank and Trust Company, Pelham, New Hampshire.

2. *Independent Bank Corp.,* Rockland Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Rockland Trust Company, Rockland, Massachusetts and Middleborough Trust Company, Middleboro, Massachusetts.

B. **Federal Reserve Bank of New York** William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Ljubljanska banka—Associated Bank,* Slovenia, Yugoslavia; to become a bank holding company by acquiring 100 percent of the voting shares of LSB Bank—New York, New York, New York, a proposed *de novo* bank.

C. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Center Bankshares, Inc.,* Mount Hope, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of H & R Bankshares, Inc., Danville, West Virginia, thereby indirectly acquiring The Bank of Danville, Danville, West Virginia.

D. **Federal Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *F.W.S.F. Corporation,* Milwaulkee, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Security Financial Services, Inc., Sheboygan, Wisconsin, thereby indirectly acquiring Security First National Bank of Sheboygan, Sheboygan; South West State Bank, Sheboygan; Eldorado State Bank, Eldorado; Security Bank, Menasha; Manitowoc County Bank, Manitowoc; and Farmers-Merchants National Bank in Princeton, Princeton; all located in Wisconsin.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Arsebco, Inc.,* Falls City, Nebraska; to become a bank holding company by acquiring 100 percent of the voting shares of Richardson County Bank and Trust Company, Falls City, Nebraska.

2. *First National Financial Corporation,* Albuquerque, New Mexico; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank in Albuquerque, Albuquerque, New Mexico. Comments on this application must be received not later than October 16, 1985.

Board of Governors of the Federal Reserve System, September 17, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-22619 Filed 9-20-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Commission on the Evaluation of Pain; Meeting

AGENCY: Department of Health and Human Services.

ACTION: Notice of meeting.

SUMMARY: This notice announces the schedule and proposed agenda of the forthcoming meeting of the Commission on the Evaluation of Pain (the Commission). This notice also describes the purpose, structure, and termination date of the Commission.

DATES:

General session—October 24, 1985, 8:30 a.m. to 5:00 p.m.

General session—October 25, 1985, 8:30 a.m. to 5:00 p.m.

ADDRESS: National Academy of Sciences, Room 351, 2122 Pennsylvania Avenue, NW., Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Nancy Dapper, Executive Director, Commission on the Evaluation of Pain, Room 118, Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 597-1597.

SUPPLEMENTARY INFORMATION: The Commission is established and governed by the provisions of section 3(b) (1) through (6) of the Social Security Disability Benefits Reform Act of 1984 (Pub. L. 98-460). The purpose of the Commission is to conduct a study concerning the evaluation of pain in determining under titles II and XVI of the Social Security Act whether an individual is under a disability. The study is to be conducted in consultation with the National Academy of Sciences.

The study will consist of expert testimony and a review of research data regarding how pain should be considered in making disability determinations under titles II and XVI. The Commission may engage technical assistance in order to carry out its function.

The Commission is to submit a report, consisting of the findings of the study and any recommendations, to the Secretary of Health and Human Services (the Secretary) who in turn is to submit the report to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate.

The statute provides that the Commission terminate on December 31, 1985. This is also the deadline for the Secretary to submit the report.

The Secretary has appointed the members of the Commission in accordance with the provisions of the statute. This notice announces the fourth working meeting of the Commission. The Commission is chaired by Kathleen M. Foley, M.D.

This meeting is open to the public. Anyone wishing to submit his or her views for consideration by the Commission should send them to the Executive Director of the Commission at the address shown above.

A transcript of the Commission meeting will be made available to the public on an at-cost-of-duplication basis. The transcript can be ordered from the Executive Director of the Commission.

Agenda

October 24, 1985

8:30 a.m.—General session of expert testimony and research data presentations.

5:00 p.m.—Adjourn general session.

October 25, 1985

8:30 a.m.—General session of (1) continued expert testimony and research data presentations, (2) summation of prior meetings, and (3) discussion of written assignments.

5:00 p.m.—Adjourn the meeting.

Dated: September 17, 1985.

Nancy J. Dapper,

Executive Director, Commission on the Evaluation of Pain.

[FR Doc. 85-22648 Filed 9-20-85; 8:45 am]

BILLING CODE 4190-11-M

Food and Drug Administration

[Docket No. 83N-0308]

International Drug Scheduling; Convention on Psychotropic Substances; Stimulant and/or Hallucinogenic Drugs; Notice of Public Meeting

Correction

In FR Doc. 85-21372, beginning on page 36486 in the issue of Friday, September 6, 1985, make the following corrections:

1. On page 36487, first column, the second line should read "3,4 Methylenedioxymethamphetamine".

2. On page 36488, in the first column, in the sixth and seventh lines, the chemical name should read "*1-alpha*-methylphenethylamine".

3. On the same page and in the same column, in the second and third lines from the bottom of the third complete paragraph, the chemical name should read "*1-N, alpha*-dimethyphenethylaine".

4. On the same page, in the second column, in the second and third lines from the bottom of the third complete paragraph, the chemical name should read "*dl*-1-cyclohexyl-2-methylaminopropane".

5. On the same page, in the third column, in the next to last line F the fifth paragraph, "of" should read "or".

6. On page 36489, in the fifth line from the bottom of the first column, "plan" should read "plant".

7. On the same page, in the third column, in the first paragraph, the first word in the seventh line should read "amphetamine".

8. On page 36490, in the first column, in heading number 8, and in the following line, the chemical name should read "Levamphetamine".

BILLING CODE 1505-01-M

[Docket No. 85M-0420]

Bausch & Lomb Optics Center; Premarket Approval of Bausch & Lomb® B&L 58™ (Etafilcon A) Contact Lenses

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Bausch & Lomb Optics Center, Rochester, NY, for premarket approval, under the Medical Device Amendments of 1976, of the Bausch & Lomb® B&L 58™ (etafilcon A) Contact Lenses. The lenses are to be manufactured under an agreement with Vistakon, Inc., Jacksonville, FL, which has authorized Bausch & Lomb Optics Center to incorporate by reference information contained in its approved premarket approval application for the spherical VISTAMARC™ (etafilcon A) Hydrophilic Contact Lens for aphakic and not-aphakic daily wear and not-aphakic extended wear. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by October 23, 1985.

ADDRESS: Written requests for copies of the summary of the safety and effectiveness data and petitions for administrative review to the Dockets

Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Richard E. Lippman, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7940.

SUPPLEMENTARY INFORMATION: On June 6, 1985, Bausch & Lomb Optic Center, Rochester, NY 14692, submitted to CDRH an application for premarket approval of the BAUSCH & LOMB B&L 58™ (etafilcon A) Contact Lenses. The daily wear lenses range in powers from −20.00 dioptors (D) to +20.00 D and are indicated for the correction of visual acuity in aphakic and not-aphakic persons with nondiseased eyes that are myopic or hyperopic. The lenses may be worn by persons who may exhibit astigmatism of 1.00 D or less that does not interfere with visual acuity. The extended wear lenses range in powers from −20.00 D to +14.00 D and are indicated for the correction of visual acuity in non-aphakic persons with nondiseased eyes who are myopic or hyperopic. The lenses may be worn by persons who may exhibit astigmatism of 1.00 D or less that does not interfere with visual acuity. The extended wear lenses may be worn from 1 to 30 days between removals for cleaning and disinfection or as recommended by the eye care practitioner. The lenses are to be disinfected by either heat or chemical lens care systems. The application includes authorization from Vistakon, Inc., Jacksonville, FL, to incorporate by reference the information contained in its approved premarket approval application for the spherical VISTAMARC™ (etafilcon A) Hydrophilic Contact Lenses for aphakic and non-aphakic daily wear and non-aphakic extended wear (Docket No. 84M–0288). On July 15, 1985, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed the application and recommended approval of it. On August 16, 1985, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

Before enactment of the Medical Device Admendments of 1976 (the amendments) (Pub. L. 94–295, 90 Stat. 539–583), contact lenses made of polymers other than polymethylmethacrylate (PMMA) and solutions for use with such lenses were regulated as new drugs. Because the amendments broadened the definition of the term "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), contact lenses made of polymers other than PMMA and solutions for use with such lenses are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of contact lenses made of polymers other than PMMA or solutions for use with such lenses comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310) unitil these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which CDRH based its approval is on file with the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the hearing of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Richard E. Lippman (HFZ–460), address above.

The labeling of the approved contact lenses states that the lenses are to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only. The restrictive labeling needs to be updated periodically, however, to refer to new lens solutions that CDRH approves for use with approved contact lenses made of polymers other than PMMA. A manufacturer who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–58), as amended by the Mangnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)). Accordingly, whenever CDRH publishes a notice in the **Federal Register** of CDRH's approval of a new solution for use with an approved lens, the applicant of the lens shall correct its labeling to refer to the new solution at the next printing or at any other time CDRH prescribes by letter to the applicant.

Opportunity for Administrative Review

Section 515(d)(3) of 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 administative review of CDRH'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 CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall idenify 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 **Fedeal 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 October 23, 1985, 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.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: September 16, 1985.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 85–22616 Filed 9–20–85; 8:45 am]

BILLING CODE 4160–01–M

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meeting: The following advisory committee meeting is announced:

Veterinary Medicine Advisory Committee

Date, time, and place. October 23 and 24, 8:15 a.m., Parklawn Bldg., Conference Rm. E, 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open committee discussion, October 23, 8:45 a.m. to 9:30 a.m.; open public hearing, 9:30 a.m. to 10 a.m. (propylene glycol in semi-moist pet foods); open committee discussion, 10 a.m. to 1:30 p.m.; open public hearing, 1:30 p.m. to 2 p.m. (effectiveness and labeling requirements for antimicrobials); open committee discussion, 2 p.m. to 4:30 p.m.; October 24, open public hearing, 8:30 a.m. to 9 a.m.; open committee discussion, 9 a.m. to 11:30 a.m.; Max L. Crandall, Center for Veterinary Medicine (HFV-400), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4557.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational new animal drugs, feeds, and devices for use in the treatment and prevention of animal diseases and increased animal production.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss the following: (1) Propylene glycol in semi-moist pet foods, (2) effectiveness and labeling requirements for antimicrobial drugs, (3) prescription (Rx) versus over-the-counter (OTC) drugs—standards of approval, (4) credibility of Rx legend, and (5) bulk drug proposal.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures to expedite electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. 4 p.m., Monday through Friday.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: September 17, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-22617 Filed 9-20-85; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 85N-0131]

Globe Blood Plasma Center, Inc.; Opportunity for Hearing on Denial of Licensure

Correction

In FR Doc. 85-19674, beginning on page 33415 in the issue of Monday, August 19, 1985, make the following corrections:

On page 33415:

1. In the first column:

a. In the **SUMMARY,** seventh line, "manufacturer" should read "manufacture".

b. In the **DATES** paragraph, fourth line, "October 19, 1985" should read "October 18, 1985".

2. In the second column:

a. In the **FOR FURTHER INFORMATION CONTACT** paragraph, fourth line, the phone number should read "301-443-3640".

b. Under **SUPPLEMENTARY INFORMATION,** fourth line, "Plalsma" should read "Plasma".

c. In the sixth line of that paragraph, "manfacutre" should read "manufacture".

d. In the eighth line of that paragraph, "insepction" should read "inspection".

3. On page 33416, second column fourteenth line, insert "is" between "FDA" and "issuing".

Billing Code 1505-01-M

[Docket No. 85N-0131]

Globe Blood Plasma Center, Inc.; Opportunity for Hearing on Denial of Licensure

Correction

In FR. Doc. 85-19674 beginning on page 33415 in the issue of Monday, August 19, 1985, make the following correction: On page 33416, in the third column, in the second complete paragraph, in the eighth line, "CFR" should read "U.S.C.".

BILLING CODE 1505-01-M

INTER-AMERICAN FOUNDATION

Privacy Act of 1974; Additional Routine Uses

Congress enacted the Privacy Act of 1974 (Pub. L. 93-579; 88 Stat. 1896, 5 U.S.C. 552A) which required each agency to inventory its Systems of Records and list routine uses for these systems. The Inter-American Foundation proposes to amend its existing routine uses consistent with guidance issued by the Office of Management and Budget to make clear that information contained in the Inter-American Foundation's Systems of Records may be disclosed as a routine use to the Department of Justice for use in litigation.

Written comments on this proposal to amend the existing routine uses of Inter-American Foundation Systems of Records, IAF-1 through IAF-5, should be directed to the General Counsel, Inter-American Foundation, 5th Floor, 1515 Wilson Blvd., Rosslyn, VA. 22209 on or before October 18, 1985. The above noted additional routine uses of Inter-American Foundation Systems of Records will become effective on October 18, 1985, unless the Foundation publishes notice to the contrary.

The Inter-American Foundation Notice of Systems of Records is amended by adding the following routine uses to the Inter-American Foundation Systems of Records, IAF-1 through IAF-5:

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES.

* * * * *

(d) It shall be a routine use of the records in this system of records to disclose them to the Department of Justice when

(1) The agency, or any component thereof; or

(2) Any employee of the agency in his or her official capacity; or

(3) Any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee; or

(4) The United States, where the agency determines that litigation is likely to affect the agency or any of its components.

is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the agency to be relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

(e) It shall be a routine use of records maintained by this agency to disclose them in a proceeding before a court or adjudicative body before which the agency is authorized to appear, when

(1) The agency, or any component thereof; or

(2) Any employee of the agency in his or her official capacity; or

(3) Any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or

(4) The United States, where the agency determines that litigation is likely to affect the agency or any of its components.

is a party to litigation or has an interest in such litigation, and the agency determines that use of such records is relevant and necessary to the litigation, provided, however, that in each case, the agency determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

* * * * *

Deborah Szekely,

President.

[FR Doc. 85-22719 Filed 9-20-85; 8:45 am]

BILLING CODE 7025-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Realty Action; Competitive Sales of Public Land in San Bernardino County, CA; Partial Cancellation of Sale

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action—withdrawal of sale parcels B80, B82 through B91 and B93 from the October 8, 1985 sale.

SUMMARY: This action withdraws the following land from the public land sale offering published in Vol. 50, No. 159, pages 33113 and 33114 of the Federal Register on August 16, 1985.

Parcel No.	Serial No.	Legal description	Acres
		T. 14 N., R. 9 E., SBM.	
		Sec. 30:	
B80	CA-17733	NE¼NE¼SE¼SW¼	
		S½NE¼SE¼SW¼	7.5
B82	CA-17735	S½SW¼SE¼SW¼	5.0
B83	CA-17736	NE¼NE¼NE¼SE¼	2.5
B84	CA-17737	W½NE¼NE¼SE¼	5.0
B85	CA-17738	SE¼NE¼NE¼SE¼	2.5
B86	CA-17739	W½NW¼NE¼SE¼, NW¼SW¼NE¼SE¼	7.5
B87	CA-17740	NE¼SW¼NE¼SE¼	2.5
B88	CA-17741	SW¼SW¼NE¼SE¼	2.5
B89	CA-17742	SE¼SW¼NE¼SE¼	2.5
B90	CA-17743	NW¼SE¼NE¼SE¼	2.5
B91	CA-17744	SW¼SE¼NE¼SE¼	2.5
B93	CA-17745	SE¼SW¼NW¼SE¼, W½SE¼NW¼SE¼	7.5

Except for the cancellation of sale of the above parcels, all other portions of the August 16, 1985 Notice of Realty Action remain unchanged.

This action was deemed necessary to allow for full public review of recently proposed amendments to the California Desert Plan, which involve retention-disposal issues for the public lands described above. The above public lands withdrawn from sale will not be considered for disposal until final decisions are made on the 1985 California Desert Plan Amendment proposals.

Dated: September 13, 1985.

Gerald E. Hillier,

District Manager.

[FR Doc. 85-22836 Filed 9-20-85; 8:45 am]

BILLING CODE 4310-40-M

[CA 16934]

Realty Action; Exchange of Public and Private Lands in San Diego County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action— Exchange of Public and Private lands.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1717):

San Bernardino Meridian, California

T. 11S. R. 2 W., SBM:
Sec. 22: NE¼SE¼
Sec. 23: NW¼SE¼
Sec. 25: lots 1-16
Sec. 26: W½NE¼, E½NW¼

containing 311.2 acres, more or less.

In exchange for these lands the United States will acquire the following described non-Federal lands in San Diego County from Mr. Roque de la Fuente, 8398 Vickers Street, San Diego, California 92111:

San Bernardino Meridian, California

T 18S., R. 1 E., SBM:
Sec. 18: NE¼SW¼
Sec. 20: SW¼NW¼
Sec. 21: N½NE¼
Sec. 35: lots 2, 3 and 4, SE¼NW¼

containing 276.90 acres, more or less.

In addition to the above described lands, the Federal Government will obtain a road right-of-way to allow public access through Mr. de la Fuente's property to public land.

Purpose

The purpose of this exchange is to obtain non-Federal lands for use in Federal programs. This exchange conforms with the Southern California Metropolitan Project's Escondido Management Framework Plan/ Management Action Summary. The public interest will be served by completing the exchange.

The values of the lands to be exchanged are approximately equal; full equalization of values will be achieved either by payment to the United States by Mr. de la Fuente of funds in an amount not to exceed 25% of the total value of the Federal lands, or the acreages will be adjusted.

Lands to be transferred from the United States will be subject to:

Those rights for access road purposes across lots 13, 14, 15, and 16 in said sec. 25, as have been granted to the Sager Management Corporation, its successors or assigns, Serial No. CA 8914, under the Act of October 21, 1976, 90 Stat. 2776, 43 U.S.C. 1761.

There will be reserved to the United States a right-of-way for ditches and canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

There will also be reserved to the United States that right-of-way for a water tank and helicopter pads, and all appurtenances thereto, constructed by the United States, through, over, or upon the SW¼NW¼SE¼ said sec. 23, and the SW¼SE¼NW¼ said sec. 26, under Serial No. R490, and the right of the United States, its agents or employees, to maintain, operate, repair, or improve the same so long as needed or used for or by the United States.

The Federal lands described in this notice have been segregated from all forms of appropriation under the public land laws, including the general mining laws and mineral leasing laws, for a period of two years from August 1, 1985. (See **Federal Register** published August 1, 1985, in Vol. 50 No. 148, on page 31254).

Detailed information concerning this exchange, including the planning documents, environmental assessment and the land report is available for review at the Bureau of Land Management's California Desert District Office, 1695 Spruce Street, Riverside, California 92507.

For a period of 45 days from date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, California Desert District, 1695 Spruce Street, Riverside, California 92507. Objections will be reviewed by the State Director, who may sustain, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: September 17, 1985.

Wes Chambers,

Acting District Manager.

[FR Doc. 85-22635 Filed 9-20-85; 8:45 am]

BILLING CODE 4310-40-M

[F-19155-4]

Alaska Native Claims Selection; Doyon, Ltd.

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. 14(e) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(e), will be issued to Doyon, Limited for approximately 160 acres. The lands involved are within the vicinity of Birch Creek, Alaska, within T. 18 N., R. 10 E., Fairbanks Meridian.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the Tundra Times. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until October 23, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an 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 of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-22685 Filed 9-20-85; 8:45 am]

BILLING CODE 4310-JA-M

[Group 835]

California; Filing of Plat of Survey

September 12, 1985.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

San Bernardino Meridian, San Diego County

T. 16 S., R. 7 E.

2. This plat, representing the dependent resurvey of a portion of the subdivisional lines, and a portion of the subdivision of section 7, and the survey of the subdivision of section 7, Township 16 South, Range 7 East, San Bernardino Meridian, under Group No. 835, California, was accepted August 2, 1985.

3. This plat was executed to meet certain administrative needs of the Bureau of Land Management.

4. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 85-22673 Filed 9-20-85; 8:45 am]

BILLING CODE 4310-40-M

[Group 898]

California; Filing of Plat of Survey

September 12, 1985.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Mount Diablo Meridian, Tehema County

T. 27 N., R. 2 E.

2. This plat, representing the dependent resurvey of the north boundary and a portion of the east boundary, Township 27 North, Range 2 East, Mount Diablo Meridian, under Group No. 898, California, was accepted August 7, 1985.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management and the Department of Agriculture, U.S. Forest Service.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage

Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 85-22674 Filed 9-20-85; 8:45 am]

BILLING CODE 4310-40-M

[C-9-84]

California; Filing of Plat of Survey

September 12, 1985.

1. This supplemental plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Madera County

T. 7 S., R. 21 E.

2. This supplemental plat of SE¼, sec. 31, Township 7 South, Range 21 East, Mount Diablo Meridian, California, showing amended lottings created by the cancellation of the Texas Flat Mill Site No. 3, M.S. 4024D and the Texas Flat Mill Site No. 4, M.S. 4024E, is based upon the plats approved September 7, 1918 and May 25, 1923, the plat accepted April 13, 1936, the diagram dated August 4, 1903, and the mineral survey record, was accepted August 13, 1985.

3. This supplemental plat will immediately become the basic record of describing the land for all authorized purposes. This supplemental plat has been placed in the open files and is available to the public for information only.

4. This supplemental plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 85-22675 Filed 9-20-85; 8:45 am]

BILLING CODE 4310-40-M

[Group 880]

California; Filing of Plat of Survey

September 11, 1985.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Mendocino & Lake Counties

T. 18 N., R. 11 W.
T. 11 N., R. 11 W.

2. This plat, representing the dependent resurvey of a portion of the south boundary, T. 19 N., R. 11 W. (north boundary of section 3), and a portion of the subdivisional lines, and the survey of the subdivision of section 3, T. 18 N., R. 11 W., Mount Diablo Meridian, under Group No. 880, California, was accepted August 2, 1985.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management and the Department of Agriculture, U.S. Forest Service.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 85-22676 Filed 9-20-85; 8:45 am]

BILLING CODE 4310-40-M

[Group 832]

California; Filing of Plat of Survey

September 12, 1985.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

San Bernardino Meridian, Riverside County

T. 2 S., R. 3 E.
T. 3 S., R. 3 E.

2. These plats, representing the dependent resurvey of a portion of the west boundary of section 33, of Township 2 South, Range 3 East, and the dependent resurvey of the east and west boundaries of section 4, and the metes-and-bounds survey of certain rights-of-way boundaries in section 4, Township 3 South, Range 3 East, San Bernardino Meridian, under Group No. 832, California, were accepted August 1, 1985.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 85-22677 Filed 9-20-85; 8:45 am]

BILLING CODE 4310-40-M

[Group 833]

California; Filing of Plat of Survey

September 11, 1985.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

San Bernardino Meridian, San Diego County

T. 14 S., R. 6 E.

2. This plat, representing the dependent resurvey of a portion of the west boundary and a portion of the subdivisional lines, and the survey of the subdivision of section 10, Township 14 South, Range 6 East, San Bernardino Meridian, under Group No. 833, California, was accepted August 1, 1985.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841.

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 85-22678 Filed 9-20-85; 8:45 am]

BILLING CODE 4310-40-M

[Group 791]

California; Filing of Plat of Survey

September 11, 1985.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian, Trinity County

T. 34 N., R. 9 W.
T. 35 N., R. 9 W.

2. These plats representing:

a. The dependent resurvey of a portion of the subdivisional lines and the survey of the subdivision of section 16, Township 34 North, Range 9 West, Mount Diablo Meridian, in one sheet,

b. The dependent resurvey of portions of the east and west boundaries and subdivisional lines, and the survey of the subdivision of sections 15, 17, 19 and 28, Township 35 North, Range 9 West, Mount Diablo Meridian, in two sheets.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative need of the Bureau of Land Management and the Department of Agriculture, U.S. Forest Service.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 85-22679 Filed 9-20-85; 8:45 am]

BILLING CODE 4310-40-M

[Group 835]

California; Filing of Plat of Survey

September 11, 1985.

1. This plat of the following described land will be officially filed in the California State Office, Sacramento, California immediately: 74 San Bernardino Meridian, San Diego County T. 15 S., R. 6 E.

2. This plat, representing the dependent resurvey of a portion of the South, west, and north boundaries, and a portion of the subdivisional lines, and the survey of the subdivision of sections 6, 31, 32, Township 15 South, Range 6 East, San Bernardino Meridian, under Group No. 835, California, was accepted August 2, 1985.

3. This plat will immediately become the basic record of describing the land for all authorized purposes. This plat has been placed in the open files and is available to the public for information only.

4. This plat was executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825

Herman J. Lyttge,

Chief, Records & Information Section.

[FR Doc. 85-22680 Filed 9-20-85; 8:45 am]

BILLING CODE 4310-40-M

[NM-0554897]

New Mexico; Proposed Continuation of Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Interior proposed that a 480-acre withdrawal for the Bureau of Reclamation continue for an additional 20 years. The lands will remain closed to surface entry. The mineral estate is reserved to and controlled by the State of New Mexico.

DATE: Comments should be received by December 23, 1985.

FOR FURTHER INFORMATION CONTACT: Pauline T. Brown, BLM New Mexico State Office, P.O. Box 1449, Santa Fe, New Mexico 87504-1449, 505-988-6326.

The Department of the Interior proposes that the existing land withdrawal made by Public Land Order 3526 of January 13, 1965, be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

New Mexico Principal Meridian

T. 10 N., R. 31 E.,
Sec. 16, W½, W½E½.

The area described contains 480.00 acres in Quay County, New Mexico.

The purpose of the withdrawal is for use in connection with the Tucumcari Reclamation Project, Regulator Reservoir No. 2

The withdrawal segregates the land from operation of the public land laws generally. Minerals are not owned by the United States.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the New Mexico State Office.

The authorized offcer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideraion by the Secretary of the Interior, the President, and Congress, who will detemine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The Existing withdrawal will continue until such final determination is made.

Dated: September 11, 1985.

Monte G. Jordan,

State Director, Associate.

[FR Doc. 85-22682 Filed 9-20-85; 8:45 am]

BILLING CODE 4310-FB-M

Bureau of Reclamation

Coordinated Operation Agreement Central Valley Project/State Water Project, California; Public Hearings on Draft Environmental Impact Statement-Environmental Impact Report

The U.S. Bureau of Reclamation and the California Department of Water Resources have scheduled two public hearings on the draft joint environmental impact statement-environmental impact report (EIS-EIR) for the new Coordinated Operation Agreement (COA). A notice of availability of ther draft EIS-EIR was published in the **Federal Register** on Wednesday, September 18, 1985. The EIS-EIR assesses the impacts of executing the new COA for the State Water Project and Federal Central Valley Project.

Public meeting will be held at:

October 22, 1985—7:30 p.m.–10:00 p.m.

Sacramento Inn (Comstock II Room), 1401 Arden Way, Sacremento, California

November 7, 1985—7:30 p.m.–10:00 p.m.

Contra Costa Water District (Board Room), 1331 Concord Avenue, Concord, California

Individuals and representatives of interested organizations will have an opportunity to make oral presentations on the draft EIS-EIR at the hearing. Those persons intending to testify should limit their oral presentation to ten minutes. More extensive comments should be presented in writing by Wednesday, November 13, 1985 to either of the following:

Regional Environmental Quality Officer, U.S. Bureau of Reclamation, 2800 Cottage Way, Room W-1102, Sacramento, California 95825-1898. Telephone: (916) 978-5130

Mr. James U. McDaniel, California Department of Water Resources, 3251 S Street, P.O. Box 160088, Sacramento, California 95816. Telephone: (916) 445-5631

Comments may also be sumarrized orally and filed with the presiding officer at each hearing. A sign-up sheet will be provided at the hearings.

Dated: September 17, 1985.

Clifford I. Barrett,

Acting Commissioner

[FR Doc. 85-22612 Filed 9-20 85; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative; Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

Date: September 18, 1985.

The following Notices were filed in accordance with section 10526(a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) East & West Transport Systems, Inc.

(2) 482 #C West Arrow Hwy., San Dimas, CA 91773.

(3) 482 #C West Arrow Hwy., San Dimas, CA 91772.

(4) Sharon Sharp, 482 #C West Arrow Hwy., San Dimas, CA 91773.

(1) Farmers Union Central Exchange, Inc. (CENEX)

(2) P.O. Box 64089, St. Paul, MN 55164.

(3) 5500 CENEX Drive, Inver Grove Heights, MN 55075.

(4) Clarence N. Anderson, P.O. Box 64089, St. Paul, MN 55164.

James H. Bayne,

Secretary.

[FR Doc. 85-22720 Filed 9-20-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-260 (Sub-1X)]

Rarus Railway Corp.—Discontinuance of Service; State of Montana—Abandonment Near Anaconda, MT; Exemption

Rarus Railway Corporation (Rarus) and the State of Montana jointly have filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* for Rarus to discontinue service over, and for Montana to abandon, a segment of the line Rarus operates between mileposts 0.0 and 7.06, a distance of 7.06 miles, near Anaconda, MT.

The 7.06 mile line segment is part of the line over which Rarus recently instituted operations under a lease from Montana, pursuant to authority granted by the Commission in Finance Docket No. 30640, *Rarus Ry. Corp.—Exemption from 49 U.S.C. 10901 and 11301* (not printed), served April 26, 1985. Because the issue of whether Montana should have been subject to the Commission's section 10901 jurisdiction in Finance Docket No. 30640 is being considered on appeal, Montana has joined in this notice as the owner of the line.

Rarus and the State have certified (1) that no local traffic has moved over the line for at least 2 years and there is no overhead traffic on the line, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period preceding the notice. The Public Service Commission of the State of Montana was notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employees affected by the discontinuance and abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

This exemption will be effective on October 24, 1985 (unless stayed pending reconsideration). Petitions to stay the effective date of the exemption must be filed by October 4, 1985, and petitions for reconsideration, including environmental, energy, and public use concerns must be filed by October 14, 1985, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission must be sent to applicant's representative: R. Lawrence McCaffrey, Jr., Suite 800, 1350 New York Ave., NW., Washington, DC 20005-4797.

If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided September 13, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-22723 Filed 9-20-85; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 328]

Rail Carriers; Investigation of Tank Car Allowance System

AGENCY: Interstate Commerce Commission.

ACTION: Notice of (a) proposed final modification of tank car allowance formula, and (b) intent to establish new service list.

SUMMARY: The Interstate Commerce Commission under of 49 U.S.C. 11122, 10747, and 10324(b) proposes to adopt and prescribe an agreement superseding the Tank Car Allowance Agreement, approved in the decision served June 15, 1979, generally relating to the formula for the computation of tank car allowances. The Commission also intends to establish a new service list comprised of only those persons who have a desire to continue to receive copies of Commission issuances and all documents filed.

DATES:

(1) Responses to the notice of intent to establish a new service list are due by October 3, 1985.

(2) Comments to the proposed agreement must be filed October 23, 1985, or 7 days from after service of revised service list, whichever is later. Reply comments must be filed November 11, 1985, or 27 days after service of a revised service list, whichever is later.

(3) Comments and reply comments must be served on all parties.

Initial Regulation Flexibility Analysis: This proposal may significantly affect a substantial number of small entitles within the meaning of the Regulatory Flexibility Act, Pub. L. 91-354, including tank car lessors, class III railroads and possibly others. Revision of the tank car allowance formula is necessary because of serious flaws in the existing formula, particularly its inability to relate the level of allowance to conditions of tank car supply. The revised rules represent a

joint proposal by railroads and tank car suppliers to correct these flaws. We are unable at this time to estimate the number of small entities to which the proposal would apply. The proposal does not impose any reporting record keeping, or compliance requirements of any individudals carrier, shipper, or tank car lessor. Such functions will be performed by a committee of the AAR, clearly not a small entity under the statute. We are not aware of any duplicative or overlapping Federal rules.

ADDRESSES: Send an original and 15 copies of comments referring to Ex Parte No. 328 to: Commission Service Section, Rm. 2203, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTAL 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 2229, Interstate Commerce Commission, Washington Building, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

This action will not have a significant economic impact on a substantial number of small entities, or a significant impact on the quality of the human environment or energy conservation.

Authority: 49 U.S.C. 10321, 10324(b), 10747, and 11122 and 5 U.S.C. 553.

Decided: August 23, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley, and Strenio. Chairman Taylor was absent and did not participate in the disposition of this proceeding.

Kathleen King,

Acting Secretary.

[FR Doc. 85–22721 Filed 9–20–85; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree in Action To Enjoin Emission of Air Pollutants; Masonry Products, Inc.

In accordance with departmental policy, 28 CFR 50.7, 38 Fed. Reg. 19019, notice is hereby given that a consent decree in *United States* v. *Masonry Products, Inc.* Civil Action No. 1984/107, was lodged with the United States District Court for the District of the Virgin Islands on August 26, 1985. The consent decree establishes a compliance program for the St. Croix, Virgin Islands plant owned and operated by Masonry Products, Inc. to bring the plant into compliance with the Clean Air Act, 42 U.S.C. 7401 *et seq.* and the Virgin Islands State Implementation Plan ("VISIP"), relating to the emission of visible and particulate emissions, and requires payment of a civil penalty.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Masonry Products, Inc.*, D.J. Ref. No. 90–5–2–1–632.

The consent decree may be examined at the office of the United States Attorney, District of the Virgin Islands, P.O. Box 3239, St. Croix, Virgin Islands 00820; at the Region II office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278; and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.30 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85–22669 Filed 9–20–85; 8:45 am]

BILLING CODE 4410–01–M

Lodging of a Proposed Consent Decree Pursuant to the Clean Air Act; N-Ren Corp.

In accordance with Departmental Policy, 28 CFR 50.7 notice is hereby given that on September 10, 1985, a proposed Consent Decree in *United States* v *N-Ren Corporation*, Civil Action No. 84–0675 JB (D.N.M.), was lodged with the United States District Court for the District of New Mexico. The proposed Consent Decree requires N-Ren Corporation to attain and maintain compliance with the New Source Performance Standards ("NSPS") for Nitric Acid Plants promulgated under the Clean Air Act, and civil penalties for past violations. The decree sets forth compliance provisions regarding excess emissions, continuous montioring system, conversion factors, reporting and record keeping, and maintenance requirements.

The Department of Justice will receive for a period of thirth (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 the *United States* v *N-Ren Corporation*, Civil Action No. 84–0675 JB (D.N.M.), D.J. Ref. 90–5–2–1–686.

The proposed Consent Decree may be examined at Office of the United States Attorney, United States courthouse, Room 12020, 500 Gold Avenue, Albuquerque, New Mexico 87103 and at the Region VI Office of the Environmental Protection Agency, Interfirst Two Building, 1201 Elm Street, Dallas, Texas 75270. 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, Ninth and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.00 (ten cents per page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht, II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85–22670 Filed 9–20–85; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on Preservation; Meeting

Notice is hereby given that the Executive Committee and the Subcommittee on Current Holdings of the Advisory Committee on Preservation will meet on Wednesday, November 13, 1985 from 10 a.m. to 4 p.m. in Room 150 of the National Academy of Sciences Building, 2101 Constitution Avenue, NW., Washington, DC.

The agenda for the meeting will be:

1. Status report on the Academy's Committee on the Preservation of Historical Records.

2. Plans for future meetings.

The meeting will be open to the public. For further information, call Alan Calmes on 202–523–1546.

Dated: September 16, 1985.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 85-22668 Filed 9-20-85; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL COMMISSION ON AGRICULTURAL TRADE AND EXPORT POLICY

Meeting

September 18, 1985.

The National Commission on Agricultural Trade and Export Policy will hold its next meeting on October 21 and 22, 1985, at The Boar's Head Inn, Charlottesville, Virginia. The meeting will begin at 11 a.m. on October 21 and conclude at 3:00 p.m. on October 22.

The focus of the meeting is U.S.-E.C. Agricultural Trade Issues. The meeting is open to the public.

Kenneth L. Bader,

Chairman.

[FR Doc. 85-22620 Filed 9-20-85; 8:45 am]

BILLING CODE 3410-05-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel Meeting

AGENCY: National Endownment for the Humanities.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meeting of the Humanities Panel will be held at 1100 Pennsylvania Avenue, NW., Washington, D.C. 20506.

Date: October 8, 1985.

Time: 9:00 a.m. to 5:00 p.m.

Room: 415.

Program: This meeting will review applications to the projects supported by Humanities Projects in Museums and Historical Organizations Program, Division of General Programs.

The proposed meeting is for the purpose of review and discussion of applications for support under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. The panel will assess the grant category for interpretive skills workshops. Because the proposed meeting will consider applications which were not supported it is likely to disclose information which is not available to the public, including: (1) Trade secrets and financial information obtained from a person as privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that this meeting will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 786-0322.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 85-22657 Filed 9-20-85; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-440 and 50-441]

Cleveland Electric Illuminating Co. et al. (Perry Nuclear Power Plant, Units 1 and 2); Issuance of a Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulations, has issued a Decision pursuant to 10 CFR 2.206 concerning a petition filed by Ms. Susan L. Hiatt, on behalf of the Ohio Citizens for Responsible Energy (OCRE Petition). The OCRE Petition requested, among other things, that the Commission initiate an investigation and show-cause proceeding with respect to the financial qualifications of the licensees for the Perry Nuclear Power Plant (Perry), Units 1 and 2, for the completion of construction of the Perry plant. The Petitioner alleges that the licensees' financial condition is precarious and may result in the unsafe construction or sabotage of the plant and its nuclear fuel.

Upon consideration of the OCRE Petition, the Director has concluded that, for the reasons more fully stated in the "Director's Decision Under 10 CFR 2.206 (DD-85-14), the five utilities (licensees), sharing ownership in the Perry plant have demonstrated reasonable assurance that they can obtain the funds necessary to cover estimated construction completion costs for Perry Unit 1 and common facilities, and that any financial burdens which the licensees may currently be under do not appear to have resulted nor are likely to result in unsafe construction of the Perry Unit 1. The Director declines to initiate any proceeding with respect to Perry Unit 2 owing to the uncertain future of the plant and the fact that no hazard is posed to public health and safety by the licensees' limited activities at Unit 2.

The "Director's Decision Under 10 CFR 2.206" (DD-85-14), issued today, is available for public inspection in the Commission's Public Document Room at 1717 H Street N.W., Washington, D.C., and in the Perry Public Library located at 3735 Main Street, Perry, Ohio.

A copy of the Director's Decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c). As provided in 10 CFR 2.206(c), the Director's Decision will become the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, takes review of the Decision within that time.

Dated at Bethesda, Maryland, this 13th day of September 1985.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 85-22684 Filed 9-20-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-462]

Illinois Power Co. (Clinton Power Station, Unit No. 2), Order Revoking Construction Permit

I.

Illinois Power Company (IPC) is the holder of Construction Permit No. CPPR-138 which authorizes the construction of the Clinton Power Station, Unit No. 2 in Dewitt County, Illinois. The permit, as issued, expired on October 1, 1981.

II.

On October 14, 1983, IPC announced by a news release that it was cancelling the Clinton Power Station, Unit 2. By letter, dated April 9, 1985, IPC formally advised the U.S. Nuclear Regulatory Commission of the cancellation of the second unit of its Clinton plant and requested that Construction Permit No. CPPR-138 be rescinded.

On May 17, 1985, IPC filed a Motion to Terminate Proceeding (Motion) with the Atomic Safety and Licensing Board (ASLB) on grounds of mootness and

requested the Board to authorize the Director, Office of Nuclear Reactor Regulation (NRR), to rescind the construction permit, CPPR–138, issued for Clinton Power Station (CPS) Unit 2. On May 29, 1985, the People of the State of Illinois (State) filed an answer to IPC's Motion (State Response), stating that it did not object to the termination of the proceeding, *per se*, but requested the Board to order an environmental, safety, and cost assessment of IPC's proposed method for remediation of the Unit 2 excavation area. On June 6, 1985, the NRC Staff (Staff) responded to IPC's Motion (Staff Response) stating that it had concluded, that IPC need not fill the Unit 2 excavation at this time. However, the Staff set forth certain actions for environmental protection that it proposed to require of IPC as a condition to the licensing of CPS Unit 1.

On June 11, 1985, the ASLB issued a Memorandum and Order (Requesting Additional Information on Unit 2 Excavation) indicating that it wanted additional information about the Unit 2 excavation before rendering a decision on IPC's Motion and that it believed the information needed could be obtained from certain photographs discussed in the Staff Response. The ASLB had concerns about possible safety matters associated with the unfilled excavation and noted that the Staff Response did not address safety matters. Therefore, the ASLB ordered the Staff to provide it with copies of the photographs and indicated that copies should be made available also to any party that wished to examine them. On June 13, 1985, the Licensing Board issued a Memorandum and Order (Concerning Request for Photographs), stating that it would make the photographs available for inspection by the parties upon request, provided that such requests were filed with the ASLB by July 1, 1985. No request to inspect the photographs having been received, the ASLB rendered its decision on IPC's Motion on July 11, 1985.

III.

The Unit 2 site lies entirely within the CPS Unit 1 exclusion area on property owned by IPC and is not visible to persons located outside the exclusion area. The excavation is approximately 40 feet deep, 350 feet wide, and 1350 feet long at the top, and approximately 280 feet wide and 900 feet long at the bottom. One side of the excavation abuts the radwaste, control and diesel buildings for Unit 1. Portions of the north and south sides of the excavation are covered by a revetment composed of a grout intrusion blanket. The remaining portions of the north and south sides, and the east side of the excavation, are sloped and are stabilized by herbaceous vegetation.

The ASLB was concerned that a person might be injured by accidentally falling into the excavation. However, this concern was satisfied by the photographs provided by the Staff, which showed that the slope of the excavation's sides is everywhere less than 45° and hence, not steep enough to constitute a significant hazard. Also, while there is a road running along the east rim of the excavation, IPC has committed in the FSAR to construct a berm on the three exposed sides of the excavation which should prevent a vehicular accident, and the ASLB concluded that the excavation, if left unfilled, will present no significant hazard to the health and safety of the public or of plant personnel.

Because of the Cancellation of Unit 2, the ASLB agreed with the Staff that the Unit 2 excavation will be considered as part of the Unit 1 site. The ASLB Order noted that, as a licensing condition of Unit 1, IPC will be required to submit an Environmental Protection Plan (EPP) which, upon approval, will be appended as Appendix B to the Unit 1 operating license. The EPP will require IPC to provide the Staff with a detailed analysis of data and a proposed course of corrective action should harmful effects or evidence of trends toward irreversible damage to the environment be observed. Additionally, the EPP will require IPC to prepare an environmental be evaluation before engaging in any additional construction or operational activities which may have measureable environmental effects that are not confined to on-site areas previously disturbed during site preparation and plant construction. If the evaluation indicates that the activity involves an unreviewed environmental question, prior approval of the activity must be obtained from the Director of Nuclear Reactor Regulation. If the activity involves a change in the EPP, the activity and change in the EPP will require an appropriate license amendment.

The Staff has determined that the Unit 2 site is presently stabilized and presents no significant environmental impact and the construction of the berm around the excavation will provide a satisfactory means of ensuring continued environmental acceptability and also will provide protection against a vehicular accident at the excavation. There does not appear to be any immediate need to fill the excavation, and the ultimate disposition of the excavation can be deferred for future consideration. Should be excavation later require further redress, such action be required pursuant to the EPP for Unit 1.

IV.

For the reasons set forth above, and pursuant to the directive of the ASLB to the Director of Nuclear Reactor Regulation in its July 11, 1985 Memorandum and Order, Construction Permit CPPR–138 held by Illinois Power Company is hereby revoked.

This Order is effective upon issuance.

Dated at Bethesda, Maryland, this 11th day of September 1985.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr.,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 85–22683 Filed 9–20–85; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, October 3, 1985
Thursday, October 10, 1985
Thursday, October 17, 1985
Thursday, October 24, 1985
Thursday, October 31, 1985

These meetings will start at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW, Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives from five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives from five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and

formulate postions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)((9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations, and related activities. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW, Washington, D.C. 20415 (202) 632-9710.

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

September 11, 1985.

[FR Doc. 85-22724 Filed 9-20-85; 8:45 am]

BILLING CODE 6325-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee; Written Comments on the Possible Negotiation of a Trade and Investment Framework Agreement With Mexico

SUMMARY: Notice is hereby given that the Trade Policy Staff Committee (TPSC) is requesting public comments on the discussion of a trade and investment framework agreement with Mexico. These comments will be considered by the Executive Branch in developing objectives for discussions. The Committee is particularly interested in views on basic principles and procedures which should govern the bilateral trade and investment relationship, specific issues or problems which should be addressed, as well as the merits of considering possible sectoral arrangements and what such arrangements should include. Comments should be filed by October 28, 1985.

SUPPLEMENTARY INFORMATION:

1. Background

In April 1985 the United States and Mexico announced their intention to enter into discussions of a framework of principles and procedures regarding their trade and investment relations. The two governments have also announced the establishment of a working group to consult on the agreement. Mexico is not a member of the General Agreement on Tariffs and Trade (GATT) and we do not have a bilaterial agreement covering these matters. Consequently, there is no agreed upon set of rules to govern what is becoming an increasingly large flow of goods, services and capital across the common border. These considerations led to the agreement to begin consultations. Topics for discussion would include, *inter alia*, reduction of tariff and non-tariff barriers and other distortions of trade; non-discriminatory and national treatment for current and prospective foreign investment, and other investment matters; ways and means to foster transparency of administrative actions of each party, when they relate to trade and investment between both nations; and improved consultation and dispute settlement procedures.

2. Public Comments

Public comments are requested on the issues to be covered in such consultations, including procedural elements (e.g., dispute settlement, consultations), principles (e.g. non-discriminatory and national treatment), barriers to trade and investment to be addressed (tariffs, licensing, property rights protection), and whether the Executive Branch should also consider arrangements covering particular industrial sectors. Comments are especially invited on particular problems and experiences in trading or investing in Mexico, improvements to be sought in the relationship, as well as the benefits or disadvantages of negotiating such an agreement with Mexico.

Parties wishing to submit comments should provide a written statement, in twenty copies, by October 28, 1985, to Carolyn Frank, TPSC Secretary (Office of the U.S. Trade Representative, Room 521, 600 17th Street, NW., Washington, D.C. 20506).

(Opportunities to present further views will be provided through public hearings and more requests for public comments as discussions progress and warrant. These opportunities will be announced in the **Federal Register**.)

3. Additional Information

Any questions with regard to the discussion of a framework agreement with Mexico should be directed to Jon Rosenbaum, Assistant U.S. Trade Representative for Latin America, Caribbean, and Africa, Office of the U.S. Trade Representative, Room 307, 600 17th Street, NW., Washington, D.C. 20506; telephone (202-395-6135).

Donald M. Phillips,

Chairman, Trade Policy Staff Committee.

[FR Doc. 85-22640 Filed 9-20-85; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-14726; File No. 812-6179]

Greater Washington Investors, Inc.; Application for an Order Granting Exemption and Permitting Proposed Affiliated Transaction

September 17, 1985.

Notice is hereby given that Greater Washington Investors, Inc., ("Applicant"), 5454 Wisconsin Avenue, Chevy Chase, Maryland 20815, registered under the Investment Company Act of 1940 ("Act") as a closed-end, non-diversified management investment company, filed an application on August 13, 1985, and an amendment thereto on August 30, 1985, for an order of the Commission, pursuant to section 17(b) of the Act, exempting Applicant's proposed investment in a portfolio affiliate from the provisions of section 17(a)(3) of the Act, and pursuant to section 17(d) of the Act and rule 17d-1 thereunder, permitting the concurrent participation in such investment by Applicant and an "up-stream" affiliate. 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 pertinent statutory provisions.

Applicant is a small business investment company licensed under the Small Business Investment Act of 1958. Research Industries Incorporated ("Research Industries") is a privately-held company that owns approximately 12.1 percent of the outstanding common stock of Applicant. Voice Computer Technologies Corporation ("VCT") is a development-stage company engaged in developing microprocessor-based, voice

response computer systems for distributors of goods and merchandise for use in remote order entry. Applicant and Research Industries have been investors in VCT since June, 1982, and presently own securities representing 11.6 percent (613,094 shares of VCT's Series B convertible preferred stock) and 11.3 percent (596,619 shares of the Series B convertible preferred stock), respectively, equity interests in VCT. Both Applicant and Research Industries have a representative on the board of directors of VCT.

It is further stated that in May, 1985, VCT offered up to $1.25 million of its 12 percent subordinated debentures due May 31, 1987 ("Debentures"), together with warrants to purchase five shares of its Series B convertible preferred stock for each dollar of principal amount of the Debentures at a price of $0.20 per share. Each share of Series B preferred stock is convertible into one share (subject to adjustment upon the occurrence of certain events) of VCT common stock. The May, 1985 offering was made exclusively to VCT's Series B preferred shareholders, including Applicant and Research Industries, to two holders of VCT's common stock who have preemptive rights, and to the two holders of VCT's five-year, 12.5 percent subordinated convertible debentures issued in 1984. Payment of principal and interest on the Debentures is subordinated upon any distribution of assets of VCT or other dissolution, winding up, liquidation, or reorganization of (including bankruptcy) VCT, to the payment in full of loans which VCT may obtain in the future from banks or certain other financial institutions. The warrants will expire on the earlier of May 31, 1990, or the closing of a public offering by VCT at a price per share greater than $4.99 that produces at least $5 million of proceeds for VCT. VCT has granted to the holders of the Debentures a security interest in substantially all of its assets, subject to the prior security interest of the debentures issued in 1984, the aggregate principal amount of which is presently $550,000. Interest on the Debentures is payable semi-annually, but VCT may, at its option, defer making one or more interest payments to a date not later than the due date of the principal amount of the Debentures. Deferred interest is to earn further interest at the rate of 12 percent, and VCT shall issue additional warrants for each dollar of interest deferred, on the same terms as the warrants originally issued with the Debentures. Pursuant to this recent offering, VCT raised an additional $865,440, of which GWI and Research Industries each invested $100,000. GWI's participation in this transaction concurrently with Research Industries was the subject of an application to the Commission granted by order dated July 17, 1985 (Investment Company Act Release No. 14638).

Applicant now states that VCT has experienced many delays and difficulties in bringing its product to market, and that as a result its business has not yet stabilized. VCT is, therefore, again in urgent need of additional capital in order to continue operations. To raise these funds, VCT is making a further offering of Debentures and warrants to buy shares of its Series B convertible preferred stock. The contemplated offering is designed to raise a minimum of $500,000, and a maximum of $1,000,000, and will be made on terms substantially the same as those provided for in VCT's May, 1985 offering to be sold in the proposed offering are to cover 3.3 shares of the Series B preferred, at a price of $0.30 per share for each dollar of principal amount of Debentures, whereas in the May, 1985 offering the warrants covered 5 shares of Series B preferred at $0.20 per share.

Applicant represents that it anticipates investing, subject to approval by its board of directors and the issuance of the order requested herein, as much as $100,000 in the proposed offering. Research Industries, it is stated, has indicated that it will participate in the financing in a like amount. It is stated further that the financing may be completed in two phases, with most of the funds, including those of Research Industries, invested in early September, 1985, with Applicant's investment to be received soon after such time as this application is granted. Applicant represents that, if necessary, it will make an advance commitment to invest, subject only to favorable action by the Commission upon this application. Moreover, Applicant will participate only on the basis that its investment is otherwise being made on the same terms and conditions as those of all other investors in the offering. It is asserted that the foregoing procedure is necessary because Applicant's interest in and commitment to further investment in VCT, as an expression of confidence in VCT, is an important factor in enlisting the participation of other investors in VCT. Additionally, it is stated that Applicant wishes to preserve its opportunity to participate in this financing, as the exercise price of the warrants has intentionally been made very attractive in order to induce investors to provide VCT with capital funds at this critical juncture. In the absence of a commitment by Applicant, VCT might have no reason to want Applicant to purchase its securities in the future, given the dilutive effective of the warrants on the other shareholders. That result could in turn cause Applicant to suffer a significant dilution of its present position in VCT securities.

Applicant states that as a result of the financial interest it holds in VCT, the Debenture purchase it now proposes to make would violate Section 17(a)(3) of the Act. In addition, Applicant's proposed investment, in conjunction with the investment to be made by Research Industries in VCT, may be deemed to be a joint enterprise within the meaning of Section 17(d) of the Act, and Rule 17d–1 thereunder.

Applicant asserts that the requested relief meets the statutory standards of Sections 17(b) and 17(d) of the Act, and Rule 17d–1 thereunder. It is asserted that the terms of the VCT offering will have been negotiated at arms' length between VCT and its investors, taking into consideration the problems and delays experienced by VCT to date, the difficult climate for raising additional venture capital, and the critical need of VCT for cash. Under these circumstances, it is further asserted that the terms of the contemplated financing are reasonable and fair and do not involve overreaching. Moreover, Applicant asserts that the terms of the offering will be the same for each participant, except as to such interim procedures as may be needed to meet VCT's urgent need for additional funds. It is further stated that each investor in the company, including Applicant and Research Industries, has made or is in the process of making an independent decision as to whether to invest further in VCT and, if so, how much. Applicant states that the offering will not likely be fully subscribed and that Applicant and Research Industries will be able to invest any amount they wish on exactly the same terms, if this application is approved.

Applicant asserts that the proposed investment is consistent with its policies as recited in its registration statement and reports filed under the Act. It is asserted that an important part of Applicant's support of its securityholders is its participation in supplementary financings. And while it would be preferable if the proposed supplemental financing of VCT were being done on more favorable terms, it is nonetheless consistent with Applicant's policy of making follow-on investments in its portfolio companies. Applicant further states that to deny this

application would cause Applicant's existing investment in VCT to be significantly diluted.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 15, 1985, 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.

John Wheeler,

Secretary.

[FR Doc. 85-22709 Filed 9-20-85; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-5599]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; International Controls Corp.

September 17, 1985.

The above name issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the Common Stock, $0.10 Par Value, or International Controls Corp. from listing and registration on the American Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

International Controls Corporation considered the direct and indirect costs and expenses attendant to maintaining the dual listing of the Common Stock on the New York Stock Exchange and the American Stock Exchange. The registrant does not see any particular advantage in the dual trading of the Common Stock and believes that dual listing would fragment the market.

Any interested person may, on or before October 4, 1985 submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to its, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-22710 Filed 9-20-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22415; File No. 4-264]

Order Approving Plan by the New York Stock Exchange, Inc.

The New York Stock Exchange, Inc. ("NYSE") submitted on June 18, 1985, copies of a proposed plan pursuant to Rule 19d-1(c)(2) under the Securities Exchange Act of 1934 ("Act").[1] The proposed plan specifies those uncontested minor rule violations with sanctions not exceeding $2,500 which would not be subject to the provisions of Rule 19d-1(c)(1) under the Act requiring that an SRO promptly file notice with the Commission of any final disciplinary action taken regarding any person or organization.[2] In accordance with paragraph (c)(2) of Rule 19d-1, the NYSE proposed to designate certain specified rule violations as minor rule violations, and requested that it be relieved of the current reporting requirement regarding such violations, provided it gives notice of such violations to the Commission on a quarterly basis. The NYSE proposed to include under its plan those rule violations that are currently included in its minor disciplinary fine system under NYSE Rule 476A.[3] According to the NYSE, the quarterly report of actions taken on minor rule violations under Rule 476A would list for each violation: the NYSE's internal file number for the case, the SEC's file number, the name(s) of the individual and/or member organization, the nature of the violation, the specific rule provision violated, the date of the violation, the fine imposed on each individual and/or member organization, an indication of whether the fine is joint and several, the number of times the rule violation has occurred, and the date of disposition.

The following NYSE rule violations currently are included in the Exchange's minor disciplinary fine system under Rule 476A: (1) Rule 15(c) (requirement to issue Intermarket Trading System ("ITS") pre-opening notifications); (2) Rule 15A (requirement to comply with ITS block-trade policy); (3) Rule 79A.30 (requirement to obtain floor official approval for trades at wide variations from the last sale); (4) Rule 123A.40 (requirement to obtain floor official approval for election of stop orders); (5) Rule 104.12 (specialist investment account rule violations); (6) Rule 112(d) (competitive trader stabilization requirement violations); (7) Rules 117, 121, 123, 123A.20, 410 (record retention rule violations; (8) Rules 97.40, 104A.50, 107.30, 112A.10; (reporting rule violations); (9) violations of Exchange policies regarding procedures to be followed in delayed opening situations; (10) Rule 134(c) and (e) (requirement to

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[1] In Securities Exchange Act Release No. 21013 (June 1, 1984) 49 FR 23828 the Commission adopted amendments to paragraph (c) of Rule 19d-1 to allow self-regulatory organizations ("SROs") to submit for Commission approval plans for the abbreviated reporting of minor disciplinary infractions. Under the amendments, any disciplinary action taken by an SRO against any person for violation of a rule of the SRO which has been designated as a minor rule violation pursuant to a plan filed with the Commission shall not be considered "final" for purposes of Section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding $2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies.

The Commission has approved a minor disciplinary rule plan by the American Stock Exchange, Inc. (Securities Exchange Act Release No. 21918 (April 3, 1985) 50 FR 14068 (File No. 4-260).

[2] On July 19, 1985, the Commission received a letter from the NYSE amending Exhibit C (List of Exchange Rule Violations and Fine Applicable Thereto Pursuant to Rule 476A) and Exhibit D (Sample Report) of its June 18, 1985 filing. *See* letter from James E. Buck, Secretary, NYSE, to Michael Cavalier, Branch Chief, Division of Market Regulation, dated August 16, 1985, making a minor revision to Exhibit D.

[3] *See* Securities Exchange Act Release No. 21688 (January 25, 1985) 50 FR 5025 (SR-NYSE-84-27) wherein the Commission approved new NYSE Rule 476A ("Imposition of Fines for Minor Violations of Rules") which authorizes the Exchange, in lieu of commencing a disciplinary proceeding before a Hearing Panel, to impose a fine, not to exceed $5,000, on any member, member organization, allied member, approved person or registered or non-registered employee of a member organization for any violation of an Exchange rule which the Exchange determines to be minor in nature. Pursuant to Rule 476A, the Exchange shall serve the person against whom a fine is imposed a written notice setting forth the rule or rules alleged to have been violated, the act or omission constituting each such violation, the fine imposed for each violation and the date, not less than 25 days after the date of service of the written statement by which such determination becomes final and such fine due and payable or such determination must be contested.

comply with specified questioned trade procedures and time periods); (11) Rule 440B (short sale rule violations); (12) Rule 107.10 (registered competitive market maker stabilization requirement violations); (13) requirement to participate in the pilot program to test revisions to the Specialist Performance Evaluation Questionnaire ("SPEQ") and its associated processes by the completion and return of "screening" and SPEQ questionnaires within specified time periods;[4] and (14) Rule 132 (failure to collect and/or submit all audit trail data specified in Rule 132). The NYSE has stated that it may periodically include additional minor disciplinary rule violations within its proposed minor rule violation plan.

The fines applicable to violations under Rule 476A are as follows: (1) For the first offense under the minor disciplinary system, the fine if $500 for an individual and $1,000 for a member organization; (2) for the second offense, the fine is $1,000 for an individual and $2,500 for a member organization; (3) subsequent fines are $2,500 for an individual and $5,000 for a member organization. The minor rule violation plan, however, would not cover fines imposed pursuant to Rule 476A which exceed $2,500, nor would it cover any fine sought to be imposed under the rule which is contested. Such violations and fines would be reported as they occur pursuant to Rule 19d–1(c)(1).

Notice of the proposed plan, together with the terms of substance of the proposed plan was given by the issuance of a Commission release (Securities Exchange Act Release No. 22300, August 8, 1985) and by publication in the **Federal Register** (50 FR 32818, August 14, 1985). No comments were received with respect to the proposed plan.

The Commission finds that the proposed plan is consistent with the requirements of section 6 and section 19 of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Rule 19d–1(c)(2) under the Act, that the proposed plan be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 17, 1985.

John Wheeler,

Secretary.

[FR Doc. 85–22712 Filed 9–20–85; 8:45 am]

BILLING CODE 8010–01–M

[4] Failure to participate in the revised SPEQ program is subject to the new procedures under Rule 476A on the basis of recent Commission approval of two rule changes filed in SR–NYSE–85–14 and SR–NYSE–85–15. In SR–NYSE–85–14, the NYSE proposed the implementation of a pilot program to test proposed revisions to SPEQ. *See* Securities Exchange Act Release No. 22036 (May 14, 1985) 50 FR 21007. The request to amend the "List of Exchange Rule Violations and Fines Applicable Thereto Pursuant to Rule 476A" to include failure to participate in the "SPEQ pilot program as a minor rule violation subject to Rule 476A procedures was set forth in SR–NYSE–85–15. *See* Securities Exchange Act Release No. 22037 (May 14, 1985) 50 FR 21006.

[Release No. 34–22409; File No. SR–DTC–85–2]

Self-Regulatory Organizations; Depository Trust Company; Filing and Immediate Effectiveness of Proposed Rule Change

On August 14, 1985, the Depository Trust Company ("DTC") filed with the Commission a proposed rule change under section 19(b)(1) of the Securities Exchange Act of 1934. The Commission is publishing this notice to solicit public comment on the proposal.

DTC's proposed rule change enables participants to use the Participant Terminal System ("PTS") to pledge securities to the Options Clearing Corporation ("OCC"). Present DTC rules require that pledges used to meet OCC's option collateralization requirements be submitted in paper form. The proposed rule change permits participants to submit pledge and release of pledge instructions to OCC over PTS. Participants may also pledge securities to OCC over PTS for the benefit of an OCC member, if that OCC member is also a DTC participant. The procedures to pledge securities to OCC are based upon DTC's Collateral Loan Program procedures for pledging securities over PTS.

The rule change has become effective, pursuant to section 19(b)(3)(A) of the Act and Rule 19b–4 thereunder. The Commission may summarily abrogate the rule change at any time within 60 days of its filing if it appears to the Commission that abrogation is necessary or appropiate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

You can submit written comment within 21 days after notice is published in the **Federal Register.** Please file six copies of your comment with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submission, accompanying exhibits, and all written comments, except for material that may be withheld from the public under 5 U.S.C. 552, are available at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing also will be available for inspection and copying at DTC's principal office. All submissions should refer to the proposal's file number and should be submitted by October 14, 1985.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: September 16, 1985.

John Wheeler,

Secretary.

[FR Doc. 85–22711 Filed 9–20–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–22398; File No. SR–NYSE–85–33]

Self-Regulatory Organizations; Proposed Rule Change by New York Stock Exchange, Inc. Relating to the Automated Submission of Trading Data by Specialists

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on September 9, 1985, the New York Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of the required submission by specialists of reports of their proprietary equity and options trading data to the Exchange in automated format.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

(1) Purpose

The purpose of the proposed rule change is to enhance the Exchange's ability to surveil and regulate specialists' trading activity on a more comprehensive, timely and cost-effective basis. Therefore, the Exchange is proposing to require that specialists submit, in an automated format prescribed by the Exchange, reports on their proprietary trading in their specialty stocks and in any options to hedge their specialty stock positions. It is anticipated that such submissions may be required on a daily basis, rather than on a "periodic call" basis (under current Exchange policy, this is a spot check of 8 weekly periods) during the year, as is currently required. (Specialists engaging in options hedging activity pursuant to Exchange Rule 105, however, are required to submit reports of their proprietary stock and options trading activity on a daily basis). The Exchange's proposal does not contain new requirements as to the information to be submitted, but simply changes the format in which, and frequency with which, information is to be submitted. At present, most specialist firms submit required data in an automated format, but they will have to make programming modifications to accommodate the Exchange's prescribed format. While the specialist community will incur some expense in making these programming changes (or, in the case of those few firms that still submit data manually, in automating in this regard) and in making daily submissions, specialist firms in general have begun their programming efforts to be ready by our projected January 1986 implementation date.

(2) Statutory Basis for the Proposed Rule Change

By enhancing automated surveillance, the proposed rule change will help ensure that the Exchange's regulatory and surveillance capabilities keep pace with the complexity of trading in today's sophisticated market environment, and therefore the proposed rule change is expected to remove impediments to and perfect the mechanism of a free and open market and a national market system, and is consistent with protecting investors and the public interest, as called for in section 6(b)(5) of the Act. The proposed rule change meets other requirements of section 6(b)(5) in that it will help prevent fraudulent and manipulative acts and practices, and promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by October 14, 1985.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: September 11, 1985.

John Wheeler,

Secretary.

[FR Doc. 22713 Filed 9-20-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22408; File No. SR-PSDTC-85-6]

Self-Regulatory Organizations; Pacific Securities Depository Trust Company; Proposed Rule Change

On August 19, 1985, the Pacific Securities Depository Trust Company ("PSDTC") filed a proposed rule change with the Commission under section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). The proposed rule change would automate PSDTC's participant transfer requests. The Commission is publishing this notice to solicit public comment on the proposal.

The proposed rule change would automate PSDTC's system that processes participant requests for securities certificates. The new system, the Automated Transfer Service ("ATS"), would enable participants to submit requests for certificates, on a daily basis, by computer tape or automated transmission. Participants also may continue to submit paper instructions. If participants elect to submit paper instructions, however, PSDTC, would enter those instructions into its automated system for processing. At the end of each day, PSDTC would make available to each participant a list of items transferred, a list of items ready for pick-up and a list of items rejected. ATS would not affect withdrawals for trades settling outside the depository.

PSDTC believes that the proposal is consistent with section 17A(b)(3)(F) of the Act because it would simplify the processing of transfer requests and, therefore, would facilitate the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds.

Copies of all documents relating to the proposal, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, may be inspected and copied at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. and at PSDTC's principal offices.

To assist the Commission in determining whether to approve the proposal or to institute disapproval proceedings, the Commission invites

public comment on the proposal. Please refer to File No. SR–PSDTC–85–6 and file six copies of comments with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549, by October 14, 1985.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

Dated: September 16, 1985.

John Wheeler,

Secretary.

[FR Doc. 85–22714 Filed 9–20–85; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 85–068]

Houston/Galveston Navigation Safety Advisory Committee; Inshore Waterway Management Subcommittee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Inshore Waterway Management Subcommittee of the Houston/Galveston Navigation Safety Advisory Committee. The meeting will be held on Thursday, October 31, 1985 at the Houston Yacht Club, 3620 Miramar Drive, LaPorte, Texas. The meeting is scheduled to begin at 10 a.m. and end at 12 p.m. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Discussion of previous recommendations made by the full Advisory Committee and the Inshore Waterway Management Subcommittee.
3. Presentation of any additional new items for consideration to the Subcommittee.
4. Adjournment.

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Prior to presentation of their oral statements, but not later than the day before the meeting, members of the public shall submit, in writing, to the Executive Secretary of the Houston/Galveston Navigation Safety Advisory Committee, the subject of their comments, a general outline signed by the presenter, and the estimated time required for presentation. The individual making the presentation shall also provide his/her name, address, and, if applicable, the organization he/she is representing. Any member of the public may present a written statement to the Advisory Committee at any time.

Additional information may be obtained from Commander D.F. Withee, USCG, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, telephone number (504) 589–6901.

Dated: September 18, 1985.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 85–22687 Filed 9–20–85; 8:45 am]

BILLING CODE 4910–14–M

[CGD 85–069]

Houston/Galveston Navigation Safety Advisory Committee; Offshore Waterway Management Subcommittee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Offshore Waterway Management Subcommittee of the Houston/Galveston Navigation Safety Advisory Committee. The meeting will be held on Wednesday, October 23, 1985, in the conference room at the office of West Gulf Maritime Association, 2616 South Loop West, Suite 600, Houston, Texas. The meeting is scheduled to begin at 10 a.m. and end at 12 p.m. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Discussion of previous recommendations made by the full Advisory Committee and the Offshore Waterway Management Subcommittee.
3. Presentation of any additional new items for consideration to the Subcommittee.
4. Adjournment.

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Prior to presentation of their oral statements, but no later than the day before the meeting, members of the public shall submit, in writing, to the Executive Secretary of the Houston/Galveston Navigation Safety Advisory Committee, the subject of their comments, a general outline signed by the presenter, and the estimated time required for presentation. The individual making the presentation shall also provide his/her name, address, and, if applicable, the organization he/she is representing. Any member of the public may present a written statement to the Advisory Committee at any time.

Additional information may be obtained from Commander D. F. Withee, USCG, Executive Secretary, Houston/Galveston Navigation Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, telephone number (504) 589–6901.

Dated: September 18, 1985.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 85–22686 Filed 9–20–85; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Establishment of Office; District Counsel, Helena, MT

AGENCY: Chief Counsel, Internal Revenue Service, Treasury.

ACTION: Establishment of office.

SUMMARY: As a result of the increasing legal casework in the State of Montana, the Chief Counsel of the Internal Revenue Service will open a new office in Helena, to be known as the District Counsel, Helena, effective September 16, 1985.

Jean Owens,

Deputy Chief Counsel.

[FR Doc. 85–22665 Filed 9–20–85; 8:45 a.m.]

BILLING CODE 4830–01–M

UNITED STATES INFORMATION AGENCY

Support of International Educational and Cultural Activities; a Grants Program for Private Not-For-Profit Organizations

The United States Information Agency (USIA) announces a program of selective assistance and limited grant support to non-profit activities of United States institutions and organizations in the Private Sector. The primary purpose of the program is to enchance the achievement of the Agency's international public diplomacy goals and objectives by stimulating and encouraging increased private sector commitment, activity, and resources. The information collection involved in this solicitation is covered by OMB Clearance Number 3116–0175, entitled "A Grants Program for Private

Organizations," expiration date January 31, 1987.

The United States Information Agency is interested in working cooperatively with private sector organizations and is requesting proposals (deadline October 23, 1985) for the following program:

U.S. Legislative Study Program (Republic of the Philippines)

Summary

The Office of Private Sector Programs (E/P) of the United States Information Ageny (USIA) proposes an 18-to-21 day study program in the United States for legislative staff and research assistants of the National Assembly (Batasan Pambansa) of the Republic of the Philippines (R.P.), beginning in late November, 1985. The purpose of this program is to provide an overview of the American legislative process and to enhance the technical and research skills of the specialized support staff of the Batasan. This program will begin with a state assembly orientation program to observe state legislative and electoral processes. The second phase will include an informal transition seminar in Wisconsin comparing state and federal legislative and executive systems, followed by 10 days of presentations and meetings on these issues in Washington, D.C.

Background and Program Rationale

Since the inauguration of the Republic in 1946, the Philippine National Assembly (Batasan Pambansa) has undergone numerous constitutional revisions. A new constitution to replace the US-inspired constituion of 1935 was completed during a constitutional convention in 1972 and took effect the following year. President Ferdinand E. Marcos governed from 1973 to mid-1981 under its transitory provisions. Those provisions, amended in 1976, called for the incumbent president to exercise full executive authority pending the convening of a National Assembly at the president's direction. Martial law, declared in 1972, was formally terminated in 1981. Major amendments adopted in 1981 revised the British-style parliamentary system to a French-style one, making the president head of government.

In the context of constitutional revisions which have altered the structure and influence of the Philippine National Assembly, that body has not fully developed its democratic, self-sustaining potential. While newly (1984) elected parliamentarians struggle to exert their influence on affairs of state, they are often frustrated by inadequate access to information and research materials. Many Filipino parliamentarians and their staff regard the U.S. congressional system as a truly viable and exemplary democratic apparatus.

Despite their familiarity with American democratic values and political traditions, few Filipino legislative leaders fully understand the function and inter-relationship of the U.S. Executive, legislative and judicial branches.

Exposing Filipino parliamentary staff to the mechanics of legislation-building and the relationship for the legislative branch with the Executive would help lessen misunderstandings, while promoting democratic institution building and providing opportunities for Filipinos and Americans to exchange information and establish institutional ties.

Inexperience and limited technological and economic resources have restricted the ability of parliamentarians and research staff to access information. Consequently, parliamentary legislative and research assistants exhaust enormous amounts of time and energy in this pursuit.

Members of Congress, Congressional staff, U.S. scholars, and information science specialists can suggest alternative procedural and structural legislative approaches. They can also assist Filipino parliamentarians—through their support staffs—in enhancing office management procedures, skills, and research techniques.

Program Highlights (Suggested)

Since provincial/local elections are scheduled to take place during 1986 in the Philippines, participants in the legislative study program may welcome an opportunity to begin their U.S. visit with a structured four-or-five-day internship/briefing program at a state assembly. During the last week of November 1985, the USIS-Manila-selected delegation will observe the dynamics of the state legislative process, the state electoral process, and the extent to which the federal government directly or indirectly regulates individual state activities.

A three-day informal seminar program (December 1–3, 1985) will serve as a bridge between discussions on state and local government structure and processes, and the U.S. federal system. Comparisons of the Philippine and U.S. provincial/state and parliamentary/congressional systems are also envisioned through a series of presentations and roundtables. The Johnson Foundation has agreed to host this transition seminar at its Wingspread conference center (Racine, Wisconsin).

A ten-day follow-on program in Washington, D.C. will further enhance the transition seminar with a series of briefings, meetings and presentations from American practitioners and scholars. Besides meeting with congressmen and congressional staff members on the foreign affairs, defense, budget and banking committees, the delegates will participate in roundtable discussions. Participants will also devote considerable time observing the structure and resources of the Library of Congress and, in particular, that body's Congressional Research Service.

In addition, the delegates will participate in a roundtable discussion on campaign funding and the mechanics for monitoring fair elections. A panel discussion with faculty from Georgetown University's School of Foreign Service is also contemplated.

Washington programs may also include separate meetings based on the specific interests of individual delegates and meetings with representatives from various foreign affairs agencies of the U.S. Governments, World Bank (Philippines Desk), foundations or research institutions (e.g., Heritage Foundation, Carnegie Endowment for Peace, Brookings Institution), and other private sector groups which promote democratic-institution-building and processes.

Project Proposal Evaluation

The Office of Private Sector Programs (E/P) and the USIA Intra-Agency Grant Review Panel will rank proposals according to the way they satisfy program criteria, as well as on their substantive merit, program variety, thematic continuity, and cost effectiveness. In addition, organizations submitting proposals will be rated according to their ability to develop a bilingual international exchange program, to provide in-kind contributions in support of the project, and to keep overhead costs at a minimum.

Funding

This program is designed for up to 13 participants selected by the United States Information Service (USIS) in Manila according to professional criteria. Maximum geographical representation will also be sought. Costs wil include international/domestic travel (for up to 13 Philippine participants on U.S. carrier/coach class, and U.S. travel for 3 U.S. escort/interpreters to include travel from their homes prior to and after the program),

per diem (for each international participant and the escort/interpreters at $100.00 per day), a single-payment cultural allotment ($120.00) to enable the purchase and/or duplication of materials, travel and modest honoraria for U.S. speakers, direct administrative expenditures, and minimal (if any) indirect costs. Salaries for escort/interpreters are covered separately by USIA and need not be part of your proposal.)

Applications Procedures

Applicants must submit 10 copies of the proposal to the adress below. To be eligible for review, proposals must include:

an abstract of approximately two pages; a narrative, not exceeding 10 pages, outlining the proposed program; a list of the participating institutions and participating departments; a detailed line-item three-column budget defining specific expenditures—with information on in-kind and cash contributions to the program by the institution; and vitae on project managers.

Timing

To be eligible for consideration, organizations *must* forward their proposals for receipt at USIA by COB October 23, 1985. Organizations planning to compete must also inform USIA of this intention in writing by October 7, 1985.

Guidance

Because of the competitive nature of this soliticitation, guidance in proposal development from the Office of Private Sector Programs (E/P) will be restricted to technical issues (202–485–7319).

Office of Private Sector Programs, Bureau of Educational and Cultural Affairs, (ATTN: Initiative Programs), United States Information Agency, 301 4th Street, SW., Washington, D.C. 20547

Dated: September 12, 1985.

Albert Ball,

Deputy Director, Office of Private Sector Programs.

[FR Doc. 85–22688 Filed 9–20–85; 8:45 am]

BILLING CODE 8230–01–M

VETERANS ADMINISTRATION

Career Development Committee; Meeting

The Veterans Administration gives notice under the provisions of Pub. L. 92–463 that a meeting of the Career Development Committee, authorized by 38 U.S.C. 4101, will be held in the French Room of the Georgetown Hotel, 2121 P Street NW., Washington, DC 20037, October 10 through 11, 1985 at 8:30 a.m. The meeting will be for the purpose of scientific review of applications for appointment to the Career Development Program in the Veterans Administration. The committee advises the Director, Medical Research Service on selection and appointment of Associate Investigators, Research Associates, Clinical Investigators, Medical Investigators, Senior Medical Investigators and William S. Middleton Award Nominees.

The meeting will be open to the public up to the seating capacity of the room from 8:30 a.m. to 9 a.m. to discuss the general status of the program. Because of the limited seating capacity of the room, those who plan to attend should contact Mr. David D. Thomas, Executive Secretary of the Career Development Committee (151J), Veterans Administration Central Office, Washington, DC 20420 (Phone 202–389–2317) prior to October 4, 1985.

The meeting will be closed from 9 a.m. to 5 p.m. on October 10 through 11 for consideration of individual applications for positions in the Career Development Program. This necessarily requires examination of personnel files and discussion and evaluation of the qualifications, competence, and potential of the several candidates, disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, closure of the portion of the meeting is permitted by section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463 as amended, in accordance with subsection (c)(6), 5 U.S.C. 552b.

Minutes of the meeting and rosters of the committee members may be obtained from Mr. David D. Thomas, Chief, Career Development Program, Medical Research Service (151J), Veterans Administration, Washington, DC 20420 (Phone 202–389–2317).

Dated: September 16, 1985.

By direction of the Administration.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 85–22622 Filed 9–20–85; 8:45 am]

BILLING CODE 8320–01–M

Advisory Committee on Structural Safety of Veterans Administration Facilities; Meeting

The Veterans Administration gives notice under Pub. L. 92–463 that a meeting of the Advisory Committee on Structural Safety of Veterans Administration facilities will be held in Room 442, of the Lafayette Building, 811 Vermont Avenue, NW., Washington, DC on October 25, 1985, at 10 a.m. The committee members will review Veterans Administration construction standards and criteria relating to fire, earthquake and other disaster resistant construction.

The meeting will be open to the public up to the seating capacity of the room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Mr. Richard D. McConnell, Director, Civil Engineering Service, Office of Construction, Veterans Administration Central Office (phone 202–389–2864) prior to October 18, 1985.

Dated: September 13, 1985.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 85–22623 Filed 9–20–85; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 184
Monday, September 23, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), September 17, 1985.

CHANGE IN THE MEETING: The following matter has been postponed and will be rescheduled at a later date.

"Proposed Amendment to the Department of Education's Title IX Regulations"

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat at (202) 634–6748.

This Notice Issued September 18, 1985.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

[FR Doc. 85–22734 Filed 9–19–85; 10:37 am]

BILLING CODE 6750-06-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (eastern time), September 17, 1985.

CHANGE IN THE MEETING: The following matter was postponed and rescheduled for 9:30 AM (Eastern Time), September 24, 1985.

"Proposed Ninety-Day Notice: TWA v. Thurston"

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat at (202) 634–6748.

This Notice Issued September 18, 1985.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

[FR Doc. 85–22735 Filed 9–19–85; 10:37 am]

BILLING CODE 6750-06-M

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Monday, September 30, 1985, 11:00 a.m. (eastern time).

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200–C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, D.C. 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

1. Announcement of Notation Vote(s)
2. A Report on Commission Operations (Optional)
3. Management Directive: Providing Reading, Interpreting, and Personal Assistance as a Reasonable Accommodation for Handicapped Individuals
4. Revisons to the Commission's Regulations Implementing Section 4(g) of the ADEA, 29 U.S.C. Section 623(g)
5. Proposed Modifications to the Recordkeeping Provisions of the Uniform Guidelines on Employee Selection Procedures, (UGESP) 29 C.F.R. Part 1607

Closed

Litigation Authorization; General Counsel Recommendations

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings).

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat at (202) 634–6748.

Dated: September 18, 1985.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

[FR Doc. 85–22736 Filed 9–19–85; 10:37 am]

BILLING CODE 6750-06-M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

September 18, 1985.

TIME AND DATE: 10:00 a.m., Tuesday, September 17, 1985.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: In addition to the previously announced tiems, the Commission considered and acted upon the following:

3. The NACCO Mining Company, Docket No. LAKE 85–87–R. (Issues include consideration of Petition for Interlocatory Review.)

It was determined by a unanimous vote of Commissioners that this item be added to the agenda and that no earlier announcement of the addition was possible. 5 U.S.C. § 552b(e)(1).

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Thus, the Commission may, subject to the limitations of 29 CFR § 2706.150(a)(3) and §2706.160(e), ensure access for any handicapped person who gives reasonable advance notice.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 85–22778 Filed 9–19–85; 3:10 pm]

BILLING CODE 6735-01-M

federal register

Monday
September 23, 1985

Part II

Department of Transportation

Coast Guard

46 CFR Parts 52, 56, 58, 61, 62, 110, 111, 113

Vital System Automation; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 52, 56, 58, 61, 62, 110, 111, 113

[CGD 81-030]

Vital System Automation

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to add regulations for automated vital systems on commercial vessels to the Marine Engineering Regulations contained in various subchapters of Title 46 of the Code of Federal Regulations, Shipping. Since the early 1960's, technological advances have caused an ever-growing dependence on automation to provide for the safe operation of vessels while reducing operating costs through reductions in manning and increased equipment efficiency. Domestically, the Coast Guard has published a series of Navigation and Vessel Inspection Circulars (NVICs) to promulgate its policy and guidance regarding the safe design, testing, maintenance, and manning of automated vessels. These circulars are now considered by all parties to be inadequate and outdated. Internationally, the need for safe automation on vessels has resulted in the inclusion of automation regulations in the first set of amendments to the International Convention on the Safety of Life at Sea, 1974 (SOLAS '74). These amendments entered into force internationally on September 1, 1984. To ensure that safety is not compromised by automation or reduced manning, the Coast Guard considers it necessary to publish uniform safety regulations that replace the circulars currently in effect, conform to and interpret the provisions of the SOLAS amendments, and have the benefit of public comment in accordance with the Administrative Procedure Act. The Coast Guard intends this proposal to provide minimum performance and testing standards that do not restrict use of technological developments or alternative arrangements that provide an equivalent degree of safety. Additionally, this proposal details the configuration and degree of automation the Coast Guard deems necessary when authorization for minimally attended or periodically unattended machinery plant operation is requested by the owner or operator of a vessel.

DATES: Comments must be received on or before December 23, 1985.

ADDRESSES: Comments referencing CGD 81-030 should be submitted to Commandant (G-CMC/21), U.S. Coast Guard, Washington, D.C. 20593. Comments may be delivered to, and will be available for inspection and copying at, the Marine Safety Council, U.S. Coast Guard Headquarters, Room 2110, 2100 Second St., S.W., Washington, D.C., between the hours of 8 a.m. and 4 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Peter L. Randall, Office of Merchant Marine Safety (202) 426-2296.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include their name and address, identify this notice as CGD 81-030, identify the specific section of the proposal to which the comment applies, and give the reason for the comment.

All comments received before the expiration date of the comment period will be considered before final action is taken on this proposal. No public hearing is planned. One may be held if requested by anyone raising a genuine issue.

Drafting Information

The principal persons involved in drafting this rulemaking are: LT Peter L. Randall, Office of Merchant Marine Safety, and Michael N. Mervin, Office of the Chief Counsel.

Discussion of Proposed Regulations

a. Background

(1) The vital machinery and engineering spaces of commercial vessels are automated for a variety of reasons, including operator convenience, increased efficiency, the reduction or elimination of the need for operators to be continuously present, and the detection and control of unsafe conditions. Most automation is provided at the option of the owner of the vessel to reduce necessary manning and increase operating efficiency, thereby reducing operating costs. Over the life of a vessel, the savings resulting from these reduced operating costs usually exceed the capital investment cost of the automation.

(2) The Code of Federal Regulations does not address technical criteria for the safe and reliable automation of vital systems on commercial vessels. For the last 20 years, the Coast Guard has issued a series of Navigation and Vessel Inspection Circulars (NVICs) to express its policy and provide guidance for the cognizant Officer in Charge, Marine Inspection in an effort to ensure a general level of safety on automated vessels at least equal to that experienced on vessels that are not automated. Currently, the primary circular for self-propelled vessels other than small passenger vessels and offshore supply vessels is NVIC 1-69, "Automated Main and Auxiliary Machinery." This NVIC was issued in January 1969 as a result of Coast Guard and industry experience with the automation technology and steam propulsion systems prevalent in the 1960's. Worded as the "judgement of the Coast Guard" in the context of 46 U.S.C. 222 (now 46 U.S.C. 8101), it provides guidelines for equipment design, maintenance, and testing. It also specifies the equipment and procedures deemed necessary to qualify for reduced engineroom manning and emphasizes that safety must not be compromised as a result of either automation or associated reductions in manning. While many of the underlying concepts of the NVIC have stood the test of time and are consistent with the international views on safe and reliable automation, it lacks guidance and flexibility applicable to new technologies, configurations, and propulsion systems, particularly diesel engines and electronics. The Coast Guard has used internal policy statements and interpretations to address these deficiencies. The existence of these numerous guidelines in nonregulatory form has at times caused confusion in the marine industry and resulted in nonuniform application, misinterpretation, and unnecessary additional costs to the industry.

(3) In 1974, the United States participated in the development of the International Convention for the Safety of Life at Sea (SOLAS '74), which was developed under the auspices of the Inter-governmental Maritime Consultative Organization (IMCO). (In 1982, IMCO changed its name to International Maritime Organization, IMO), SOLAS '74 was ratified by the United States on September 7, 1978, and entered into force internationally on May 25, 1980. The first set of amendments to SOLAS '74, including automation regulations, were adopted at the Forty-fifth session of the Maritime Safety Committee (MSC) of IMCO in November, 1981. Under the amendment procedures of SOLAS '74, the contracting governments, including the United States, accepted the amendments on March 1, 1984. These amendments entered into force internationally on September 1, 1984. The United States actively participated at all levels of development of the SOLAS '74,

amendments and the document that comprised the automation requirements, Resolution A.325 (IX). Public comment was invited and the marine industry participated in all aspects of the development of the United States' position . The SOLAS '74, amendments are generally consistent with that position; however, they require substantial interpretation and augmentation by the Coast Guard if they are to be applied in a uniform and fair manner to the U.S. commercial fleet.

(4) In 1981, the Coast Guard initiated a regulatory project, CGD 81-030, to update and replace NVIC 1-69, to incorporate IMCO Resolution A.325(IX), and to solicit public comment before publishing regulations. In 1983, difficulties in the evaluation of foreign flag vessels being brought under the U.S. flag further accentuated the need for revised Coast Guard automation requirements. As a result, NVIC 6-84, "Automated Main and Auxiliary Machinery, Interim Guidance On," was published on June 25, 1984, to provide immediate interim guidance on the application of the SOLAS amendments and NVIC 1-69 until final rules are promulgated.

b. Issues Addressed

(1) *Safety.* The marine industry, the Coast Guard, and the member nations of IMO recognize that automated vital system failures are a hazard to navigation and personnel. As an example, Coast Guard casualty records include several cases where remote propulsion throttle controls have failed, resulting in loss of control of the vessel and ensuing damage. In at least two cases on tankers, major disasters have been narrowly averted. In another case involving a tanker, throttle runaway resulted in over $600,000 in damages. As a second example, the Marine Board of Investigation concluded after the loss of the mobile offshore drilling unit (MODU) OCEAN RANGER and the associated loss of 84 lives in 1982 that inadequate or failed remote control and monitoring systems, *i.e.*, automation, were contributing factors in the casualty. In both of these examples, adequate safety regulations that might have been prevented the casualties did not exist.

(2) *Vessel Manning.* Automation is an issue of safe vessel manning as much as it is an issue of safe and reliable equipment. The Coast Guard is charged by 46 U.S.C. 8101 with determining the complement of licensed officers and crew necessary for safe operation of a vessel. While 46 CFR Part 157.20-35 states the degree of automation that must be taken into account in determining the minimum number of licensed engineers required for the safe operation of a vessel, the technical criteria for making this determination is contained in NVICs 1-69 and 6-84, which are inadequate and nonregulatory.

(3) *Lack of Regulatory Requirements.* One of the reasons most commonly cited by all interested parties as the need for automation safety regulations are the lack of clear regulations and the inadequacy of NVICs 1-69 and 6-84.

(4) *SOLAS.* The SOLAS amendments leave certain detailed requirements and interpretations to the discretion or satisfaction of the "Administration," *i.e.*, the Coast Guard. Certain SOLAS provisions are also more stringent than previous requirements for U.S. flag vessels. An example of this is SOLAS Regulation II-1/31.2.7, which requires propulsion throttle systems to fail to a preset speed and direction.

(5) *Technological Advances.* The state of the art of marine automation has advanced from steam plants and elementary controls and instrumentation to the diesel and hybrid plants, distributed automatic controls, and the microprocessor control and monitoring technologies prevalent today. This developmental trend is expected to continue and should be taken into account by automation regulations.

(6) *Safety Evaluation Complexity.* The details of an automated machinery plant depend upon the design of the machinery, its arrangement, and the automation technology (electronic, electric relay, pneumatic, hydraulic, mechanical, etc.) employed. The combination of these factors often makes the details of an automation system unique to a given vessel or class of vessels. This uniqueness and complexity in turn make it difficult to evaluate the safety and reliability of automated vessels.

(7) *Applicability.* The increasing use of automation and casualties such as OCEAN RANGER indicate a need for automation standards for all vessels. SOLAS '74 and NVIC 1-69 were not developed to address certain systems or classes of vessels, such as mobile offshore drilling units (MODU's), non-self propelled vessels, dynamically-supported craft, or tanker overflow control systems. The applicability of standards derived from SOLAS and the NVIC to these vessels must be considered.

c. Alternatives Considered

The Coast Guard has considered the issues and the alternatives available and has chosen to propose safety performance standards that, to the greatest extent practicable, state the desired operation or function without addressing detailed design criteria. Presently, detail-intensive plan review and inspection of wiring, piping, and materials is conducted by the Coast Guard. The Coast Guard has found these techniques to be difficult, time consuming, and inadequate to evaluate the safety of modern automation. Parties involved in ship construction have incurred unnecessary costs because of misinterpretation of requirements and delays resulting from the complexity of the evaluation. Reflagging foreign flag vessels to the U.S. flag may be further complicated by a lack of necessary plans. Detailed plan review and inspection also requires significant expertise and familiarity with the technology used if evaluation of the safe and reliable operation of the automation is to be meaningful. As an example, detailed review of microprocessor-based systems is meaningless without review of the programming. As an alternative to detail evaluation, the Coast Guard proposes to "black box" certain major automation system components such as central control consoles. Rather than submit detailed plans and bills of materials, a failure analysis of the design and a self-certification of design compliance to certain marine environmental standards would be submitted to the Coast Guard for review. After Coast Guard approval and following installation, the performance of the automation would be confirmed by tests witnessed by the Coast Guard. This would allow initial evaluation of the system before completion of final design details, permit construction and installation to proceed, and allow evaluation of existing vessels that are modified or brought under initial inspection for certification. It also emphasizes the responsibility of the parties most familiar with any automation system, *i.e.*, the designer and manufacturer, to evaluate and certify the safety of the system. Finally, it provides a generic means of evaluation for the Coast Guard and industry that is particularly suited to performance standards and technological changes. This approach should reduce or eliminate time delays, misinterpretation, and associated costs.

d. Intent of Proposal

(1) *General.* As a result of the issues and alternatives considered, the Coast Guard intends the proposed rules to—

(i) provide flexible, performance-oriented standards to ensure acceptable minimum levels of safety, regardless of an automated vessel's degree of automation, the type of automation

technology, or the configuration employed;

(ii) ensure compliance of automated U.S. flag vessels with the international standards of safety promulgated by the SOLAS convention and the applicable IMO resolutions; and

(iii) emphasize the role of the marine industry, particularly in the areas of design, construction, and maintenance, in providing safe and reliable vessels.

(2) *Structure.* (i) A single set of automation regulations applicable to all vessels to which the Marine Engineering regulations apply should promote a uniform set of standards that can be easily understood and simplify the process of revision when necessary. It should also facilitate Coast Guard plans concerning future transfers of functions associated with the regulations to the American Bureau of Shipping or other non-government agencies.

(ii) The proposal can be broken into four major segments:

(A) An equivalency provision.

(B) General performance, reliability, and safety criteria for all automated systems.

(C) Specific criteria for specific types of systems, where provided.

(D) The minimum equipment and systems deemed necessary for various degrees of reduced manning.

Each of these segments is intended to build up the prior segment, *i.e.*, systems listed under the specific provisions must also meet the general criteria, and systems required for reduced manning must also meet applicable specific and general criteria.

(3) *Assumptions and Objectives.* (i) In developing the safety performance standards in this proposed rulemaking, the Coast Guard used several assumptions and basic objectives. These were derived from the Coast Guard's experience with automated vessels over the last 20 years.They are considered to be fundamental concepts that, in various degrees, are reflected in past and present Coast Guard, IMO/IMCO, and SOLAS policies and regulations for vessel safety. These basic assumptions are listed below.

Assumption (A) Regardless of how well designed, constructed, or operated any automated equipment is, it can fail castastrophically. While extensive and detailed design, quality control, and maintenance regulations may reduce the likelihood of a failure, a finite probability remains that a failure can occur. Regulations that attempt to completely prevent failure might in fact be counterproductive to safety, expensive, and burdensome to all parties. Therefore, it is prudent to assume that failures will occur and consider necessary safety contingencies.

Assumption (B) Localized flooding or fire can occur regardless of the precautions taken to prevent them. Such emergencies can disable vital system automation, make them inaccessible, and pose an immediate threat to the safety of the vessel and its crew. Therefore, it is prudent to provide alternative means of operation.

Assumption (C) The evaluaton of the safety of any automated vessel in light of the events described in Assumptions (A) and (B) should be limited to any single, non-concurrent failure or event and its logical effects. In light of the large number of concurrent combinations possible and the relatively low probability of their occurrence, it is impractical and burdensome to consider such combinations. It is, however, prudent and reasonable to consider the logical chain of events that could occur as a result of a single failure or event and to consider conditions that contribute to unsafe conditions.

Assumption (D) The safety of vessels with automated vital systems should be at least equal to that of a vessel with its vital systems under direct manual supervision.

(ii) Based on these assumptions, the proposed regulations are intended to meet the following objectives:

Objective (A) To the greatest extent practicable, the failure of automation or automated equipment should be safe (failsafe) and the foreseeable unsafe effects minimized by design. In a similar manner, the effects of a localized fire or flooding of safe control and operation should be minimized and localized.

Objective (B) A responsible member of the crew must promptly become aware of a failure, fire, or flooding, either directly from personal observation or indirectly from reliable instrumentation or alarms.

Objective (C) Upon becoming aware of a failure, fire, or flooding, the crew must have an alternate, effective means available to operate the vessel safely and to counteract the effects of failure, fire, or flooding.

Objective (D) The crew must know how to operate the automated system. Similarly, the operation of the system must be clear and obvious to the crew.

Objective (E) There must be indication at operator control locations of the safe, or unsafe, state of operation of the equipment controlled from that location.

(iii) A failure scenario was developed that describes the intended sequence of events deemed desirable to attain the primary goal of this proposed rulemaking, i.e. safety. The scenario includes options that depend upon the nature of the automation, manning of the vessel, and its operation. It is a development upon the aforementioned assumptions and objectives, and includes the following sequence of events:

Event (A) The vessel is underway in normal operation, with spaces and machinery status monitored by crewmembers or automation.

Event (B) A single vital system or vital system component fails, or localized fire or flooding occurs.

Event (C) In the case of a vital system failure, it fails to a pre-determined safe state and the effects of the failure are minimized.

Event (D) A crewmember on duty promptly becomes aware of the failure, fire, or flooding.

Event (E) In the case of a vital system failure, either—

(i) the failed unit is automatically removed from service and replaced with a reliable, effective backup; or

(ii) a crewmember manually removes the failed unit from service and manually transfers to a reliable and effective alternate means of operation.

In the case of localized fire or flooding, either—

(i) the crew takes action locally to counteract the effects of the hazard, if the space and equipment are accessible and operable; or

(ii) the crew takes action from an alternate, remote location to counteract the effects of the hazard, if the space or equipment are not accessible or operable.

Event (F) The failure scenario ends with the vessel in continued or restored safe operation, even if at a reduced operational capacity.

(4) *Specific Regulations.*

Section 58.01–35 Main propulsion auxiliary machinery. This proposed rule is an interpretation of the SOLAS requirements referenced in Table I and is more stringent than existing Coast Guard guidelines that only address duplication of auxiliaries in unattended machinery spaces. It has been included in this proposal because it is fundamental to compliance with the performance standards of the proposed Part 62.

Section 61.40 Periodic Tests and Inspections. These tests are intended to make sure that automated systems initially operate in a safe and reliable manner and continue to do so during the service life of the vessel. They are similar to those currently described in NVIC 1–69. The Design Verification Tests in § 61.40–1 are intended to be more detailed and intensive than the

Periodic Safety Tests of § 61.40–6, in that they must confirm that all systems, when initially installed, function as required by the performance standards of Part 62 and as analyzed in the design failure analysis. The Periodic Tests then confirm continued operation of major safety systems and features on an annual or biennial schedule. On vessels where the Coast Guard has authorized reduced manning, the Periodic Tests are also intended to determine, in part, the adequacy of the required planned maintenance program and the adequacy of the manning levels under which the vessel has operated. Section 61.40–10(b) expands upon the present NVIC requirement in that it permits equivalent means of testing equipment.

Section 62.01–5(c) Applicability, Central Control Rooms. This paragraph is an interpretation of the SOLAS requirements referenced in Table I and is generally more stringent than past Coast Guard guidelines. Implicit in this interpretation is the assumption that a control room partially or completely isolates the operator from the machinery space environment. Certain essential monitoring and control functions, therefore, should be extended from the machinery space to the control room to provide a level of safety equivalent to that of an operator located in the machinery space itself.

Section 62.20 Plan Submittal. This subpart proposes several changes from past standards. Significant among these are a new requirement for a qualitative failure analysis of automated systems, the deletion of any implied or specified requirements for detailed circuit or piping plans for automation review purposes, the deletion of the requirement for a maintenance program approved by the Coast Guard, and provision for the self-certification of compliance with environmental design standards in lieu of plan review and laboratory testing.

Section 62.20–1 Plans for Approval. The submission of a qualitative failure analysis is intended to replace submission of detailed wiring and piping diagrams presently reviewed for safe system function and operation. Information necessary to confirm general compliance with the Marine Engineering and Electrical Engineering regulations will continue to be required by those subchapters, such as overcurrent protection, wiring and connection materials, and fluid power piping.

Section 62.20–3 Plans for Information. The approval of a planned maintenance program would no longer be a prerequisite for reduced manning. Its specific content would be up to the vessel's operator. The maintenance program will initially be used by the Coast Guard to aid in evaluation of requests for reduced manning. Once the vessel is in service, it is intended that re-inspection and the Periodic Safety Tests proposed by § 61.40 and witnessed by the Coast Guard will determine the adequacy of the maintenance program.

Section 62.25 General Requirements for All Automated Vital Systems. This proposed subpart is intended to provide a general performance and arrangement standard applicable to control and monitoring of any vital shipboard system.

Section 62.25 Programable Systems and Devices. These requirements are intended to prevent either the intentional or unintentional modification of required safety parameters on systems or equipment that readily lend themselves to adjustment or loss of function, such as process sensors and programable controllers. They are not intended to prohibit routine adjustments and calibration necessary for the normal and efficient operation of automatic controls or instrumentation.

Section 62.25–30 Environmental Design Standards. NVIC 1–69 states that specific component design standards for the marine environment would be developed as experience is gained. The proposed standards are considered by the Coast Guard to be the minimum environmental conditions for which equipment should be designed and constructed. These standards generally correspond to those of international technical bodies. Rather than require detailed and costly testing to these standards in an effort to confirm component suitability, the Coast Guard proposes to emphasize the reliable and safe function of the overall system, testing after installation, and manufacturer and designer certification of component suitability under §§ 62.20–5 and 65.25–30 of the proposal.

Section 62.30 Reliability and Safety Criteria, All Automated Vital System. Like proposed § 62.25, this subpart is intended to provide general performance standards applicable to any automated vital system.

Section 62.30–1 Failsafe. The failsafe operation of vital systems has long been a Coast Guard policy. In some cases, such as failure of propulsion controls to a preset speed and direction, the failsafe state is internationally definable and recognizable. In other cases, such as a microprocessor based system, the complexity or nature of the system may preclude the statement of a single preferred failsafe state. It is the intent of the proposal that each control and alarm system fail in a manner consistent with the overall safety of the vessel and personnel in light of the assumptions and failure scenario discussed in this notice. In most cases, the failure analysis proposed by § 62.30–10 will identify a preferred failsafe state.

Section 62.30–5 Independence. Independence of systems or equipment normally implies separate and discrete components. Complete duplication in this manner to provide reliability is costly, may not be necessary, or may be impractical. As the term independent is intended and used in this proposal, however, common reliable components could be used provided the performance criteria are met. An example is a system that provides for disconnection of a failed subsystem while allowing continued operation of the required function. This definition is proposed to allow arrangements that do not provide complete duplication but do provide a level of safety and reliability equivalent to complete duplication.

Certain types of systems would be required to be independent to conform to the assumptions and failure scenario discussed in this notice. Control system independence would be required to ensure availability of at least two means of control and to ensure availability of safety controls to prevent catastrophic failures. Alarms and instruments would be required to be independent of controls to ensure integrity of controls in the event of alarm or instrumentation failure and to make sure that monitoring systems indicate failure of a control system. Alarms and instrumentation for a system would not be required to be duplicated or independent of each other because they both serve the same purpose of monitoring the system, their failure would be indicated by their failsafe operation, and their failure would not preclude continued control of the system. Independence of primary and alternate control system sensors from monitoring sensors would be required to preclude the failure of a single component exposed to the harshest environment, i.e. the sensor, from causing loss of both control and monitoring functions.

Section 62.30–10 Failure Analysis. As the marine industry has incorporated advanced automation technologies such as electronics and microprocessors, it has become increasingly difficult, at times impossible, for the Coast Guard, ship owners/operators, and classification societies to evaluate safety by detailed plan review. To correct this problem, the proposed regulations would require that a failure analysis of each design be prepared and submitted by designers/manufacturers/

shipyards for evaluation in lieu of detailed design plans. A failure analysis is a tabular summary of the performance of a system under anticipated failure conditions, and is particularly suited for use with performance standards like the proposed rules. It requires evaluation of the safety of an automated system, in addition to the proper function of the system. It is estimated that for 70% of the vessels affected, a less extensive analysis would normally be prepared for classification society review, or a more extensive one would be prepared as part of the manufacturer's general design and engineering of the automation.

The failure analysis is intended to serve several purposes. First, it would provide a uniform procedure for the determination of equivalent safety in conjunction with the proposed § 62.15. Second, it would replace detailed Coast Guard plan review and inspection of circuitry designs and the associated delays in the delivery of vessels. In effect, the failure analysis submitted to the Coast Guard would be a self-certification that the system is designed and constructed to function in a specified safe manner. The Coast Guard would then evaluate the analysis and its assumptions and, if acceptable, confirm it during the Design Verification Tests of the proposed § 61.40. Third, it would provide all parties a generic evaluation of the safety and reliability of a system or vessel without requiring an in-depth knowledge of disciplines such as electrical or mechanical engineering. In conjuction with the proposed requirement for failsafe automation, it should anticipate problems with new designs and technologies and permit safe alternatives to be selected. Finally, failure analysis is an evaluation tool that can be used regardless of the automation techology employed, be it microprocessors, electromechanical relays, or pneumatics.

The Coast Guard does not intend numeric failure analysis to be conducted because of the lack of data and the cost of such analysis. Additionally, it is not intended that the failure analysis be performed to the extremely detailed level. Normally, the level of analysis would be to the major subsystem or major replaceable component level, such as a remote control subsystem, power supply, printed circuit card, or actuator.

Because failure analysis is performance oriented and not design detail oriented, industry designs can be changed with little or no change in safety, performance, or the failure analysis. As a result, the failure analysis developed for a previous similar or identical design could be re-used, and the cost estimated will decrease as the industry as a whole becomes more familiar with failure analysis techniques.

Section 62.35 Additional Requirements for Specific Types of Automated Vital Systems. This subpart is intended to augment the general performance and configuration requirements of proposed § 62.25 and § 62.30. It addresses safety criteria peculiar to specific systems or equipment that might be automated on a vessel.

Section 62.35–20 Oil-Fired Main Boilers. These proposed rules have drawn heavily from the existing guidelines of NVIC 1–69, Coast Guard casualty files, and ANSI/NFPA Standard 85D–1978, "Prevention of Furnace Explosions In Fuel Oil-Fired Multiple Burned Boiler-Furnaces." (The latter is a consensus industry standard that can be obtained from the National Fire Protection Association, Inc., Batterymarch Park, Quincy, MA 02269). Proposed changes from NVIC 1–69 include automatic safety trip controls for all main boilers to prevent major boiler failures, greater emphasis on boiler air flow to prevent explosive conditions, a reduction in allowable trial for ignition time to prevent explosive conditions, and prohibition of certain automatic functions following boiler safety shutdowns.

Table 62.35–50 Minimum System Monitoring and Safety Control Requirements for Specific Systems. This table is intended to summarize in a single location the minimum instrumentation, alarms and safety controls deemed necessary by the Coast Guard for specific types and categories of automated equipment. Every effort has been made to reflect present industry practice, particularly in the area of diesel engines. Certain services listed have been generalized, such as listing diesel engine coolant as a generic service instead of listing piston coolant, cylinder cooling water, and fuel valve coolant separately. This action has been taken to eliminate listing system requirements that might not be applicable to a given installation while retaining the intent of the requirement. A number of status indicators have been eliminated from the corresponding Table 1 of NVIC 1–69. If, for example, monitoring of cooling system pressure is listed, there is no listing for cooling system pump status, as operation of the pump will be evident from the system pressure instrumentation.

Section 62.50 Automated Self-propelled Vessel Manning. This subpart is intended to address the minimum systems, configurations, and maintenance necessary for a vessel to be eligible for reduced manning. The requirements of this subpart would be in addition to the rest of the technical requirements of the proposed Part 62. The references to specific levels of manning and watchstanders presently in NVIC 1–69 have been deleted, as they have resulted in misinterpretation and confusion. The proposed rules are intended to establish technical criteria to be used by the Officer in Charge, Marine Inspection in determining the minimum complement of licensed officers and crew necessary for the safe operation of vessels. Actual manning levels usually exceed the Coast Guard's minimum required complement and are usually subject to agreement between a vessel's labor and management interests. Failure of the automated equipment to perform in accordance with the provisions of the proposal would result in the Coast Guard adjusting the minimum complement.

Section 62.50–20 Additional Requirements for Minimally Attended Machinery Plants. These requirements are intended to address vessel machinery plants and spaces that are automated, but not to a degree where the plant could safely be left unattended. Emphasis is placed on the centralized remote control and monitoring of the machinery plant and machinery spaces and the assumptions and failure scenario discussed in this notice.

Section 62.50–20(1) Maintenance Program. Where automation is provided to reduce manning, there is a greater need for planned maintenance. This occurs because of a potential reduction in the maintenance work force, an increase in the sophistication and quantity of equipment to be maintained, and the reliance of the crew upon the automated equipment.

The Coast Guard therefore considers it necessary to require automated vessels to have a planned maintenance program. As the content of such a program varies with vessel type, trade, route, manning, and similar factors, the proposed rules leave program content and implementation up to vessel management. The Coast Guard would evaluate the actual effectiveness of the program during the trial period and reinspections and would then determine the adequacy of the program and manning.

Section 62.50–30 Additional Requirements for Periodically Unattended Machinery Plants. These requirements are intended to address

machinery plants and spaces that are automated to the degree that they are self-regulating and self-monitoring and could safely be left periodically unattended. Emphasis is placed on providing systems that act automatically until the crew can take action in the event of a failure or emergency. As presently required by the Coast Guard, the proposed requirements for a periodically unattended machinery plant would be in addition to those of a minimally attended machinery plant. This permits the crew to operate the plant directly should the arrangements for unattended operations prove unsatisfactory, for whatever reason.

Section 62.50–30(h) Fire Control Station. The proposed rule would change the guidance of NVIC 1–69 that the bilge system should be controlled from the fire control station. This change was considered in light of the SOLAS amendments and the Title 46 regulations for machinery space fire fighting and bilge system arrangements. The Coast Guard does not consider it reasonable to expect a bilge pump located in a space damaged by fire and firefighting water to operate, nor is it considered necessary to require remote control of pumps that are independent of the space in which there has been a fire. The proposed rule is not intended to preclude control of the bilge system from the engineering control center (ECC).

Section 62.50–30(l) Continuity of Electrical Power. The proposed rule, in consideration of SOLAS II–1/53.2, which requires automatic standby power for the main switchboard, and 46 CFR 111.1–05–3, which prohibits automatic feedback by the main-emergency bustie, would no longer permit use of the emergency generator as the automatic standby source of electrical power.

Reference Tables. (1) Table I is provided for convenience in comparing the proposed regulations to existing regulations and guidelines. It lists the proposed regulations and the corresponding provisions in NVIC 1–69, SOLAS, and Title 46 of the Code of Federal Regulations. Similarly, Table II lists the existing provisions of NVIC 1–69 and the proposed regulations that correspond to them. These tables include certain abbreviations:

NVIC—Navigation and Vessel Inspection Circular 1–69 and its enclosure.

SOLAS—1981 Amendments to the International Convention for the Safety of Life at Sea, 1974.

(2) Some proposed regulations have more than one reference. For example, the references for proposed § 62.25–10 are NVIC C.2.(a); SOLAS II/1/31.4. These notations indicate that the proposal is comparable or has been derived in part from both sources, *i.e.*, that part of the proposal is similar to NVIC 1–69 paragraph C.2.(a) and that part of it is based upon SOLAS Regulation II/1/31.4.

TABLE I

Proposed regulation	Reference
52.01–10(a)	Old § 52.01–10(a).
56.50–80(i)	NVIC E.2.(d).
58.01–35	SOLAS II–1/26.2, 26.3, 26.4; NVIC E.2., E.5.
61.40–1	SOLAS II–1/31.3, 46.2.
61.40–1(a)	NVIC J.1.
61.40–1(b)	NVIC J.4.
61.40–1(c)	NVIC J.3.
61.40–3(a)–(b)	NVIC J.1., J.2.c.
61.40–6(a)	NVIC J.1.
61.40–6(b)	NVIC J.1.
61.40–10(a)	NVIC J.2.a.
61.40–10(b)	NVIC J.2.b.
61.01–1	NVIC Purpose; SOLAS II–1/31.3, 46.1.
62.01–3(a)	NVIC; SOLAS II–1/31.3, 46.1.
62.01–5(a)–(b)	New.
62.01–5(c)	SOLAS II–1/31.3, II–2/11.8.2.
62.05–1(a)–(b)	New.
62.10–1(a)	New.
62.15–1(a)	New.
62.20–1	NVIC B.
62.20–1(a)	NVIC B.1.
62.20–1(a)(1)	NVIC B.1.(b).
62.20–1(a)(2)	NVIC B.1.(e).
62.20–1(a)(3)	NVIC B.1.(c), C.5.(1).
62.20–1(a)(4)	New.
62.20–1(a)(5)	NVIC B.1.(a), B.1.(d).
62.20–1(a)(6)	NVIC B.1.(a), B.1.(c).
62.20–1(a)(7)	NVIC B.1.(a), B.1.(c), B.1.(g), C.5.(2).
62.20–1(a)(8)	NVIC B.1.(g), C.5.(2), J; SOLAS II–1/31.3, 46.2.
62.20–1(a)(9)	NVIC B.1.(g), C.5.(1).
62.20–3	NVIC B., I; SOLAS II–1/31.3, 46.2.
62.20–3(a)(1)	NVIC B.1.(a).
62.20–3(a)(2)	NVIC B.1.(g), C.5.(3), I SOLAS II–1/31.3, 46.
62.20–5	NVIC B.1.(d), C.4; SOLAS II–1/26.6.
62.25–1(a)(1)	NVIC D.1.; SOLAS II–1/31.1.
62.25–1(a)(2)	NVIC C.2.(a); SOLAS II–1/31.4
62.25–1(a)(3)	NVIC D.2.(e), D.3., D.4., E.7., F.1.(a), F.7.(a); SOLAS II–1/27.1, 27.5, 32.2, 52.
62.25–1(a)(4)	NVIC E.1(a), E.7.
62.25–1(a)(5)(i)	NVIC Discussion E.7.(i); SOLAS II–1/51, 53.
62.25–1(a)(5)(ii)	NVIC E.7.(i).
62.25–1(b)	NVIC C.5.(1).
62.25–1(c)	New.
62.25–1(d)	SOLAS II–1/26.2, 26.3
62.25–5(a)	SOLAS II–1/31.2.5.
62.25–5(b)	NVIC Table 1.
62.25–5(c)	NVIC D.1.; SOLAS II–1/31.1.
62.25–5(d)	NVIC F.1.(b).
62.25–10	NVIC C.2.(a); SOLAS II–1/31.4.
62.25–10(a)(1)	NVIC C.2.(a); SOLAS II–1/31.4.
62.25–10(a)(2)	New.
62.25–10(a)(3)	NVIC C.2.(c).
62.25–10(a)(4)	NVIC C.2.; SOLAS II–1/31.4.
62.25–10(b)	New.
62.25–15	SOLAS II–1/27.5.
62.25–15(a)	NVIC F.7.(e), Table 1.
62.25–15(b)	New.
62.25–15(c)	NVIC E.7., F.8.(b); SOLAS II–1/52.
62.25–15(d)	New.
62.25–15(e)(1)	SOLAS II–1/27.5, 52.
62.25–15(e)(2)	NVIC D.2.(o), F.5.(b).
62.25–15(f)	SOLAS II–1/27.1
62.25–20(a)	NVIC C.3.(a), C.3.(d), E.7.(l), Table 1.
62.25–20(b)(1)	NVIC E.7.(a), SOLAS II–1/53.4.4.
62.25–20(b)(2)	NVIC E.7.(f).
62.25–20(b)(3)	E.7.(a).
62.25–20(b)(4)	NVIC E.7.(a); SOLAS II–1/53.4.4.
62.25–20(b)(5)	E.7.(b).
62.25–20(c)	E.7.(b).
62.25–20(d)(1)	NVIC E.7.(c), (h).
62.25–20(d)(2)	New.
62.25–20(d)(3)	SOLAS II–1/53.4.2.

TABLE I—Continued

Proposed regulation	Reference
62.25–20(d)(4)	New.
62.25–20(d)(5)	New.
62.25–20(d)(6)	NVIC E.7.(d), D.2.(d), SOLAS II–1/31.2.7, 49.5.
62.25–20(e)(1)(i)	NVIC E.7.(c).
62.25–20(e)(1)(ii)	SOLAS II–1/51.2.1.
62.25–20(e)(1)(iii)	NVIC E.7.(e).
62.25–20(e)(1)(iv)	New.
62.25–20(e)(1)(v)	NVIC E.7.(c); SOLAS II–1/51.31.1.
62.25–20(e)(1)(vi)	NVIC E.7.(c); SOLAS II–1/51.31.2.
62.25–20(e)(1)(vii)	NVIC E.7.(c).
62.25–20(e)(1)(viii)–(ix)	NVIC E .7.(c).
62.25–20(e)(2)	New.
62.25–20(e)(3)	New.
62.25–20(f)(1)	NVIC E.7.(a).
62.25–20(f)(2)	NVIC E.7.(a), E.7.(b); SOLAS II–1/51.1.1.
62.25–20(g)(1)–(g)(3)	New.
62.25–25(a)	New.
62.25–25(b)	New.
62.25–25(c)	New.
62.25–25(d)	NVIC C.5., J.3.
62.25–30	NVIC C.4.; SOLAS II–1/26.1.
62.25–30(a)(1)	SOLAS II–1/26.6.
62.25–30(a)(2)–(a)(5)	New.
62.25–30(b)	NVIC C.4.
62.30–1	New.
62.30–1(b)	NVIC F.1.(a), F.5.(c), D.2.(d), F.5.(f), E.7.(d); SOLAS II–1/31.2.7, 49.5, 51.4.
62.30–5(a)	NVIC C.2, E.7(f); SOLAS II–1/26.4.
62.30–5(b)	NVIC C.2.(a), C.2.(b), SOLAS II–1/27.5, 31.4.
62.30–5(c)	NVIC E.1.(a); SOLAS II–1/26.2, 26.3, 26.4, 51.2.1, 51.2.2.
62.30–5(c)(1)	New.
62.30–5(c)(2)	New.
62.30–5(c)(3)	NVIC E.1.(a).
62.30–5(d)	NVIC E.3.(b); SOLAS II–1/21.2.3.; SOLAS II–1/3.3, 4.3.3, 4.6.3, 4.9, 5.1.7, 8.2.
62.30–10(a)–(b)	New.
62.30–15(a)	NVIC J.1.; SOLAS II–1/31.3, 46.2.
62.30–15(b)	New.
62.30–1(a)	NVIC Table 1.
62.35–1(b)	NVIC D.1., F.1.(a).
62.35–5	NVIC D.
62.35–5(a)	SOLAS II–1/31.2.6.
62.35–5(b)	NVIC C.2.(e); SOLAS II–1/31.2.6.
62.35–5(c)(1)(i)	NVIC D.2.(a); SOLAS II–1/31.2.1.
62.35–5(c)(1)(ii)	NVIC D.3.; SOLAS II–1/31.2.3.
62.35–5(c)(1)(iii)	NVIC D.2.(a); SOLAS II–1/31.2.8.
62.35–5(c)(1)(iv)	NVIC D.5.; SOLAS 31.2.4, 37.
62.35–5(c)(1)(v)	NVIC D.2.(c).
62.35–5(c)(2)	NVIC D.2.(c); SOLAS II–1/31.2.5.
62.35–5(c)(3)	NVIC Table 1.
62.35–5(d)(1)	NVIC D.1., D.2.(a); SOLAS II–1/31.2.2.
62.35–5(d)(2)	NVIC D.4., Table 1.
62.35–5(d)(3)	NVIC Table 1; SOLAS II–1/31.2.2.9.
62.35–5(e)(1)	NVIC D.2.(b), C.2.; SOLAS II–1/31.2.5.
62.35–5(e)(2)	NVIC D.2.(c); SOLAS 31.2.5, 31.4.
62.35–5(e)(3)	SOLAS II–1/31.2.5.
62.35–5(f)(1)	NVIC D.2.(f).
62.35–5(f)(2)	SOLAS II–1/27.5.
62.35–5(f)(3)	NVIC D.2.(e); SOLAS II–1/27.5, 52.
62.35–5(f)(4)	SOLAS II–1/31.2.7.
62.35–10(a)	NVIC E.4.; SOLAS II–1/31.3, 48.2.
62.35–10(b)	NVIC E.4.(e); SOLAS II–1/31.3, 48.3.
62.35–10(c)	NVIC E.4.; SOLAS II–1/31.3, 46.2.
62.35–15(a)	NVIC E.3.(a); Table 1.
62.35–20	NVIC F.
62.35–20(a)(1)	New.
62.35–20(a)(2)	NVIC C.2., F.8.(g).
62.35–20(a)(3)	NVIC F.1.(a).
62.35–20(a)(4)	NVIC F.1.
62.35–20(a)(5)	NVIC F.1.(a), F.1.(c), F.6.(a), F.6.(b).
62.35–20(a)(6)	NVIC F.6.(h).
62.35–20(b)	NVIC F.3.
62.35–20(c)	NVIC F.2.
62.35–20(d)	NVIC F.1.(a), F.5., F.6.
62.35–20(d)(1)	NVIC F.6.(c).
62.35–20(d)(2)(i)	NVIC F.6.(f).
62.35–20(d)(2)(ii)	New.
62.35–20(d)(2)(iii)	NVIC F.6.(e).
62.35–20(d)(2)(iv)	New.
62.35–20(d)(2)(v)	NVIC F.6.(g).

TABLE I—Continued

Proposed regulation	Reference
62.35-20(d)(3)(i)	NVIC F.6.(b).
62.35-20(d)(3)(ii)	New.
62.35-20(e)	NVIC F.4., F.5.(a).
62.35-20(f)	NVIC F.4.(a).
62.35-20(g)	NVIC F.5.(a).
62.35-20(h)(1)	NVIC F.5.(a); SOLAS II-1/32.2.
62.35-20(h)(2)(i)	NVIC F.5.(a); SOLAS II-1/32.2.
62.35-20(h)(2)(ii)	NVIC F.7.(a); SOLAS II-1/32.2.
62.35-20(h)(2)(iii)	NVIC F.4.(b).
62.35-20(h)(2)(iv)	NVIC F.5.
62.35-20(i)(1)	NVIC F.7.(a).
62.35-20(i)(1)(i)	NVIC F.4.(b); SOLAS II-1/32.2.
62.35-20(i)(1)(ii)	NVIC F.7.(c); SOLAS II-1/32.2.
62.35-20(i)(1)(iii)	NVIC F.5.(c).
62.35-20(i)(1)(iv)	New.
62.35-20(i)(1)(v)	NVIC F.5.(a); F.4.(a)(1); SOLAS II-1/32.2.
62.35-20(i)(2)	NVIC F.7.(b).
62.35-35(a)	New.
62.35-35(b)	NVIC F.7.(i), E.1.(a).
62.35-40(a)	New.
62.35-40(b)	New.
62.35-40(c)	SOLAS II-2/15.5.3.
62.35-40(d)	SOLAS II-2/15.5.2.
62.35-50(a)	NVIC Table 1.
62.50-1(a)	NVIC Discussion; SOLAS II-1/31.3, 46.1.
62.50-1(b)	NVIC Discussion, I.
62.50-1(c)	New.
62.50-20	NVIC Discussion; SOLAS II-1/31.3.
62.50-20(a)(1)	NVIC A.1.(b); SOLAS II-1/31.3, 49.
62.50-20(a)(2)	NVIC Discussion; E.1.(a), A.1.(b), F.1.(c), E.7.(a); SOLAS 31.3, 53.4.
62.50-20(a)(3)	NVIC Discussion, A.1.(b), E., F.
62.50-20(a)(3)(i)	NVIC A.1.(b), E.1.(a); SOLAS II-1/31, 31.3, 49.
62.50-20(a)(3)(ii)	NVIC G.2.; SOLAS II-1/53.4.
62.50-20(a)(3)(iii)	SOLAS 31.3.
62.50-20(a)(3)(iv)	NVIC E.4.(a), E.6.(a); SOLAS II-1/31.3, 48.
62.50-20(a)(4)	NVIC A.1.(b), E.1.(a), E.2.(b), G.1.
62.50-20(b)(1)	NVIC C.3.(g).
62.50-20(b)(2)	NVIC E.7, C.3.; SOLAS II-1/51, 53.
62.50-20(b)(3)	New.
62.50-20(c)	SOLAS II-2/2.2.4, 14.2, 11.8, 14, 13; SOLAS II-1/31.3.
62.50-20(d)(1)	NVIC E.3.(a); SOLAS II-1/31.3; SOLAS II-2/11.7.
62.50-20(d)(2)	NVIC E.3.(c); SOLAS II-1/31.3; SOLAS II-2/4.3.4.3, 4.
62.50-20(e)	NVIC E.1.(c); SOLAS II-1/31.3; SOLAS II-2/5.1.7, 8.2.
62.50-20(f)(1)	NVIC E.4.(a), E.4.(b); SOLAS II-1/31.3, 48.1.
62.50-20(f)(2)	NVIC E.4.(a).
62.50-20(f)(3)	NVIC E.6.(a).
62.50-20(g)(1)	NVIC C.3.(a), C.3(f).
62.50-20(g)(2)	SOLAS II-1/31.3, 50.
62.50-20(h)(1)	NVIC G.1.
62.50-20(h)(2)	NVIC E.1.(a), G.2.
62.50-20(h)(3)	New.
62.50-20(i)(1)-(i)(2)	SOLAS II-1/31.3, 46.2.
62.50-20(i) (3)	New.
62.50-30(a)	NVIC Discussion, A.1.(c); SOLAS II-1/53.
62.50-30(b)	NVIC E.5.(a), A.1.(c); SOLAS II-1/5.2.1, 53.3.
62.50-30(c)	NVIC Table 1; SOLAS II-1/53.4.
62.50-30(d)	SOLAS II-1/53.5, 53.4.
62.50-30(e)	NVIC C.3.(c); SOLAS II-1/51.1.5.
62.50-30(f)	NVIC C.3.(e); SOLAS II-1/51.1.2, 51.1.3, 53.4.3.
62.50-30(g)	NVIC Discussion, E.7.; SOLAS II-1/51.1.1, 53.4.3.
62.50-30(h)	NVIC H.1.(b); SOLAS II-2/3.22, 11.7, 11.5, 11.8.
62.50-30(i)	SOLAS II-2/15.5.1.
62.50-30(j)	NVIC E.4.(a).
62.50-30(k)	NVIC I; SOLAS II-1/46.2, .3.
62.50-30(l)	NVIC G.3.; SOLAS II-1/53.2, 53.4.
110.25-1(i)-(n)	Old 110.25-1(k)—(p).
111.01-9(a)	Old § 111.01-9.
111.01-9(b)	New.
111.12-11(j)	New.
111.54-3	NVIC C.2.(a).
113.35-3(f)	New.

TABLE II

NVIC 1-69	Proposed regulation, 46 CFR
A.1-A.2	62.50.
B.1	62.20-1(a).
B.1.(a)	62.20-1(a), 62.20-3(a)(i).
B.1.(b)	62.20-1(a)(1).
B.1.(c)	62.20-1(a)(3), (4), (7), (10).
B.1.(d)	62.20-1(a)(6); 62.20-5.
B.1.(e)	62.20-1(a)(2).
B.1.(f)	Deleted.
B.1.(g)	62.20-1(a)(8), (9); 62.20-p3(a)(2).
C.1	62.01-5.
C.2.(a)	62.25-1(a)(2); 62.25-10(a); 62.30-1; 62.30-5(a), (b), (c); 62.30-10(a); 62.35-5(b); 62.35-20(a)(2).
C.2.(b)	62.25-1(a)(1), 62.25-10; 62.25-20(b); 62.30-1(a), (b); 62.30-5(a), (b), (c), (e); 62.30-10; 62.35-5(b); 62.35-20(a)(2).
C.2.(c)	62.25-10(a)(1), (3), (5).
C.3.(a)	62.25-1(a)(5); 25-20; 62.35-50; 62.50-20(g).
C.3.(b)	113.27; 62.25-20(d)(1).
C.3.(c)	62.50-30(e).
C.3.(d)	62.25-1(a)(5); 62.25-20(a), (d), (e), (f), (g); 62.35-50.
C.3.(e)	62.50-30(f).
C.3.(f)	62.50-20(g).
C.3.(g)	62.50-20(b).
C.4	62.20-5; 62.25-30.
C.5	62.20-1(a)(8), (9); 62.50-20(i); 62.30-15.
D.1	62.25-1(a)(1); 62.25-5(c); 62.35-1(b); 62.35-5(d)(1).
D.2.(a)	62.35-5(c)(1)(i).
D.2.(b)	62.35-5(e)(1).
D.2.(c)	62.35-5(e)(2); 62.35-5(c)(2); 62.25- 5(a).
D.2.(d)	62.25-5(d); 62.20-1; 62.30-10; 62.35-5(f)(4).
D.2.(e)	62.25-1(a)(3); 62.25-15; 62.35-5(f)(3).
D.2.(f)	62.35-5(f)(1).
D.2.(g)	62.35-5(c)(1)(iii).
D.3	62.35-1(a)(3); 62.25-5(a); 62.25-15; 62.35-5(c)(ii); 62.30.
D.4	62.35-5(d)(2).
D.5	62.25-10(b); 62.35-5(c)(iv); 113.35-3(f).
E.1.(a)	62.25-1(a); 62.25-20(a), (b), (f), (g); 62.35-5(c); 62.50-20(a), (b); 62.50-30(a); 62.30-5(c).
E.1.(b)	Deleted.
E.1.(c)(1)	62.50-20(e).
E.1.(c)(2)	Deleted.
E.1.(c)(3)	Deleted.
E.1.(c)(4)	Deleted.
E.1.(c)(5)	62.50-20(e).
E.1.(c)(6)	62.50-20(e).
E.2	62.30.
E.2.(a)	58.01-35.
E.2.(b)	62.50-20(a).
E.2.(c)	62.50-20(a); 62.50-30(b).
E.2.(d)	56.50-80(h).
E.3.(a)	62.30-5(e); 62.35-15; 62.50-20(d).
E.3.(b)	62.30-5(e); 62.50-20(d).
E.3.(c)	62.35-15; 63.50-20(d).
E.4.(a)	62.50-20(f); 62.50-30(j).
E.4.(b)	62.35-10(a); 62.30-1; 62.30-5(a), (b), (c), (e).
E.4.(c)	62.35-10(a).
E.4.(d)	62.35-10(a).
E.4.(e)	62.35-10(b).
E.5.(a)	58.01-35; 62.30; 62.50-20(a), (h); 62.50-30(b).
E.6.(a)	62.50-20(f)(3).
E.7.(a)	62.25-1(a)(4), (5); 62.25-20; 62.35-50; 62.50-20(a), (b); 62.50-30(a).
E.7.(b)	62.25-20(b)(5), (c); 62.25-11(a)(4), (5); 62.25-20(a).
E.7.(c)	62.10-1; 62.35-20(e).
E.7.(d)	62.30-1.
E.7.(e)	62.25-20(e)(iv).
E.7.(f)	62.25-20(d).
E.7.(g)	Deleted.
E.7.(h)	62.25-20(d).
E.7.(i)	62.35-50; 62.15; 62.50-20(a), (b).
Table 1	Table 62.35-50.
F.1.(a)	62.35-1(b); 62.35-20(a)(3), (4); 62.25-1(a); 62.25-15(a), (b), (c), (d), (e); 62.30-1; 62.30-5(a), (b), (c); 62.30-10.

TABLE II—Continued

NVIC 1-69	Proposed regulation, 46 CFR
F.1.(b)	62.25-5(d); 62.30.
F.1.(c)	62.35-20(a); 62.50-20(a).
F.2	62.35-20(a), (c); 62.35-50.
F.3.(a)	62.35-20(b).
F.4.(a)	62.35-20(f), (i).
F.4.(b)	62.35-20(h)(2)(iii).
F.5.(a)	62.35-20(g), (h).
F.5.(b)	62.25-15; 62.35-20(h).
F.5.(c)	62.30-1; 62.30-10.
F.5.(d)	62.25-15(e); 62.25-10(a)(5); 62.35-20(a), (d).
F.5.(e)	62.25-15(e); 62.25-10; 62.35-20(h).
F.5.(f)	62.30-1.
F.6.(a)	62.35-20(a)(5).
F.6.(b)	62.35-20(a)(1), (5); 62.35-20(d).
F.6.(c)	62.35-20(d)(1).
F.6.(d)	Deleted.
F.6.(e)	62.35-20(d)(2).
F.6.(f)	62.35-20(d)(2); 62.50-20(a)(4).
F.6.(g)	62.35-20(d)(2).
F.6.(h)	62.35-20(a)(6).
F.6.(i)	62.35-20(c)(ii); 62.25-15(a), (b); 62.25-5(c).
F.7.(a)	62.25-15; 62.35-20(a), (d), (h), (i).
F.7.(b)	62.35-20(a); 62.30-5(a), (b).
F.7.(c)	62.35-20(i); 62.30-5(a), (b).
F.7.(d)	Deleted.
F.7.(e)	62.15.
F.8.(a)	62.25-20.
F.8.(b)	62.25-15(c), (e)(2).
F.8.(c)	62.30-5(b); 62.10-1(a); 62.25-20(a).
F.8.(d)	62.35-20(h); 62.25-15(e)(1); 62.35-20(a).
F.8.(e)	62.35-20(i); 62.30-5(a), (c); 62.35-50.
F.8.(f)	62.35-50.
F.8.(g)	62.25-20; 62.35-20(a)(2).
G.1	62.50-20(a)(2), (a)(3), (a)(4), (h)(1).
G.2	62.50-20(a)(2), (a)(3), (a)(4), (h); 62.25-20(g).
G.3	62.50-30(1).
G.3.(a)	62.50-30(1).
G.3.(b)	58.01-35; 62.30.
G.3.(c)	62.50-30(1).
H.1	62.01-5(b)(5), (c); 62.25-20(d); 62.30-5(d); 62.25-5(a); 62.30-10; 62.35-15; 62.35-50; 62.50-20(a), (c), (d), (e).
H.1.(a)	61.40; 62.00-5(b)(5), (c); 62.25-20(d)95); 62.35-50; 62.50-20(a), (c); 62.50-30(a); 62.30-15.
H.1.(b)	62.50-30(h); 62.10-1(a).
I	62.20-3(a); 62.50-20(i); 62.50-30(k).
J.1	62.30-15(a); 61.40-1(a); 61.40-6(a), (b).
J.2.(a)	61.40-10(a).
J.2.(b)	61.40-10(b).
J.3	61.40-1(c).
J.4	61.40-1(b).

Evaluation and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 and non-significant under the DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). A draft regulatory evaluation has been prepared and placed in the rulemaking docket established for this proposal. As explained in the evaluation, the economic impact of this proposal can only be stated as an estimate at this time. The Coast Guard does not have specific information on cost, nor does it have specific information on the type of automation or the number of vessels that would apply for inspection under

the proposed rules. The evaluation is based on certain assumptions and rough data that attempts to characterize current industry practice and trends relating to automation.

The primary benefit of the proposed rules would be increased safety for crewmembers and property. It is also estimated that the proposed rules would result in a net savings to the marine industry of $415,000 per year, as compared to voluntary compliance with present requirements and guidelines. The primary beneficiaries of these savings would be self propelled vessel owners and operators, shipyards, and designers and manufacturers of automation systems. The savings will result from the elimination of the requirement of certain equipment that is of questionable safety value (see discussion § 62.50–30(h)), more efficient and consistent technical evaluation of automation, and the reduction of costs associated with uncertainty and misinterpretation of technical requirements.

The proposal should also produce an estimated annual cost savings for the Coast Guard of $68,000. These savings would result from less detail intensive technical evaluations and further Coast Guard delegations of plan review and inspection functions to the ABS, which could reduce certain duplications of effort.

This proposed rulemaking contains information collection and recordkeeping requirements in sections 61.40–1(a), 61.40–1(c), 61.40–10(a), 62.20, 62.25–1(b), 62.50–20(i) and 62.50–30(k). They have been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act of 1980. (P. L. 96–511, 44 USC 3501 et seq.). Persons desiring to comment on these recordkeeping and information collection requirements should submit their comments to: Office of Regulation Policy, Office of Management and Budget, 726 Jackson Place N.W., Washington, D.C. 20503, ATTN: Desk Officer, U.S. Coast Guard. Persons submitting comments to OMB are also requested to submit a copy of their comments to the Coast Guard as indicated under "ADDRESSES".

The Coast Guard has determined that this proposed rulemaking, if promulgated, does not significantly affect the environment. Therefore, no environmental assessment or environmental impact statement was prepared. As the proposal involves the design, construction, and operation of large vessels and MODUs, the Coast Guard certifies that this proposal will not have a significant economic impact on a substantial number of small entities.

List of Subjects

46 CFR Part 52

Marine safety, Vessels.

46 CFR Part 56

Marine safety, Vessels.

46 CFR Part 58

Oil and gas exploration, Marine safety, Vessels.

46 CFR Part 61

Marine safety, Vessels.

46 CFR Part 62

Electric power, Fire prevention, Marine safety, Vessels.

46 CFR Part 110

Administrative practice and procedure, Electric power, Vessels.

46 CFR Part 111

Electric power, Marine safety, Vessels. In consideration of the foregoing, Chapter I of Title 46, Code of Federal Regulations is proposed to be amended as follows.

PART 52—POWER BOILERS

1. The authority citation for Part 52 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703, 49 CFR 1.46(b).

2. In § 52.01–10, by revising paragraph (a) to read as follows:

§ 52.01–10 Automatic controls.

(a) Each main boiler must meet the special requirements for automatic safety controls of Part 62 of this chapter.

* * * * *

PART 56—PIPING SYSTEMS AND APPURTENANCES

3. The authority citation for Part 56 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46(b).

4. In § 56.50–80, by adding a new paragraph (i) to read as follows:

§ 56.50–80 Lubricating oil system.

* * * * *

(i) Propulsion turbine and reduction gears must be provided with an emergency supply of lubricating oil that must operate automatically upon failure of the lubricating oil system. The emergency oil supply must be adequate to provide lubrication until the equipment comes to rest.

PART 58—MAIN AND AUXILIARY MACHINERY AND RELATED SYSTEMS

5. The authority citation for Part 58 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 CFR 1.46(b).

6. Subpart 58.01, a new § 58.01–35 is added to read as follows:

§ 58.01–35 Main propulsion auxiliary machinery.

Auxiliary machinery vital to the main propulsion system must be provided in duplicate unless the system served is provided in independent duplicate, or otherwise provides for continued or restored propulsion capability in the event of a failure or malfunction of any single auxiliary component.

Note.—Partial reduction of normal propulsion capability as a result of malfunction or failure is acceptable if the reduced capability is not below that necessary for the vessel to run ahead at 7 knots or half speed, whichever is greater, and is adequate to maintain control of the ship.

PART 61—PERIODIC TESTS AND INSPECTIONS

7. The authority citation for Part 61 reads as follows:

Authority: 46 U.S.C. 2104, 3301, 3305, 3306, 3316; 49 CFR 1.46(b).

8. In Part 61, the table of contents is amended and a new Subpart 61.40 is added to read as follows:

Subpart 61.40—Design Verification and Periodic Testing of Vital System Automation

Sec.

* * * * *

Subpart 61.40—Design Verification and Periodic Testing of Vital System Automation

§ 61.40–1 General.

(a) All automatically or remotely controlled or monitored vital systems addressed by Part 62 of this subchapter must be subjected to tests and inspections to evaluate the operation and reliability of controls, alarms, safe features, and interlocks. Test procedures must be submitted to the Coast Guard for approval.

(b) Persons designated by the owner of the vessel shall conduct all tests and the Design Verification and Periodic Safety tests shall be witnessed by the Coast Guard.

(c) Design Verification and Periodic Safety test procedure documents approved by the Coast Guard must be retained aboard the vessel.

§ 61.40-3 Design verification testing

(a) Tests must verify that automated vital systems are designed, constructed, and operate in accordance with all applicable requirements of Part 62 of this subchapter. The tests must be be based upon the failure analysis (see § 62.32-10 of this subchapter, Failure Analysis), functional performance requirements, and the Periodic Safety tests of § 61.40-6.

(b) Tests must be performed immediately after the installation of the automated equipment or before the issuance of the initial Certificate of Inspection.

§ 61.40-6 Periodic safety tests.

(a) Periodic safety tests must demonstrate the proper operation of the primary and alternate control systems, auxiliary systems and power sources, transfer override arrangements, interlocks, and the operation and alarming of safety control systems. Systems addressed must include fire detection and extinguishing, flooding safety, propulsion, maneuvering, electric power generation and distribution, and emergency internal comunications.

(b) Tests must be conducted at periodic intervals specified by the Coast Guard to confirm that vital systems and safety features continue to operate in a safe, reliable manner.

Note.—Normally, these tests are conducted during each inspection for certification.

§ 61.40-10 Test procedure details.

(a) Test procedure documents must be in a step-by-step or checkoff list format. Each test instruction must specify equipment status, apparatus necessary to perform the tests, safety precautions, safety control and alarm setpoints, the procedure to be followed, and the expected test result.

(b) Test techniques must not simulate monitored system conditions by mis-adjustment, artificial signals, improper wiring, tampering, or revision of the system tested unless the test would damage equipment or endanger personnel. In the latter case, the use of a synthesized signal or condition applied to the sensor is acceptable if test equipment required for the test is maintained in good working order and is periodically calibrated to the satisfaction of the Office in Charge, Marine Inspection. Other test techniques must be apporoved by the Commandant (G-MTH).

9. Part 62 is added to 46 CFR Subchapter F to read as follows:

PART 62—VITAL SYSTEM AUTOMATION

Subpart 62.01—General Provisions

Sec.
62.01-1 Purpose.
62.01-3 Scope.
62.01-5 Applicability.

Subpart 62.05—Reference Specifications

62.05-1 Incorporation by Reference.

Subpart 62.10—Terms Used

62.10-1 Definitions.

Subpart 62.15—Equivalents

62.15-1 Conditions under which equivalents are used.

Subpart 62.20—Plan Submittal

62.20-1 Plans for Approval.
62.20-3 Plans for Information.
62.20-5 Self Certification.

Subpart 62.25—General Requirements for All Automated Vital Systems

62.25-1 General.
62.25-5 All Control Systems.
62.25-10 Alternate Manual Control Systems.
62.25-15 Safety Control Systems.
62.25-20 Instrumentation, Alarms, and Centralized Stations.
62.25-25 Programable and Adjustable Systems and Devices.
62.25-30 Environmental Design Standards.

Subpart 62.30—Reliability and Safety Criteria, All Automated Vital Systems

62.30-1 Failsafe.
62.30-5 Independence.
62.30-10 Failure Analysis.
62.30-15 Testing.

Subpart 62.35—Requirements for Specific Types of Automated Vital Systems.

62.35-1 General.
62.35-5 Remote Propulsion Control Systems.
62.35-10 Flooding Safety.
62.35-15 Fire Safety.
62.35-20 Oil-Fired Main Boilers.
62.35-35 Internal Combustion Engines.
62.35-40 Fuel Systems.
62.35-50 Tabulated Monitoring and Safety Control Requirements for Specific Systems.

Subpart 62.50—Automated Self-propelled Vessel Manning

62.50-1 General.
62.50-20 Additional Requirements for Minimally Attended Machinery Plants.
62.50-30 Additional Requirements for Periodically Unattended Machinery Plants.

Authority: 46 U.S.C. 3306, 8105; 49 CFR 1.46.

Subpart 62.01—General Provisions

§ 62.01-1 Purpose.

The purpose of this part is to make sure that the safety of a vessel with automated vital systems, in maneuvering and all other sailing conditions, is equal to that of the vessel with the vital systems under direct manual operator supervision.

§ 62.01-3 Scope.

(a) This part contains the minimum requirements for vessel automated vital systems. Specifically, this part contains—

(1) In subpart 62.25, the general requirements for all vital system automation;

(2) In subpart 62.30, the criteria used to evaluate the designed reliability and safety of all automated vital systems;

(3) In subpart 62.35, the minimum additional equipment, configuration, and functional requirements necessary when certain automated vital systems are provided; and

(4) In subpart 62.50, the minimum additional requirements when automation substitutes for manual control and observation of the engineering plant and spaces.

§ 62.01-5 Applicability.

(a) *Systems and Equipment.* Except as noted in § 62.01-5(b), this part applies to automated vital systems or equipment on vessels subject to the requirements of this subchapter that—

(1) Are automatically controlled or monitored;

(2) Are remotely controlled or monitored; or

(3) Utilize automation for the purpose of reduced manning.

(b) *Exceptions.* Unless specifically addressed, this Part does not apply to—

(1) Automatic auxiliary heating equipment (see Part 63 of this subchapter);

(2) Steering systems (see subparts 58.25 and 111.93 of this chapter);

(3) Optional control and monitoring systems provided in addition to the minimum systems required by this chapter;

(4) Jacking systems on self-elevating mobile offshore drilling units;

(5) Non-vital and industrial systems; and

(6) The communication and alarm systems in part 113 of this chapter; unless failure of any of these systems would degrade the intended safety and reliability of the systems required by this part.

(c) *Central Control Rooms.* The requirements of subpart 62.50 only apply to vessels on which reduced manning is desired, except where the main propulsion or ship service electrical generating plants are automatically or remotely controlled from a control room. In this case, § 62.50-20 (a)(3), (b)(3), (c),

(d), (e), (f)(1), (f)(2), and (g)(2) apply, regardless of manning.

Subpart 62.05—Reference Specifications

§ 62.05-1 Incorporation by reference.

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register. The Office of the Federal Register publishes a table, "Material Approved for Incorporation by Reference," which appears in the Finding Aids section of this volume. In that table is found the date of the edition approved, citations to the particular sections of this part where the material is incorporated, addresses where the material is available, and the date of the approval by the Director of the Federal Register. To enforce any edition other than the one listed in the table, notice of the change must be published in the **Federal Register** and the material made available. All approved material is on file at the Office of the Federal Register, Washington, D.C. 20408 and at the Office of Merchant Marine Safety (G-MTH-2/12), Room 1214, U.S. Coast Guard Headquarters Building, 2100 Second Street SW, Washington, D.C. 20593.

(b) The material approved for incorporation by reference in this part is:

(1) Institute of Electrical and Electronics Engineers (IEEE) Guide for General Principles of Reliability Analysis of Nuclear Power Generating Station Protection Systems (ANSI N41.4-1976/IEEE Standard 352-1975. This standard is available from: IEEE Service Center, 445 Hoes Lane, Piscataway, New Jersey 08854, (201) 981-0060.)

Subpart 62.10—Terms Used

§ 62.10-1 Definitions.

(a) For the purpose of this part:

"Alarm" means an audible and visual indication of a hazardous or potentially hazardous condition that requires attention.

"Automated" means the use of automatic or remote control, instrumentation, or alarms.

"Automated control" means self-regulating in attaining or carrying out an operator-specified equipment response or sequence.

"Boiler low-low water level" is the minimum safe level in the boiler, in no case lower than that visible in the gage glass (see § 52.01-110 of this chapter, Water Level Indicators).

"Boiler low water level" is a water level above the low-low water level that is adequate for alarming an impending unsafe water level condition.

"Engineering Control Center (ECC)" means the centralized engineering control, monitoring, and communications location.

"Failsafe" means that upon failure or malfunction of a component, subsystem, or system, the output automatically reverts to a pre-determined design state of least critical consequence. Typical failsafe states are listed in Table 62.10-1(a).

TABLE 62.10-1(A)—TYPICAL FAILSAFE STATES

System or component	Failsafe state
Cooling water valve	As is or open.
Alarm system	Annunciate.
Safety system	Shut down or limited.
Burner valve	Closed.
Speed control	As is or shut down.
Feedwater valve	As is or open.
Controllable pitch propeller	As is.

"First level fault" means a single, non-concurrent failure and its logical consequences and effects.

"Flooding safety" refers to flooding detection, watertight integrity, and dewatering systems.

"Independent" refers to equipment arranged to perform its required function regardless of the state of operation, or failure, of other equipment.

"Limit control" means a function of an automatic control system to restrict operation to a specified safe operating range or sequence without stopping the machinery.

"Local control" means operator control from a location where the equipment and its output can be directly manipulated and observed, e.g., at the equipment.

"Manual control" means operation by direct or power-assisted operator intervention.

"Monitor" means the use of direct observation, instrumentation, alarms, or a combination of these to determine equipment operation.

"Remote control" means non-local automatic or manual control.

"Safety trip control system " means a manually or automatically operated system that rapidly shuts down another system or subsystem.

"System" means a grouping or arrangement of elements that interact to perform a specific function and typically includes the following, as applicable:
A fuel or power source.
Power conversion elements.
Control elements.
Power transmission elements.
Instrumentation.
Safety control elements.
Conditioning elements.

"Vital system or equipment" is essential to the safety of the vessel, its passengers and crew. This typically includes, but is not limited to, the following:

On all vessels:
- Fire detection, alarm, and extinguishing systems.
- Flooding safety systems.
- Ship service and emergency electrical generators, switchgear, and motor control centers.
- The emergency equipment and systems listed in § 112.15 of this chapter.

On self-propelled vessels:
- Propulsion systems.
- Steering systems.

On mobile offshore drilling units:
- Semi-submersible unit ballast systems.
- Self-elevating unit jacking systems.

Subpart 62.15—Equivalents

§ 62.15-1 Conditions under which equivalents may be used.

(a) The Coast Guard accepts a substitute or alternate for the requirements of this part if it provides an equivalent level of safety and reliability. Determination of functional equivalence must be demonstrated by comparing a failure analysis based on the requirements of this part with an analysis of the proposed substitute or alternate.

Subpart 62.20—Plan Submittal

§ 62.20-1 Plans for approval.

(a) The following plans must be submitted to the Coast Guard for approval in accordance with § 50.20-5 and § 50.20-10 of this chapter:

(1) A general arrangement plan of control and monitoring equipment, control locations, and the systems served.

(2) Control and monitoring console, panel, and enclosure layouts.

(3) Schematic or logic diagrams including functional relationships, a written description of operation, and sequences of events for all modes of operation.

(4) A qualitative failure analysis including inherent assumptions and the standard procedure used.

(5) A description of control or monitoring system connections to non-vital systems.

(6) A description of programable features.

(7) A description of built-in test features and diagnostics.

(8) Design Verification and Periodic Safety test procedures described in Subpart 61.40 of this chapter.

(9) Control system normal and emergency operating instructions.

§ 62.20-3 Plans for information.

(a) One copy of the following plans must be submitted to the Officer in Charge, Marine Inspection for use in the evaluation of automated systems when reduced manning levels are desired:

(1) Proposed engineering manning levels and operation of the vessel's engineering department.

(2) A planned maintenance program for all vital systems.

§ 62.20-5 Self certification.

(a) The designer and manufacturer of an automated system shall certify to the Coast Guard, in writing, that the system is designed to meet the environmental design standards of § 62.25-30. Plan review and independent testing of equipment to these standards is not required.

Note.—Self certification should normally accompany the system failure analysis.

Subpart 62.25—General Requirements for All Automated Vital Systems

§ 62.25-1 General.

(a) Vital systems that are automatically or remotely controlled must be provided with—

(1) An effective primary control system;

(2) A manual alternate control system;

(3) A safety control system, if required by § 62.25-15;

(4) Instrumentation to monitor system parameters necessary for the safe and effective operation of the system; and

(5) An alarm system if—

(i) Instrumentation is not continuously observed or is inappropriate for detection of a failure or unsafe condition; or

(ii) Specifically required by Table 62.35-50 for the system listed.

(b) Normal and emergency operating instructions must be provided for all remote and automatic control systems, and must include safety precautions, as applicable. Specific emergency operating instructions must be posted at centralized and alternate control locations when the operation is not common or readily apparent.

(c) Automation systems or subsystems that control or monitor more than one safety control, interlock, or operating sequence must perform all assigned tasks continuously, i.e., the detection of unsafe conditions must not prevent control or monitoring of other conditions.

(d) Vital control and alarm system consoles and similar enclosures that rely upon forced cooling for proper system operation must be provided with two independent means of cooling.

§ 62.25-5 All control systems.

(a) With the exception of safety trip controls, control of a propulsion, electric power generation, or electric power distribution system must be from only one location at any time.

(b) Controls for engines and turbines equipped with jacking or turning gear must include interlocks to prevent remote or automatic starting with the gear engaged. Status of the interlock must be displayed at the cognizant remote control location.

(c) Automatic control systems must be stable over the entire range of normal operation.

(d) Inadvertent grounding of an electrical or electronic safety control system must not cause false signals or safety control bypassing.

§ 62.25-10 Alternate manual control systems.

(a) Alternate manual control systems must—

(1) Be operable in an emergency and after a remote or automatic primary control system failure;

(2) Be suitable for manual control for prolonged periods;

(3) Be readily accessible and operable; and

(4) Include means to override automatic controls and interlocks, as applicable.

(b) Reliable communications must be provided between primary remote control locations and alternate manual control locations if operator attendance is necessary to maintain safe alternate control.

Note.—Typically, this includes main boiler fronts, local propulsion control, switchboards, and manifolds.

§ 62.25-15 Safety control systems.

(a) Minimum safety trip controls required for specific types of automated vital systems are listed in Table 62.35-50.

Note.—Safety control systems include automatic and manual safety trip controls and automatic safety limit controls.

(b) Safety trip controls must not operate as a result of failure of the normal electrical power source unless it is determined to be the failsafe state.

(c) Automatic operation of a safety control must be alarmed in the machinery spaces and at the cognizant remote control location.

(d) Local manual safety trip controls must be provided for all main boilers, turbines, and internal combustion engines.

(e) Automatic safety trip control systems must—

(1) Be provided where there is an immediate danger that a failure will result in serious damage, complete breakdown, fire, or explosion;

(2) Require manual reset prior to renewed operation of the equipment.

(f) Where risk from overspeeding of machinery exists, automatic safety trip controls must be provided to prevent overspeeding.

§ 62.25-20 Instrumentation, alarms, and centralized stations.

(a) *General.* Minimum instrumentation and alarms required for specific types of automated vital systems are listed in Table 62.35-50.

(b) *Instrumentation Location.* (1) Manual control locations, including remote manual control and alternate manual control, must be provided with the instrumentation necessary for safe operation from that location.

Note.—Typically, minimum instrumentation includes means to monitor the output of the monitored system.

(2) Systems with remote instrumentation must have provisions for the installation of instrumentation at the monitored system equipment.

(3) The status of automatically or remotely controlled vital auxiliaries, power sources, switches, and valves must be visually indicated in the machinery spaces and at the cognizant remote control location.

Note.—Status indicators include run, standby, off, open, closed, tripped, and on, as applicable. Status indicators at remote control locations may be summarized. Where status is clearly indicated by other instrumentation, e.g. pump status indicated by a pump output pressure or flow gauge, additional remote status indications, such as off and on, are not required.

(4) Sequential interlocks provided in control systems to ensure safe operation, such as boiler programming control or reversing of propulsion diesels, must have indicators in the machinery spaces and at the cognizant control location to show if the interlocks are satisfied.

(5) All temperatures, pressures, speeds, levels, voltages, amperages, and similar analog data required to be alarmed must have a continuous or demand instrumentation display in the machinery spaces unless Table 62.35-50 specifies otherwise.

(c) *Instrumentation Details.* Demand instrumentation displays must be easily readable and available with a minimum of effort and training on the part of the operator.

(d) *Alarms.* (1) All alarms must clearly distinguish among—

(i) Normal, alarm, and acknowledged alarm conditions; and

(ii) Fire, general alarm, CO_2/halon, machinery, flooding, and non-vital indications.

(2) Required alarms in high ambient noise areas must be supplemented by visual means, such as rotating beacons, that are visible throughout these areas. Red beacons must only be used for general or fire alarm purposes.

(3) Automatic transfer to required backup or redundant systems or power sources must be alarmed in the machinery spaces.

(4) Flooding safety, fire, and engineers' assistance-needed alarms extended from the machinery spaces to a remote location must not have a duty operator selector.

Note.—Other alarms may be provided with such a selector, provided there is no off position.

(5) The following systems must not share any system element, other than the emergency power source, with any machinery automation system specifically addressed by this part:

(i) The fire detection and alarm systems.

(ii) The general alarm.

(iii) CO_2/halon release alarms.

(6) Failure of an automatic control, remote control, or alarm system must be immediately alarmed at a manned control station.

(e) *Alarm Details.* (1) All alarms must—

(i) Have no means to reduce or eliminate the annunciated signal other than the manual acknowledgement device or dimmers (see paragraph (g)(2) of this section);

(ii) Be continuously powered;

(iii) Be provided with a means to test audible and visual annunciators;

(iv) Provide for normal equipment starting and operating transients and vessel motions, as applicable;

(v) Be able to simultaneously indicate more than one alarm condition, as applicable;

(vi) Visually annunciate until the alarm is manually acknowledged and the alarm condition is cleared;

(vii) Audibly annunciate until manually acknowledged;

(viii) Not prevent annunciation of subsequent alarms because of previous alarm acknowledgement; and

(ix) Automatically reset to the normal operating condition only after the alarm has been manually acknowledged and the alarm condition is cleared.

(2) Visual alarms must initially indicate the equipment or system malfunction without operator intervention.

(3) Power failure alarms must monitor on the load side of the last supply protection device.

(f) *Summarized and Grouped Alarms.* Visual alarms at a control location that are summarized or grouped by function, system, or item of equipment must—

(1) Be sufficiently specific to allow any necessary action to be taken; and

(2) Have a display at the equipment or an appropriate control location to identify the specific alarm condition or location.

(g) *Central Control Locations.* (1) Central control locations must—

(i) Be arranged to allow the operator to safely and efficiently communicate, control, and monitor the plant under normal and emergency conditions, with a minimum of operator confusion and distraction;

(ii) Be on a single deck level; and

(iii) Be arranged to co-locate control devices and instrumentation to allow the operator to visually assess system response to manual adjustments in the control input.

(2) Visual alarms and instruments on the navigating bridge must not interfere with the operator's vision. Dimmers must not eliminate visual indications.

(3) Alarms and instrumentation at the main navigating bridge control location must be limited to those that require the attention or action of the officer on watch, are required by this chapter, or that would result in increased safety.

§ 62.25-25 Programmable and adjustable systems and devices.

(a) Programmable control or alarm system logic must not be altered after Design Verification testing without the approval of the cognizant Officer in Charge, Marine Inspection. (See subpart 61.40 of this subchapter, Design Verification Tests). Safety control or automatic alarm systems must be provided with means, acceptable to the cognizant OCMI, to make sure setpoints remain within the safe operating range of the equipment.

(b) Operating programs for microprocessor-based or computer-based vital control, alarm, and monitoring systems must—

(1) Be stored in non-volatile memory;

(2) Automatically operate on supply power resumption; and

(3) Not rely on mechanical devices.

(c) If a microprocessor-based or computer-based system serves both vital and non-vital systems, hardware and software priorities must favor the vital systems.

(d) At least one copy of all required manuals, records, and instructions for automatic or remote control or monitoring systems required to be aboard the vessel must not be stored in electronic or magnetic memory.

§ 62.25-30 Environmental design standards.

(a) All equipment must be suitable for the marine environment and must be designed and constructed to operate indefinitely under the following conditions:

(1) Inclinations from vertical of—

(i) static 15° list; and

(ii) dynamic 22.5° roll and simultaneous 7.5° pitch.

Note.—Inclination requirements for fire and flooding safety systems are described in § 112.05-5(c) of this chapter.

(2) Temperatures of—

(i) 0 °C to 60 °C in enclosures;

(ii) 0 °C to 50 °C in machinery spaces and enclosures with forced cooling;

(iii) −40 °C to +55 °C on weather decks; and

(iv) 0 °C to 40 °C otherwise.

(3) System supply variations of—

(i) ±10% voltage;

(ii) ±5% frequency; and

(iii) ±20% fluid pressure.

Note.—Considerations should include normal dynamic conditions that might exceed these values, such as switching, valve closure, power supply transfer, starting, and shutdown.

(4) Relative humidity of 0 to 100%.

(5) Vibrations and accelerations of—

(i) ± 1.6mm from 2 Hz to 25 Hz and ± 4g from 25 Hz to 100 Hz for equipment mounted on or adjacent to rotating or reciprocating machinery; and

(ii) ± 1mm from 2 Hz to 13.2 Hz and ±0.7g from 13.2 Hz to 80 Hz for all other equipment.

(b) Low voltage electronics must be designed with due consideration for static discharge, electromagnetic interference, fungal growth, and contact corrosion

Subpart 62.30—Reliability and Safety Criteria, All Automated Vital Systems

§ 62.30-1 Failsafe.

(a) The failsafe state must be evaluated for each subsystem, system, or vessel to determine the least critical consequence.

(b) All automatic control, remote control, safety control, and alarm systems must be failsafe.

§ 62.30-5 Independence.

(a) Control, alarm, or instrumentation system first level faults must not prevent sustained or restored operation of any vital system or systems.

(b) The primary control, alternate control, and safety control systems for any vital system must be independent of each other. Alarm and instrumentation systems must be independent of primary and alternate control systems, including sensors.

(c) Two independent sources of power must be provided for all primary control, safety control, instrumentation and alarm systems. Failure of either of the two required power sources must actuate an alarm in the machinery spaces. One source must be from the emergency power source (see Part 112 of this chapter, Emergency Lighting and Power Systems) unless one of the sources is—

(1) Derived from the power supply to the system being controlled or monitored;

(2) A power takeoff of that system; or

(3) An independent power source equivalent to the emergency power source.

(d) In determining independence, localized fire on flooding must be considered as a first level fault for the failure analysis of § 62.30–10.

§ 62.30–10 Failure analysis.

(a) A qualitative failure analysis of first level faults must be performed for each automated vital system. The level of analysis must demonstrate compliance with the requirements of this part and must consider the manning, operation, and configuration of the vessel and its systems.

(b) Failure analysis must follow the general qualitative analysis principles of sections 1, 2, 3.1, 4.1–4.4, 8, and Table 3 of ANSI B41.4—1976/IEEE Std. 352—1975, or any similar standard procedure acceptable to the Commandant (G–MTH). All assumptions in the analysis, including modes of operation and failsafe states, must be listed.

§ 62.30–15 Testing.

(a) Automated vital systems must be tested in accordance with Subpart 61.40 of this chapter.

(b) On-line built-in test equipment must not lock out or override safety trip control systems. This equipment must indicate when it is active, and failure to return the tested system to normal operation must be alarmed at a manned control location.

Subpart 62.35—Requirements for Special Types of Automated Vital Systems

§ 62.35–1 General.

(a) Minimum instrumentation, alarms, and safety controls required for specific types of automated vital systems are listed in Table 62.35–50.

(b) Automatic propulsion systems, ship service generator systems, and all associated subsystems and equipment must be capable of meeting load demands from standby to full system rated load, under steady state and maneuvering conditions, without need for manual adjustment or manipulation.

§ 62.35–5 Remote propulsion control systems.

(a) *Manual Propulsion Control.* All vessels having remote propulsion control from the pilothouse, an ECC, a maneuvering platform, or elsewhere must have a local manual propulsion control locaton.

Note.—Separate local control locations may be provided for each independent propeller.

(b) *Alternate Control.* Alternate manual propulsion control must be provided from either the local manual control locations, the maneuvering platform, or the ECC, as applicable.

(c) *Centralized Propulsion Control Equipment.* (1) Pilothouse, ECC, maneuvering platform, and local control locations must include—

(i) Control of the speed and direction of thrust for each independent propeller controlled;

(ii) A guarded manually actuated safety trip control system for each independent propeller controlled;

(iii) Shaft speed and thrust direction indicators for each independent propeller controlled;

(iv) The means to pass propulation orders required by § 113.30–5 and § 113.35–3 of this chapter; and

(v) The means required by paragraph (e) of this part achieve control location transfer and independence.

(2) Remote propulsion control locations must be provided with indication of the location in control.

(3) An indicator must be provided at the main navigating bridge control location to annunciate when the shaft direction or controllable pitch propeller pitch does not match that commanded by the navigating bridge operator control device.

(d) *Main Navigating Bridge Propulsion Control.* (1) Navigating bridge remote propulsion control must be performed by an integrated control device for each independent propeller. Control must include automatic performance of all associated services, and must not permit overload of the propulsion machinery during normal operation.

(2) On vessels propelled by steam turbines, the navigation bridge primary control system must include throttle limit controls for high and low boiler water levels and low steam pressure. Actuation of these limits must be alarmed on the navigating bridge and at the maneuvering platform or ECC.

(3) On vessels propeller by internal combustion engines, an alarm must annunciate on the navigating bridge and at the maneuvering platform or ECC to indicate starting power less than 50% of that required by § 62.35–35(a). If the primary remote control system provides automatic starting, the number of automatic consecutive attempts that fail to produce a start must be limited to reserve 50% of the required starting capacity.

(e) *Control Location Transfer.* (1) ECC or maneuvering platform remote propulsion control locations must be capable of overriding and operating independently of other remote control locations. Local manual propulsion control locations must be capable of overriding and operating independent of all remote and automatic control locations. Override actions must be alarmed at the remote control location affected.

(2) The transfer of remote propulsion control locations, except for override action, must only be possible after acknowledgement by the receiving location.

(3) Automatic remote primary control systems must automatically prevent remote control location transfer from significantly altering propelling thrust.

(f) *Control System Details.* (1) Each operator control device must have a detent at the zero thrust position.

(2) Where propulsion turbine rollover is necessary to prevent rotor damage during prolonged idle periods, an automatic turbin safety trip control, or its equivalent, must be provided to prevent inadvertent vessel movement as a result of control system malfunction.

(3) Propulsion machinery automatic safety trip control operation must only occur when continued operation could result in serious damage, complete breakdown, or explosion of the equipment. Other than the overrides mentioned in § 62.25–10(a)(4) and temporary overrides located at the main navigating bridge control location, overrides of these safety trip controls are prohibited. Operation of permitted overrides must be alarmed at the navigating bridge and at the maneuvering platform or ECC, as applicable, and must be guarded against inadvertent operation.

(4) Remote automatic propulsion control systems must failsafe by maintaining the preset speed and direction of thrust until local manual or alternate manual control is in operation.

Failure must activate alarms on the navigating bridge and in the machinery spaces.

§ 62.35–10 Flooding safety.

(a) Automatic bilge pumps must—

(1) Be provided with an independent bilge high level alarm system that annunciates in the machinery spaces and at a manned control location;

(2) Be monitored to detect excessive operation in a specified time period; and

(3) Meet all applicable pollution control requirements.

(b) Remote controls and arrangements for flooding safety equipment must remain functional under flooding conditions to the extent required for the associated equipment by § 56.50–50 and § 56–50–95 of this chapter.

(c) Remote bilge level sensors, where provided, must be located to detect flooding at an early stage and to provide redundant coverage.

§ 62.35–15 Fire safety.

(a) All required remote fire pump control locations must include the controls necessary to charge the firemain and—

(1) A firemain pressure indicator; or

(2) A firemain low pressure alarm.

§ 62.35–20 Oil-fired main boilers.

(a) *General.* (1) All main boilers, regardless of intended mode of operation, must be provided with the automatic safety trip control system(s) of paragraph (h)(1), (h)(2)(i), (h)(2)(ii), and (i) of this section to prevent unsafe conditions after light off.

(2) Alternate manual control of boilers must be located at the boiler front.

(3) A fully automatic main boiler must include—

(i) Automatic combustion control;

(ii) Programing control;

(iii) Automatic feedwater control;

(iv) Safety controls; and

(v) An alarm system.

(4) Following system line-up and starting of auxiliaries, fully automatic boilers must only require the operator to initiate the following sequences:

(i) Boiler pre-purge.

(ii) Trial for ignition of burners subsequent to successful initial burner light-off.

(iii) Normal shutdown.

(iv) Manual safety trip control operation.

(v) Adjustment of primary control setpoints.

(5) All requirements for programing control subsystems and safety control systems must be met when a boiler—

(i) Automatically sequences burners;

(ii) Is operated from a location remote from the boiler front; or

(iii) Is fully automatic.

(6) Where light oil pilots are used, the programing control and burner safety trip controls must be provided for the light oil system. Trial for ignition must not exceed 10 seconds and the main burner trial for ignition must not proceed until the pilot flame is proven.

Note.—Light oil is defined in § 63.05–75(a) of this chapter.

(b) *Feedwater Control.* Automatic feedwater control subsystems must sense, at a minimum, boiler water level and steam flow.

(c) *Combustion Control.* Automatic combustion control subsystems must provide—

(1) The air/fuel ratio necessary for complete combustion and stable flame with the fuel in use, under light off, steady state, and transient conditions, but in no case less than 10% excess air; and

(2) Stable boiler steam pressure and outlet temperatures under steady state and transient load conditions.

(d) *Programing Control.* The programing control must provide a programed sequence of interlocks for the safe ignition and normal shutdown of the boiler burners. The programing control must prevent ignition if unsafe conditions exist and must include the following minimum sequence of events and interlocks:

(1) *Prepurge.* Boilers must undergo a continuous purge of the combustion chamber and convecting spaces to make sure of a minimum of 5 changes of air. The purge must not be less than 15 seconds in duration, and must occur immediately prior to the trial for ignition of the initial burner of a boiler. All registers and dampers must be open and an air flow of at least 29 percent of the full load volumetric air flow must be proven before the purge period commences. The prepurge must be complete before trial for ignition of the initial burner.

(2) *Trial for Ignition and Ignition.* (i) Only one burner per boiler is to be in trial for ignition at any time.

(ii) Total boiler air flow during light off must be at least 25 percent of boiler full load volumetric air flow.

(iii) The burner igniter must be in position and proven energized before admission of fuel to the boiler. The igniter must remain energized until the burner flame is established and stable, or until the trial for ignition period ends.

(iv) The trial for ignition period must not exceed 5 seconds.

(v) Failure of the burner to ignite during a trial for ignition must automatically actuate the burner safety trip controls.

(3) *Post-purge.* (i) Immediately after normal shutdown of the boiler, an automatic purge of the boiler equal to the volume and duration of the prepurge must occur.

(ii) Following emergency safety trip control operation, the air flow to the boiler must not automatically increase. Post purge in such cases must be under manual control.

(e) *Burner fuel oil valves.* Each burner must be provided with a valve that is—

(1) Automatically closed by the burner or boiler safety trip control system; and

(2) Operated by the programing control or combustion control subsystems, as applicable.

(f) *Master fuel oil valves.* Each boiler must be provided with a master fuel oil valve to stop fuel to the boiler automatically upon actuation by the boiler safety trip control system.

(g) *Valve Closure Time.* The valves described in paragraphs (e) and (f) of this section must close within 4 seconds of automatic detection of unsafe trip conditions.

(h) *Burner safety trip control system.* (1) Each burner must be provided with at least one flame detector.

(2) The burner valve must automatically close when—

(i) Loss of burner flame occurs;

(ii) Actuated by the boiler safety trip control system;

(iii) The burner is not properly seated or in place; or

(iv) Trial for ignition fails, if a programming control is provided.

(i) *Boiler safety trip control system.* (1) Each boiler must be provided with a safety trip control system that automatically closes the master and all burner fuel oil valves upon—

(i) Boiler low-low water level;

(ii) Inadequate boiler air flow to support complete combustion;

(iii) Loss of control power;

(iv) Manual safety trip operation; or

(v) Loss of flame at all burners.

(2) The low-low water level safety trip control must account for normal vessel motions and operating transients.

§ 62.35–35 Internal Combustion Engines.

(a) *Starting Capacity.* The starting system for engines required to automatically start must have sufficient capacity, without recharge, to provide—

(1) 12 starting cycles for reversing diesel propulsion engines; and

(2) 6 starting cycles for all non-reversing engines.

(b) *Gas Turbines.* All alarms and controls required by § 58.10–15 of this subchapter for gas turbines must be provided at a centralized control location.

§ 62.35–40 Fuel Systems.

(a) *Level alarms.* Where high or low fuel tank level alarms are required, they must be located to allow the operator adequate time to prevent an unsafe condition.

(b) *Coal, Gas, and Multiple Fuels.* (1) Systems and equipment that operate on coal or two types of fuels, such as oil/gas, oil/coal, heated/unheated oil, and heavy/light oil require special consideration by the Commandant (G–MTH).

(2) Interlocks must be provided to ensure a safe transfer of machinery operation from one fuel to another.

(c) *Automatic Fuel Heating.* If arrangements for automatically heating fuel oil are provided, a high temperature alarm must annunciate in the machinery spaces before the flashpoint of the fuel is exceeded.

(d) *Overflow Prevention.* Fuel oil day tanks, settlers, and similar fuel oil service tanks that are filled automatically or by remote control must be provided with a high level alarm that annunciates in the machinery spaces and either an automatic safety trip control or an overflow arrangement.

§ 62.35–50 Tabulated Monitoring and Safety Control Requirements for Specific Systems.

(a) The minimum monitoring and safety controls required for specific types of systems are listed in Table 62.35–50.

TABLE 62.35–50—MINIMUM SYSTEM MONITORING AND SAFETY CONTROL REQUIREMENTS FOR SPECIFIC SYSTEMS (1)

System	Service	Instrumentation	Alarm	Safety control	Notes
Main propulsion, boiler	Main stm., sph. outlet	Temperature	High		
		Pressure			(2)
	F.O. to burners	Viscosity (Temperature)	High (Low)		
		Pressure	Low		
	Atomizing medium	Pressure	Low		
	Feed-pump discharge	Pressure	Low		
	Smoke indicator	Status	Smoke		
	Drum water level	Level	High		(2)
			Low		(2)
			Low-Low	Auto trip	(3)
	Supply casing and uptakes		Fire		(4)
	Combustion air flow		Inadequate	Auto trip	(3)
	Burner flame	Status	Failure	Burner auto trip	(3)
	Burner seating	Status	Failure	Burner auto trip	(3)
	Trial for ignition	Status	Failure	Burner auto trip	
	Control power	Available (Pressure)	Failure (Low)	Auto trip	(3)
	Flame, all burners		Failure	Auto trip	(3)
				Manual trip	(3)
Main Propulsion, Steam Trubine	Stm. ahead chest	Pressure			
	Stm. astern chest	Pressure			
	Stm. gland seal	Pressure			
	Forced lubrication	Pressure	Low	Auto trip on loss	(5)
		Temperature	High		(5)
	L.O. sump level		Low		(5)
	L.O. gravity tank		Low		
	Bearings	Temperature (Individual)	High		(6)
	Main condensate pump discharge.	Pressure	Low		
	Main condenser	Vacuum	Low		
	Main circulator	Status			
	Condensate level		High		
	Deaerator feed tank	Level	Low		
	Vibration		Excessive		
	Rotor axial displacement		Exessive		
	Auto shaft rollover	Status	Overspeed	Auto trip	
	Scoop valve	Status			
	Sea suction valve	Status			
	Overspeed		Activated	Auto trip	(7)
				Manual trip	
Main Propulsion, Diesel	Forced lubrication	Pressure	Low	Auto trip on loss	(8)
		Temperature	High		(8)
		Filter pressure differential	High		(8)
	L.O. sump level		Low		(8)
	Engine coolant	Pressure (Flow)	Low		(9)
		Outlet temperature	High		(9)
	Coolant expansion tank	Level	Low		(9)
	Seawater coolant	Pressure	Low		
	F.O. to engine	Viscosity (temperature)	High (low)		(10)
	F.O. to injectors	Pressure	Low		
	Oil mist concentration in crankcase or temperature of bearings.		High		(4), (11)
	Charging air	Temperature	High		
	Exhaust	Temperature (individual)	High, high deviation		(12)
		Temperature (combined)	High		
	Scavenging belt		Fire		(4), (11)
				Manual trip	
	Overspeed		Activated	Auto trip	(7)
				Manual trip	
Main propulsion, remote control	Auto trip override		Activated		
	Starting Power	Pressure (voltage)	Low		(2)
	Location in control	Status	Override		(13)
	Shaft speed	RPM			(14)
	Shaft thrust	Direction	Wrong direction		(14)
	Clutch fluid	Pressure	Low		
Main propulsion, electric	A.C. systems	Amps	High		
		Voltage			
		Watts	Overload		
		Stator temperature			
	D.C. systems	Amps	High		(15)
		Volts			

TABLE 62.35-50—MINIMUM SYSTEM MONITORING AND SAFETY CONTROL REQUIREMENTS FOR SPECIFIC SYSTEMS (1)—Continued

System	Service	Instrumentation	Alarm	Safety control	Notes
	Slip couplings	Amps			
	Power semiconductor controlled rectifiers.		High temperature	Auto trip	
Main propulsion, shafting	Stern tube oil tank level		Low		
	Line shaft bearing	Temperature	High		
		Forced lubrication pressure	Low		
	Reduction gear bearings	Temperature	High		
Main propulsion, controllable pitch propeller.	Hydraulic oil	Pressure	High, low		
		Temperature	High		
All generators	Ship service	Volts	Off limits		
		Amps	High		
		Frequency	Off limits		
			Tripped		
	Emergency	Run			
	Starting power	Pressure (Voltage)	Low		
* Turbogenerator	Forced lubrication	Pressure	Low	Auto trip or loss	(5)
		Temperature	High		
	Bearings	Temperature (Individual)	High		(6)
	Aux. condenser	Vacuum	Low		
	Aux. condensate pump	Status			
	Aux. circulating pump	Status			
	Overspeed			Manual trip	
Diesel generator	Oil mist concentration in crankcase or bearing temperature.		Activated	Auto trip	(7)
			High		(11)
	F.O. to engine	Pressure	Loss		
	Overspeed		Activated	Auto trip	(7)
	Forced lubrication	Pressure	Low	Auto trip on loss	(8)
		Temperature	High		(8)
				Manual trip	
	Exhaust	Temperature (Individual)	High		(12)
	Cooling medium	Pressure (Flow)	Low		
		Temperature	High		
		Expansion Tank Level	Low		
	Seawater coolant	Pressure	Low		
Gas turbine		RPM	High		
	Exhaust	Temperature	High		
	Overspeed		Activated	Auto trip	(7)
				Manual trip	
	Forced lubrication	Pressure	Low	Auto trip on loss	
Engines and turbines	Jacking/turning gear	Engaged			(16)
Fuel oil	Auto heating, temperature		High		
	Remote/auto filling level		High	Auto trip or overflow flow arrangement	
	High pressure leakage level		High		
	Day/settling tank level		High, low		
	Service pump	Status		Manual trip	
Bilge pumps	Remote control	Status			
	Auto control	Status	Excessive operations		
Bilge level			High/location		
Machinery space CL.3 W.T. doors		Status			
Fire detection	Machinery spaces		Space on fire		(17), (18)
	Deadman		Fail to acknowledge		(19)
Steering gear		(*)	(*)		
General, safety control			Activated	Auto trip	(20)
General, primary controls	Sequential interlock	Activated	Activated	Auto limit	(20)
General, redundant system, auxiliary, or power supply.		Status			
General, control and alarm systems			Auto transfer		
	Power supply	Available (pressure)			
	System function		Failure (low)		
	Forced control or monitoring system cooling.		Failure		(20)
			Failure		

* See § 111.93, 58.25 of this chapter.

Notes on Table 62.35-50.

(1) The monitoring and controls listed in this table are applicable if the system listed is provided or required.

(2) Automatic limit control must be provided in navigating bridge primary propulsion control systems.

(3) Safety controls and alarms must be provided for all main boilers, regardless of mode of operation.

(4) Alarms and controls must be provided if an enclosed control room or a required ECC is provided.

(5) Alarms and safety trip controls must include turbines and reduction gears, as applicable.

(6) Alarms must include turbine, thrust, and reduction gear bearings, as applicable.

(7) Override of the safety control must not be provided.

(8) Individual alarms and safety controls must be provided for each separate lubrication system or subsystem (e.g. for camshafts, turbochargers, reduction gears, rocker arms, seals), as applicable. Self-contained turbocharger oil systems need not be monitored or actuate automatic safety trip controls.

(9) Individual alarms must be provided for each separate coolant system and subsystem (e.g. piston coolant, fuel valve coolant, cylinder coolant), as applicable.

(10) Alarms are not required for distillate fuels.

(11) Alarms are required for engines with cylinder bore of 300 mm or greater, or 2250KW or greater.

(12) Individual instrumentation and alarms need not be provided where engine design prohibits installation of sensors.

(13) Transfer interlocks must be provided.

(14) See § 113.37 of this chapter.

(15) Semiconductor controlled rectifiers must have current limit controls.

(16) Automatic limit controls must be provided.

(17) See § 113.10, § 161.002, and fire protection requirements of the applicable subchapters.

(18) Fire detection systems must use flame or smoke detectors, or a combination of these.

(19) Alarms must be provided for unattended and minimally attended machinery spaces.

(20) Alarms and controls must failsafe.

Subpart 62.50—Automated Self-propelled Vessel Manning

§ 62.50-1 General.

(a) Where automated systems are provided to replace manual control and observation, the arrangements must make sure that under all sailing conditions, including maneuvering, the safety of the vessel is equal to that of the same vessel with the entire plant under direct manual supervision.

(b) The engineering manning of vessels incorporating automated vital systems is conditioned upon meeting the requirements of Part 157 of this chapter and—

(1) The combination of the personnel, equipment, and systems necessary to ensure the safety of the vessel, personnel, and environment in all sailing conditions, including maneuvering;

(2) The personnel necessary to operate the plant in the event of a control or monitoring system failure, make emergency repairs in the event of control system failure, perform routine maintenance, inspection, and testing to ensure the continued performance and reliability of the plant as designed, or fight a fire; and

(3) The proven performance of the plant during an initial trial period.

Note.—The cognizant Officer in Charge, Marine Inspection (OCMI) also determines the need for more or less equipment depending on the vessel characteristics, route, or trade.

(c) Equipment provided to reduce manning that proves unsafe or unreliable in the judgment of the cognizant Officer in Charge, Marine Inspection must be immediately replaced or repaired or vessel manning will be modified to compensate for the equipment inadequacy.

§ 62.50-20 Additional requirements for minimally attended machinery plants.

(a) *General.* (1) Pilothouse propulsion control must be provided.

(2) An ECC must be provided and must include the automatic and remote control and monitoring systems necessary to limit the operator's activity to minitoring the plant, initiating programed control system sequences, and taking appropriate action in an emergency.

(3) The ECC must include control and monitoring of all vital engineering systems, including—

(i) The propulsion plant and its auxiliaries;

(ii) Electrical power generating and distribution;

(iii) Machinery space fire detection, alarm, and extingushing systems; and

(iv) Machinery space flooding safety systems.

(4) ECC control of vital systems must include the ability to place required standby systems, auxiliaries, and power sources in operation, unless automatic transfer is provided, and to shut down such equipment when necessary.

Note.—ECC remote control need not include means for a single operator to bring the plant to standby from a cold plant or dead ship condition or primary controls for non-vital systems or equipment.

(b) *Alarms and Instrumentation.* (1) A personnel alarm must be provided and must annunciate on the bridge if not routinely acknowledged at the ECC or in the machinery spaces.

(2) Continuous or demand instrumentation displays must be provided at the ECC to meet the system and equipment monitoring requirements of this part if the ECC is to be continuously manned. If the watchstander's normal activities include maintenance, a roving watch, or similar activities in the machinery spaces but not at the ECC, both alarms and instrumentation must be provided.

(3) All required alarms must be audible throughout the ECC and the machinery spaces.

(c) *Fire Detection and Alarms.* An approved automatic fire detection and alarm system must be provided to monitor all machinery spaces. The system must activate alarms at the ECC, the navigating bridge, and throughout the machinery spaces and engineers' accommodations. The ECC and bridge alarms must visually indicate which machinery space is on fire, as applicable.

Note.—For the purposes of this part, the specific location of fires that are not in machinery spaces need not be indicated.

(d) *Fire Pumps.* (1) The ECC must include control of the main machinery space fire pumps.

(2) Remote fire pump control must be provided on the navigating bridge. Where one or more fire pumps is required to be independent of the main machinery space, at least one such pump must be controlled from this location.

(e) *Fixed Gas Fire Extinguishing Systems.* The controls for machinery space fixed gas fire extinguishing systems must be operable from the ECC, except for systems that also protect the ECC. Controls for systems that protect the ECC must be located outside an ECC exit that is independent of the machinery space.

(f) *Flooding Safety.* (1) Machinery space bilges, bilge wells, shaft alley bilges, and other locations where liquids might accumulate must be monitored from the ECC to detect flooding under angles from vertical of up to 15° heel and 5° trim.

(2) Automatic bilge pumps must be provided to dewater the locations listed in paragraph (f)(1) of this section or the ECC must include the controls necessary to bring at least one of the bilge pumps required by subpart 56.50 of this chapter into operation to dewater these locations. Automatic pumps must be adequate for the removal of routine accumulations.

Note.—The pumps required by part 56 of this chapter may be used as automatic bilge pumps.

(3) Where watertight doors are required in the machinery spaces, they must be Class 3 watertight doors and must be controllable from the ECC and the required navigating bridge control location.

(g) *Communications.* (1) A system must be provided at the ECC to selectively summon any engineering department member from the engineering accommodations to the ECC.

(2) The voice communications system required by § 113.30-5(a) of this chapter must also include the engineering officers' accommodations.

(h) *Electrical Systems.* (1) The ECC must include the controls and instrumentation necessary to place the ship service and propulsion generators in service in 30 seconds.

(2) The main distribution and propulsion switchboards and generator controls must either be located at the ECC, if the ECC is within the boundaries of the main machinery space, or the controls and instrumentation required by Part 111 of this chapter must be duplicated at the ECC. Controls at the switchboard must be able to override those at the ECC, if separate.

(3) Remote starting and connection of manually started or controlled emergency electrical power sources required by subpart 112.05 of this chapter must be possible from the ECC.

(i) *Maintenance Program.* (1) The vessel must have a planned maintenance program to ensure continued safe operation of all vital systems. Program content and detail is optional, but must include maintenance and repair manuals for work to be accomplished by ship's personnel and checkoff lists for routine inspection and maintenance procedures.

(2) The planned maintenance program must be functioning prior to the completion of the evaluation period for reduced manning required by § 62.50–1(c).

(3) Maintenance and repair manuals must include details as to what, when, and how to troubleshoot, repair and test the installed equipment and what parts are necessary to accomplish the procedures. Schematic and logic diagrams required by § 62.20–1 of this part must be included in this documentation. Manuals must clearly delineate information that is not applicable to the installed equipment.

§ 62.50–30 Additional requirements for periodically unattended Machinery plants.

(a) *General.* The requirements of this section must be met in addition to those of § 62.50–20 of this part.

(b) *Automatic transfer.* Redundant auxiliaries for vital propulsion, vessel control, and electrical power generation systems must automatically transfer upon failure of the operating auxiliary. Vital control, safety, and alarm systems must automatically transfer power sources upon failure of the operating power source.

(c) *Fuel Systems.* The fuel service and treatment system(s) must allow the plant to operate for 24 hours without operator intervention. Fuel service tank low level alarms must be provided at the ECC.

(d) *Starting Systems.* Automatic or remote starting system receivers, accumulators, and batteries must be automatically and continously charged.

(e) *Assistance-Needed Alarm.* The engineers' assistance-needed alarm (see subpart 113.27 of this chapter) must annunciate if—

(1) An alarm at the ECC is not acknowledged in the period of time necessary for the duty engineer to respond at the ECC from the machinery spaces or accommodations; or

(2) An ECC alarm system normal power supply fails.

(f) *Remote Alarms.* ECC alarms for vital systems that require the immediate attention of the bridge watch officer for the safe navigation of the vessel must be extended to the bridge. All ECC alarms required by this part must be extended to the engineers' accommodations.

Note.—Other than fire, flooding, and loss of power alarms, this may be accomplished by immediate operation of the engineers' assistance needed alarm or summarized alarms.

(g) *ECC Alarms.* All requirements of this part for system or equipment monitoring must be met by providing both displays and alarms at the ECC.

(h) *Fire Control Station.* A control station from which certain fire systems can be controlled must be provided outside the machinery spaces. At least one access to this station must be independent of category A machinery spaces, and any boundary shared with these spaces must have an A–60 fire classification as defined in § 72.05 of this chapter. Except where such an arrangement is not possible, control and monitoring cables and piping for the station must not adjoin or penetrate the boundaries of a category A machinery space, uptakes, or casings. The fire control station must include—

(1) Annunciation of which machinery space is on fire;

(2) A fire pump control station that includes control of at least one pump required by this chapter to be independent of the engineroom;

(3) Controls for machinery space fixed gas fire extinguishing systems;

(4) Remote starting and connection of manual emergency electrical power sources as in § 62.50–20(h)(3), as applicable;

(5) Controls for fire door holding and release systems, closure of skylights and similar openings;

(6) The remote stopping systems for the machinery listed in §111.103 of this chapter; and

(7) Voice communications with the bridge.

(i) *Oil Leakage.* Leakages from high pressure fuel oil pipes must be collected and high levels are to be alarmed at the ECC.

(j) *Bilge Pumps.* Automatic bilge pumps must be provided for the machinery spaces.

(k) *Maintenance Program.* The maintenance program of § 62.50–20(i) must include a checkoff list to make sure that routine daily maintenance has been performed, fire and flooding hazards have been minimized, and plant status is suitable for unattended operation. Completion of this checkoff must be logged before leaving the plant unattended.

(l) *Continuity of Electrical Power.* The electrical plant must be arranged in such a way that upon failure of any one operating ship service generator, power to the main switchboard bus loads essential to propulsion, maneuvering, and safety is automatically maintained or restored within 30 seconds. This arrangement must—

(1) Not use the emergency generator for this purpose;

(2) Not overload the generators used for this purpose; and

(3) Account for loads permitted by § 111.70–3(f) of this chapter to automatically restart.

PART 110—GENERAL PROVISIONS

10. The authority citation for Part 110 reads as follows:

Authority: 46 U.S.C. 2104, 2113, 3301, 3306, 3318, 3703, 4104; 49 CFR 1.46 (b) and (n).

§ 110.25–1 [Amended]

11. In § 110.25–1, by removing the existing paragraphs (i) and (j) and redesignating the existing paragraphs (k) through (p) as (i) through (n), respectively.

PART 111—ELECTRIC SYSTEMS—GENERAL REQUIREMENTS

12. The authority citation for Part 111 reads as follows:

Authority: 46 U.S.C. 2104, 2113, 3301, 3306, 3318, 3703, 4104; 49 CFR 1.46 (b) and (n).

13. In Subpart 111.01, § 111.01–9 is revised to read as follows:

§ 111.01–9 Watertight, waterproof, and dripproof equipment.

(a) Electric equipment exposed to the weather or located in a space where it is exposed to seas, splashing, or similar moisture conditions must be watertight or be in a watertight enclosure, except a motor, which must be either watertight or waterproof. A watertight enclosure must be designed in such a way that the total rated temperature of the equipment inside the enclosure is not exceeded.

(b) Central control consoles and similar control enclosures must be dripproof, regardless of location.

14. In § 111.12–11, a new paragraph (j) is added to read as follows:

§ 111.12–11 Generator protection.

* * * * *

(j) *Circuit breaker reclosing.* Generator circuit breakers must not automatically close after tripping.

15. In subpart 111.54, a new § 111.54–3 is added to read as follows:

§ 111.54–3 Remote control.

Remotely controlled circuit breakers must have local manual means of operation.

PART 113—COMMUNICATION AND ALARM SYSTEMS AND EQUIPMENT

16. The authority citation for Part 113 reads as follows:

Authority: 46 U.S.C. 2104, 2113, 3301, 3306, 3318, 3703, 4104; 49 CFR 1.46 (b) and (n).

17. In § 113.35–3 a new paragraph (f) is added to read as follows:

§ 113.35–3 General requirements.

* * * * *

(f) Engine order telegraph and remote throttle control systems must be

separate and independent, except that a single operator control device with separate transmitters and connections for each system may be used.

June 4, 1985.

Clyde T. Lusk, Jr.,

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

[FR Doc. 85-22460 Filed 9-20-85; 8:45 am]

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Monday
September 23, 1985

Part III

Department of Education

Office of Special Education and Rehabilitative Services

34 CFR Parts 361, 362, 365, 366, 369, 373, 379, 385, 386, and 389

Rehabilitation Services Administration Programs; Final Regulations

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

34 CFR Parts 361, 362, 365, 366, 369, 373, 379, 385, 386, and 389

Rehabilitation Services Administration Programs

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues final regulations under the Rehabilitation Act of 1973, as amended, for a variety of programs administered by the Rehabilitation Services Administration (RSA). These regulations implement amendments to the Act made by Pub. L. 98-221, the Rehabilitation Amendments of 1984.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Albert Rotundo, Rehabilitation Services Administration, Department of Education, Switzer Building, Room 3038, Washington, D.C. 20202, (202) 732-1289.

SUPPLEMENTARY INFORMATION: The Rehabilitation Services Programs are authorized by the Rehabilitation Act of 1973, Pub. L. 93-112 (29 U.S.C. 701 *et seq.*), as amended. The programs support a wide variety of services and activities that assist in the rehabilitation of handicapped individuals.

Regulations for the programs affected by these final regulations were published on December 30, 1980 (45 FR 86378) and January 19, 1981 (46 FR 5410, 5416, and 5521) and are currently codified at 34 CFR Parts 361, 362, 365, 366, 369, 373, 379, 385, 386, and 389. These final regulations implement miscellaneous amendments to the Act made by Pub. L. 98-221, the Rehabilitation Amendments of 1984.

A notice of proposed rulemaking was published in the **Federal Register** on October 1, 1984 (49 FR 38656). The comments received on the proposed rule and the Secretary's responses to those comments are summarized in the Appendix to these regulations.

A summary of these regulations and the significant changes adopted in response to the public comments follow:

Part 361—The State Voluntary Rehabilitation Services Program

Section 361.1 paragraph (b) identifies the regulations that apply to this program, including the Education Department General Administrative Regulations.The applicability of Part 78 is qualified because the Rehabilitation Services Administration has regulations in Subpart G of Part 361 that govern hearings on State plan conformity and compliance. The Secretary will consider at a future date whether to revoke Subpart G and conduct these hearings in accordance with the procedures in Part 78.

Subparts D and E are removed because they are obsolete. The authority to administer these two Social Security Vocational Rehabilitation programs was not transferred to the Department when it was established in 1980. Moreover, since the Omnibus Budget Reconciliation Act of 1981, the funding mechanism for these programs has been changed to provide for direct Social Security reimbursement of State expenditures for successful rehabilitations. Thus the Department has had no role in administering these programs for some time. These programs now are administered by Social Security/HHS under their own regulations.

Section 361.150 expands the scope of the Innovation and Expansion grant program to include projects that maximize the use of technological innovations in meeting employment and training needs of handicapped youth and adults in accordance with section 121(a)(3) of the Act.

Part 362—Project Grants and Other Assistance in Vocational Rehabilitation

Subpart F is removed because the National Center for Deaf-Blind Youths and Adults is now authorized under Title II of Pub. L. 98-221, the Helen Keller National Center, rather than under the Rehabilitation Act. Subpart G is removed because evaluation projects are no longer carried out under section 401 of the Act. These regulations are no longer needed.

Part 365—The State Independent Living Rehabilitation Services Program

Section 365.1 paragraph (b) identifies the regulations that apply to this program, including the Education Department General Administrative Regulations. The applicability of Part 78 is qualified because the Rehabilitation Services Administration has regulations in Subpart G of Part 361 that govern hearings on State plan conformity and compliance under this program. The Secretary will consider at a future date whether to revoke Subpart G and conduct those hearings in accordance with the procedures in Part 78.

Part 366—Centers for Independent Living

Section 366.3 identifies the regulations that apply to this program, including the Education Department General Administrative Regulations.

Section 366.20 describes the components of an annual evaluation plan that applicants for independent living centers grants would be required to include in their applications. This provision implements section 711(c)(3) of the Act.

Part 373—Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Handicapped Individuals

Section 373.10 is revised to remove the reference to spinal cord injured individuals because section 311(a) of the Act transfers authority for special projects and demonstrations on spinal cord injury from the Rehabilitation Services Administration to the National Institute of Handicapped Research.

Part 379—Projects With Industry

Section 379.2 adds State vocational rehabilitation units to the list of eligible applicants under the Projects With Industry Progam, in accordance with section 621(a)(1) of the Act.

Section 379.43 identifies the required components of an annual evaluation plan required under a Projects With Industry agreement in accordance with section 621(a)(3) of the Act and also strengthens the requirement that handicapped employees not be unreasonably segregated.

Part 385—Rehabilitation Training

Section 385.3 identifies the regulations that apply to this program, including the Education Department General Administrative Regulations.

Section 385.1(a)(1) states that the purpose of the rehabilitation training program is to increase the number of "qualified" personnel trained to provide rehabilitation services, in accordance with an amendment to Section 304(a) of the Act.

Section 385.4(b) is further clarified by defining "qualified" personnel as personnel who have met existing State certification or licensure requirements, or in the absence of State requirements, have met professionally accepted requirements established by national certification boards, in accordance with

language in the Conference Report on Pub. L. 98-221.

Section 385.43 requires that all grantees that train rehabilitation counselors under 34 CFR Parts 386-390 include training in the applicability of section 504 of the Act or ensure that those counselors are knowledgeable in the applicability of section 504. This provision implements section 304(a) of the Act.

Part 386—Rehabilitation Training: Rehabilitation Long-Term Training

Section 386.1 provides that funds for long-term training be targeted to areas of personnel shortage, in accordance with an amendment to section 304(b) of the Act.

In § 386.1, paragraphs (u) and (v) identify independent living and client assistance as areas in which personnel may be trained, in accordance with section 304(a)(2) of the Act.

Section 386.42(a)(5) corrects an error in the current regulations to permit traineeship candidates to be enrolled in academic, as well as non-academic, study.

Part 389—Rehabilitation Continuing Education Programs

Sections 389.10(c) (2) and (3) authorize grantees to train staff of centers for independent living and client assistance programs, in accordance with section 304(a)(2) of the Act.

Finally, these final regulations include several technical amendments and corrections, including a revised definition of "Act" in Part 369 and elsewhere.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Paperwork Reduction Act of 1980

The information collection requirements in these regulations in § 366.20 and § 379.43 have been approved by the Office of Management and Budget.

Intergovernmental Review

The programs under 34 CFR Parts 361 and 366 are subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for these programs.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the absence of comments on this matter and the Department's own review, it has been determined that the regulations in this document do not require information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Part 361

Administrative practice and procedures, Education, Grant programs—education, Grant programs—social programs, Vocational rehabilitation.

34 CFR Part 362

Blind, Education, Grant programs—education, Grant programs—social programs, Manpower training programs, Research, Technical assistance, Vocational rehabilitation.

34 CFR Part 365

Education, Grant programs—education, Grant programs—social programs, Vocational rehabilitation.

34 CFR Part 366

Education, Grant programs—social programs, Reporting and recordkeeping requirements, Vocational rehabilitation.

34 CFR Part 369

Blind, Education, Grant programs—education, Grant programs—social programs, Manpower training programs, Research, Technical assistance, Vocational rehabilitation.

34 CFR Part 373

Education, Grant programs—social programs, Vocational rehabilitation.

34 CFR Part 379

Business and industry, Education, Reporting and recordkeeping requirements, Grant programs—social programs, Vocational rehabilitation.

34 CFR Part 385

Education, Grant programs—education, Vocational rehabilitation.

34 CFR Part 386

Education, Grant programs—education, Vocational rehabilitation.

34 CFR Part 389

Education, Grant programs—education, Vocational rehabilitation.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these final regulations.

(Catalog of Federal Domestic Assistance No. 84.126, Basic Vocational Rehabilitation Services Program; 84.128, Special Projects; 84.129, Rehabilitation Training; 84.130, Innovation and Expansion Grants; and 84.132, Centers for Independent Living)

Dated: September 18, 1985.

William J. Bennett,

Secretary of Education.

The Secretary amends Parts 361, 362, 365, 366, 369, 373, 379, 385, 386, and 389 of Title 34 of the Code of Federal Regulations as follows:

PART 361—THE STATE VOCATIONAL REHABILITATION SERVICES PROGRAM

1. In § 361.1 paragraphs (b)(1), (b)(2), and the definition of "Act" in (c)(2) are revised to read as follows:

§ 361.1 The State vocational rehabilitation services program.

* * * * *

(b) * * *

(1) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants), Part 76 (State-Administered Programs), Part 77 (Definitions the Apply to Department Regulations), and Part 78 (Education Appeal Board) except for hearings under Subpart G of Part 361.

(2) The regulations in this Part 361.

(c) * * *

(2) * * *

"Act" means the Rehabilitation Act of 1973 (29 U.S.C. 701 *et seq.*), as amended

* * * * *

Subparts D and E (§§ 361.110-361.128) [Removed and reserved]

2. In Part 361, Subparts D and E (§§ 361.110-361.128) are removed and reserved, and the table of contents is amended accordingly.

3. Section 361.150 is revised to read as follows:

§ 361.150 Purpose.

Under section 121(a) of the Act, the Secretary makes grants for the purpose of paying a portion of the cost of

planning, preparing for, and initiating special programs under the State plan in order to expand vocational rehabilitation services, including—

(a) Programs to initiate or expand services to individuals with the most severe handicaps;

(b) Special programs to initiate or expand services to classes of handicapped individuals who have unusual or difficult problems in connection with their rehabilitation; or

(c) Programs to maximize the use of technological innovations in meeting the employment training needs of handicapped youth and adults.

(Sec. 121(a) of the Act; 29 U.S.C. 741(a))

PART 362—PROJECT GRANTS AND OTHER ASSISTANCE IN VOCATIONAL REHABILITATION

Subparts F and G (§§ 362.80-362.91) [Removed and reserved]

4. In Part 362, Subparts F and G (§§ 362.80-362.91) are removed and reserved, and the table of contents is amended accordingly.

PART 365—THE STATE INDEPENDENT LIVING REHABILITATION SERVCES PROGRAM

5. In section 365.1 paragraph (b) is revised to read as follows:

§ 365.1 The State independent living rehabilitation services program.

* * * * *

(b) *Regulations which apply to the State independent living rehabilitation services program.* The following regulations apply to the State plan for independent living rehabilitation services programs:

(1) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants), Part 76 (State-Administered Programs), Part 77 (Definitions that Apply to Department Regulations), and Part 78 (Education Appeal Board) except for hearings under Subpart G of Part 361.

(2) The regulations in this Part 365.

* * * * *

PART 366—CENTERS FOR INDEPENDENT LIVING

6. Section 366.3 is revised to read as follows:

§ 366.3 What regulations apply to this program?

The following regulations apply to this program:

(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants), Part 75 (Direct Grant Program), and Part 77 (Definitions that Apply to Department Regulations), and Part 78 (Education Appeal Board).

(b) The regulations in this Part 366.

(Sec. 711 of the Act; 29 U.S.C. 796(e))

7. Part 366 is amended by adding a new Subpart C to read as follows and the table of contents is amended accordingly:

Subpart C—How Does One Apply for a Grant?

§ 366.20 What are the application requirements?

In addition to the information required by 34 CFR 75.107, each applicant shall include in its application—

(a) An assurance that handicapped individuals will be substantially involved in policy direction and management of the center, and will be employed by the center;

(b) An assurance that the center will offer handicapped individuals a combination of independent living services, including, as appropriate, the services described in the definition of "center for independent living" in § 366.4(b); and

(c) A description of an annual evaluation plan which contains, at a minimum, the following elements:

(1) The numbers and types of handicapped individuals assisted.

(2) The extent to which individuals with varying handicapping conditions were served.

(3) The types of services provided.

(4) The sources of funding.

(5) The percentage of resources committed to each type of service provided.

(6) How services provided contributed to the maintenance of or the increased independence of handicapped individuals assisted.

(7) The extent to which handicapped individuals participate in management and decision making in the center.

(8) The extent of capacity building activities, including collaboration with other agencies and organizations.

(9) The extent of catalytic activities to promote community awareness, involvement, and assistance.

(10) The extent of outreach efforts and the impact of those efforts.

(11) A comparison, if appropriate, of prior year(s) activities with most recent year activities.

(Approved by the Office of Management and Budget under Control Number 1820-0018)

(Sec. 711(c) of the Act; 29 U.S.C 796e(c))

PART 369—VOCATIONAL REHABILITATION SERVICE PROJECTS

8. In § 369.4(b), the definition of "Act" is revised to read as follows:

§ 369.4 What definitions apply to these programs?

* * * * *

(b) * * *

"Act" means the Rehabilitation Act of 1973 (29 U.S.C. 701 *et seq.*), as amended.

* * * * *

PART 373—SPECIAL PROJECTS AND DEMONSTRATIONS FOR PROVIDING VOCATIONAL REHABILITATION SERVICES TO SEVERELY HANDICAPPED INDIVIDUALS

9. Section 373.10 is revised to read as follows:

§ 373.10 What types of projects are authorized under this program?

(a) Authorized activities under this program include carrying out special projects concerned with establishing programs and constructing facilities for expanding or otherwise improving vocational rehabilitation services and other rehabilitation services to handicapped individuals, especially those who are the most severely handicapped.

(b) Handicapped individuals served under this program include blind individuals, deaf individuals, and other groups of severely handicapped individuals, irrespective of age or vocational potential, identified each year by the Secretary and published in a notice in the **Federal Register**.

(Sec. 311(a) of the Act; 29 U.S.C. 777a(a))

§ 373.11 [Removed]

§§ 373.12 and 373.13 [Redesignated as § 373.11 and 373.12]

10. Section 373.11 is removed, §§ 373.12 and 373.13 are redesignated as §§ 373.11 and 373.12, respectively, and the table of contents is amended accordingly.

PART 379—PROJECTS WITH INDUSTRY

11. Section 379.2 is revised to read as follows:

§ 379.2 Who is eligible for assistance under this program?

Employers and profit-making and nonprofit organizations with which the Secretary may enter into an agreement include any—

(a) Designated State unit;

(b) Industrial, business, or commercial enterprise;
(c) Labor organization;
(d) Employer;
(e) Industrial or community trade association;
(f) Rehabilitation facility; or
(g) Other agency or organization with the capacity to arrange, coordinate, or conduct training and other employment programs, and provide supportive services and assistance for handicapped individuals in a realistic work setting.

(Sec. 621(a)(1) of the Act; 29 U.S.C. 795g(a))

12. In § 379.43, paragraphs (k) and (l) are revised, and paragraph (m) is added, to read as follows:

§ 379.43 What general provisions are required in agreements?

* * * * *

(k) Provide that handicapped employees will not be segregated from other employees unless segregation is the only approach that will assure equal opportunity to handicapped employees;
(l) Contain an agreement to make reports and to keep any records and accounts required by the Secretary and to make records and accounts available for audit purposes; and
(m) Contain a description of an annual evaluation plan which contains, at a minimum, the following elements:
(1) The numbers and types of handicapped individuals assisted.
(2) The types of assistance provided.
(3) The sources of funding.
(4) The percentage of resources committed to each type of assistance provided.
(5) The extent to which the employment status and earning power of handicapped individuals changed following assistance.
(6) The extent of capacity building activities, including collaboration with other organizations, agencies, and institutions.
(7) A comparison, if appropriate, of current activities with activities of prior years.

(Approved by the Office of Management and Budget under control number 1820-0018)
(Sec. 12(c) and 621 of the Act; 29 U.S.C. 711(c) and 795g)

PART 385—REHABILITATION TRAINING

13. In § 385.1, paragraph (a)(1) is revised to read as follows:

§ 385.1 What is the Rehabilitation Training Program?

(a) The Rehabilitation Training Program is designed to—
(1) Increase the supply of qualified personnel available for employment in public and private agencies and institutions involved in the vocational rehabilitation and independent living rehabilitation of physically and mentally handicapped individuals, especially those individuals with the most severe handicapped; and
* * * * *

14. Section 385.3 is revised to read as follows:

§ 385.3 What regulations apply to these programs?

The following regulations apply to the Rehabilitation Training Program—
(a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grant), Part 75 (Direct Grant Programs), Part 77 (Definitions That Apply to Department Regulations), and Part 78 (Education Appeal Board).
(b) The regulations in this Part 385.
(c) The regulations in 34 CFR Parts 386,387,388, 389, and 390, as appropriate.

(Sec. 12(c) and 304 of the Act; 29 U.S.C. 711(c) and 774)

15. In § 385.4(b), the definition of "Act" is revised and a new definition of "Qualified personnel" is added after the definition of "Physical and mental restoration services" to read as follows:

§ 385.4 What definitions apply to these programs?

* * * * *

(b) * * *
"Act" means the Rehabilitation Act of 1973 (29 U.S.C. 701 *et seq.*), as amended.
* * * * *

"Qualified personnel" means personnel who have met existing State certification or licensure requirements, or in the absence of State requirements, have met professionally accepted requirements established by national certification boards.

(H.R. Conf. Rep. No. 595, 98th Cong., 2d Sess. 32 (1984))
* * * * *

16. Part 385 is amended by adding a new § 385.43 to read as follows and the table of contents is amended accordingly:

§ 385.43 What requirement applies to the training of rehabilitation counselors?

Any grantee who provides training of rehabilitation counselors under any of the programs in 34 CFR Parts 386–390 shall train those counselors in the applicability of the provisions of Section 504 of the Act or ensure that those counselors are knowledgeable in the applicability of those provisions.

(Sec. 304(a) of the Act; 29 U.S.C. 774(a))

PART 386—REHABILITATION TRAINING: REHABILITATION LONG-TERM TRAINING

17. Section 386.1 is amended by revising the introductory text, by redesignating paragraph (u) as paragraph (w), and by adding new paragraphs (u) and (v), to read as follows:

§ 386.1 What is the Rehabilitation Long-Term Training Program?

This program is designed to provide academic and non-academic training in areas of personnel shortages identified by the Secretary and published as a notice in the **Federal Register**, which may include—
* * * * *
(u) Independent living;
(v) Client assistance; and
(w) * * *

((Sec. 304 (a) and (b) of the Act; 29 U.S.C. 774 (a) and (b))

18. In § 386.42, paragraph (a)(5) is revised to read as follows:

§ 386.42 What are the special requirements affecting the awarding of traineeships?

(a) * * *
(5) Be enrolled for academic or non-academic study in the grantee institution;
* * * * *

PART 389—REHABILITATION CONTINUING EDUCATION PROGRAMS

19. In § 389.10, paragraph (c) is revised to read as follows:

§ 389.10 What types of projects are authorized under this program?

* * * * *

(c) Develop and conduct training programs for staff of—
(1) Private rehabilitation agencies and facilities which cooperate with State vocational rehabilitation units in providing vocational rehabilitation and other rehabilitation services;
(2) Centers for independent living; and
(3) Client assistance programs.

(Sec. 304(a) of the Act; 29 U.S.C. 774(a))

Appendix A—Analysis of Public Comments and Responses

Note.—This appendix will not appear in the Code of Federal Regulations.

The following is a summary of public comments concerning the notice of proposed rulemaking for the Miscellaneous Amendments to the Rehabilitation Act published in the **Federal Register** on October 1, 1984 (49

FR 38656) and the Secretary's responses to the comments.

Section 361.35(c)

Comment. Several commenters recommended that the regulatory standard for making ineligibility determinations for vocational rehabilitation program services be changed from "clear evidence" to "clear and convincing evidence." The commenters were concerned because the Rehabilitation Amendments of 1984 deleted the statutory language "beyond any reasonable doubt" as the standard of proof necessary to reach a determination of ineligibility for vocational rehabilitation services under the Act.

Response. No change has been made. The Secretary believes that a regulatory requirement of "clear evidence" is a strong standard which places a heavy burden on vocational rehabilitation agencies when determining that a client or applicant is ineligible for vocational rehabilitation services. The regulations further require that a determination of ineligibility can be made only after full consultation with the individual or, as appropriate, his or her parent or guardian. The vocational rehabilitation agency must also notify the individual in writting of the action taken and of his or her appeal rights including the procedures for administrative review and fair hearing under § 361.48 of the regulations. Further, a Client Assistance Program has been established in each State to provide assistance to handicapped individuals receiving or seeking services under the Rehabilitation Act.

Section 366.20(a)

Comment. One commenter recommended that the requirement in § 366.20(a) that handicapped individuals be substantially involved in policy direction and management of a center for independent living be further defined to indicate the involvement of a majority of persons with a handicap is the desired result.

Response. No change has been made. Although the Secretary does not believe that Federal regulations should set a rigid standard for the involvement of handicapped persons in policy direction and management, he expects handicapped individuals to be substantially involved in the administration and policy direction of Centers for Independent Living.

Section 366.20(c)

Comment. Several commenters recommended that the evaluation plan for services for independent living be expanded beyond those factors stipulated in the law and that the standards be published in the **Federal Register.**

Response. No change has been made. The Rehabilitation Services Administration has let a contract for developing standards for evaluting Centers for Independent Living, and the development of the standards was recently completed. The standards has been approved by the National Council on the Handicapped and it is expected that the standards will soon be made available to the public.

Section 379.43(k)

Comment. One commenter recommended a change in the language protecting handicapped employees from unwarranted segregation in a Project With Industry grant.

Response. A change has been made. In § 379.43 paragraph (k) has been revised to read as follows: "Provide that handicapped employees will not be segregated from other employees unless segregation is the only approach that will assure equal opportunity to handicapped employees." The Secretary believes that the revised wording better protects handicapped individuals from unwarranted segregation under a Projects With Industry grant. This is consistent with the Secretary's commitment to place handicapped individuals in the least restrictive appropriate environment and to provide opportunities for the transition from dependence and segregation to independence and participation in the work place.

Section 385.4(b)

Comment. One commenter recommended a change in the definition of "qualified personnel" in § 385.4(b) to require personnel to meet either State licensure requirements, or in the absence of such standards, professionally accepted requirements established by national certification boards.

Response. A change has been made. Section 385.4(b) has been modified to address the confusion over adherence to State or national certification requirements. If there are State standards a State must adhere to them. If no State standards exist, a State must adhere to recognized National standards.

Section 386 and 389

Comment. One commenter recommended that the objective procedures used by the Secretary to identify "areas of personnel shortages" in § 386.1 related to long term training by published in the **Federal Register.**

Response. No change has been made. The procedures are currently being developed. No regulatory change is required. The goal is to develop procedures that will allow for systematic use of existing data, identification of additional data sources, and input from professional and consumer groups in determining "areas of personnel shortages".

Comment. Several commenters recommended that rehabilitation engineering be identified as a specific training discipline under the Rehabilitation Long Term Training Program in Section 386.1 and the Rehabilitation continuing education program under Part 389.

Response. No change has been made. Currently, rehabilitation engineering proposals are eligible for funding under the category "other fields . . ." in § 386.1(u). The regulation in Part 389 covering rehabilitation continuing education programs do not list separate training disciplines or categories. For these reasons and the pending development of procedures to determine "areas of personnel shortage", the Secretary believes that it would not be appropriate to make the recommended change at this time.

Comment. One commenter recommended that rehabilitation teachers of the visually handicapped be identified as a discrete group under long-term training program regulations in § 386.1.

Response. No change has been made. The § 386.1(m) "rehabilitation of the blind" category includes rehabilitation teachers of the visually handicapped. For this reason and the pending development of procedures to determine "areas of personnel shortage", the Secretary believes that it would not be appropriate to make the recommended change at this time.

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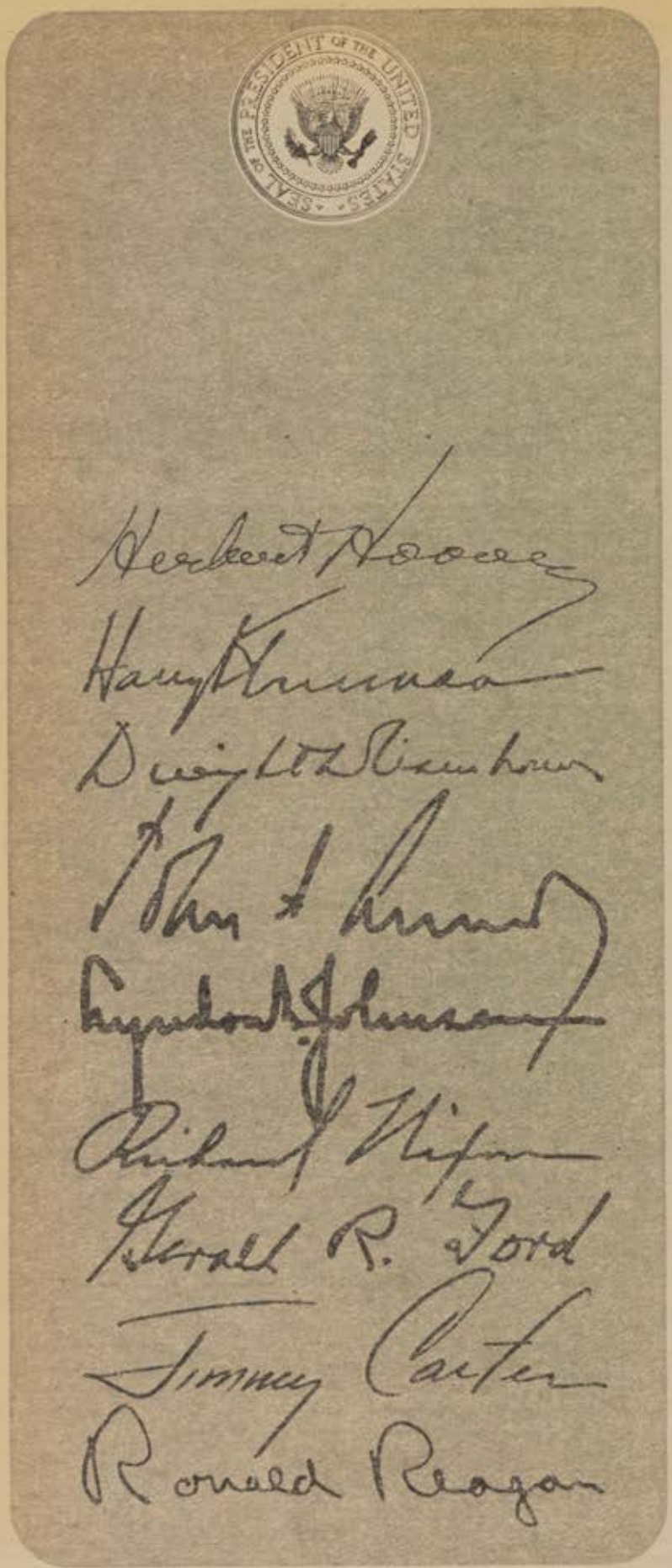
[3] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1985. The CFR volume issued as of July 1, 1984, should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.



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