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Monday
June 22, 1987

Briefings on How To Use the Federal Register—
For information on briefings in Chicago, IL, and Boston, MA, see announcement on the inside cover of this issue.

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How To Cite This Publication: Use the volume number and the page number. Example: 52 FR 12345.

THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

CHICAGO, IL

WHEN: July 8, at 9 a.m.
WHERE: Room 204A,
Everett McKinley Dirksen Federal Building,
219 S. Dearborn Street,
Chicago, IL.
RESERVATIONS: Call the Chicago Federal Information Center, 312-353-0339.

BOSTON, MA

WHEN: July 15, at 9 a.m.
WHERE: Main Auditorium, Federal Building,
10 Causeway Street,
Boston, MA.
RESERVATIONS: Call the Boston Federal Information Center, 617-565-8129

Contents

Federal Register
Vol. 52, No. 119
Monday, June 22, 1987

Advisory Committee on Federal Pay
See Federal Pay, Advisory Committee

Agricultural Marketing Service
PROPOSED RULES
Milk marketing orders:
Tennessee Valley, 23453

Agriculture Department
See Agricultural Marketing Service; Federal Crop Insurance Corporation; Forest Service

Child Support Enforcement Office
NOTICES
State plan requirements:
Puerto Rico; conformity of child support enforcement plan, 23501

Coast Guard
RULES
Drawbridge operations:
North Carolina, 23441
Ports and waterways safety:
St. Johns River, FL—
Safety zone, 23442
Security zone, 23442
Tank vessels, etc.:
Accommodations, rails and guards, anchors, etc.; requirements; conforming amendments, etc.; miscellaneous changes
Correction, 23515
PROPOSED RULES
Drawbridge operations:
Florida, 23472
(2 documents)
NOTICES
Meetings:
Towing Safety Advisory Committee, 23506
(2 documents)

Commerce Department
See also National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities under OMB review, 23488, 23489
(3 documents)

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Hong Kong, 23491

Comptroller of the Currency
PROPOSED RULES
National banks:
Annual financial disclosures to shareholders, 23456

Consumer Product Safety Commission
NOTICES
Meetings; Sunshine Act, 23510

Copyright Office, Library of Congress
RULES
Claims registration:
Colorized versions of black and white motion pictures, 23443
PROPOSED RULES
Claims registration:
Digitized typefaces; copyrightability, 23476

Customs Service
NOTICES
Reimbursable services; excess cost of preclearance operations, 23509

Defense Department
See Navy Department

Education Department
NOTICES
Grantback arrangements; award of funds:
American Samoa, 23493
Grants; availability, etc.:
Strengthening historically black colleges and universities program and black graduate institutions program, 23491
Strengthening institutions program, 23492
Strengthening institutions program and endowment challenge grant program, 23492
Postsecondary education:
National defense and direct student loan programs; directory of designated low-income schools for teacher cancellation benefits; availability, 23519

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Colorado, 23446
Hazardous waste:
Land disposal facilities; development of corrective action programs, 23447
PROPOSED RULES
Air pollutants, hazardous; national emission standards:
Coke oven emission from wet-coal charged by-product coke oven batteries, 23486
Air quality implementation plans; approval and promulgation; various States:
Pennsylvania, 23485
Hazardous waste:
Domestic sewage study, 23477
Water pollution control:
National pollutant discharge elimination system; State programs—
Maryland, 23487
NOTICES
Air quality; prevention of significant deterioration (PSD):
Permit determinations, etc.—
Region X, 23494

Grants, State and local assistance:
Wellhead protection program, 23494
Toxic and hazardous substances control:
Premanufacture notices receipts; correction, 23496, 23514 (2 documents)

Executive Office of the President
See Presidential Documents

Family Support Administration
See Child Support Enforcement Office

Federal Aviation Administration
RULES
Airworthiness directives:
British Aerospace, 23427
Cessna, 23428
Control zones and transition areas, 23429
Standard instrument approach procedures, 23430
Transition areas, 23429, 23430 (2 documents)
PROPOSED RULES
Airworthiness directives:
Beech, 23461
Bell Helicopter Textron, Inc., 23464
British Aerospace, 23465
Gates Learjet, 23466
Transition areas, 23468–23470 (4 documents)
NOTICES
Advisory circulars; availability, etc.:
Airplanes, small—
Flight loads, 23507
Meetings:
High density traffic airport slots—
Lottery, 23507

Federal Crop Insurance Corporation
RULES
Crop insurance; various commodities:
Potatoes, 23424
Wheat, barley, oat, and rye, 23423

Federal Deposit Insurance Corporation
RULES
Freedom of Information Act; implementation:
Uniform fee schedule and administrative guidelines, 23425

Federal Energy Regulatory Commission
NOTICES
Meetings; Sunshine Act, 23510

Federal Pay, Advisory Committee
NOTICES
Meetings, 23488

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
Amity Bancorp, Inc., 23496
Merrimack Bancorp, Inc., 23497

Federal Trade Commission
NOTICES
Premerger notification waiting periods; early terminations, 23497–23500 (3 documents)

Forest Service
PROPOSED RULES
Land ownership:
Indian allotments within National Forests, 23473

Health and Human Services Department
See Child Support Enforcement Office; Health Care Financing Administration; Public Health Service

Health Care Financing Administration
PROPOSED RULES
Medicare:
Inpatient hospital prospective payment system and FY 1988 rates
Correction, 23514
NOTICES
Meetings:
International Classification of Diseases, Ninth Revision, Clinical Modification Coordination and Maintenance Committee, 23501

Health Resources and Services Administration
See Public Health Service

Interior Department
See also Land Management Bureau; Minerals Management Service
NOTICES
Agency information collection activities under OMB review, 23502

Internal Revenue Service
RULES
Income taxes:
Low-income housing credit, 23432
PROPOSED RULES
Income taxes:
Low-income housing credit; cross reference, 23471

Interstate Commerce Commission
NOTICES
Railroad operation, acquisition, construction, etc.:
Aberdeen, Carolina & Western Railway Co., 23504

Land Management Bureau
NOTICES
Meetings:
Elko District Advisory Council, 23503
Realty actions; sales, leases, etc.:
Wyoming, 23503

Library of Congress
See Copyright Office, Library of Congress

Maritime Administration
RULES
Subsidized vessels and operators:
Construction-differential subsidy repayment, 23522

Minerals Management Service
RULES
Outer Continental Shelf operations:
Proprietary geophysical data and information protection, 23440
NOTICES
Outer Continental Shelf; development operations coordination:
Conoco Inc., 23503 (2 documents)

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Gulf of Mexico and South Atlantic spiny lobster; correction, 23450
High seas salmon off Alaska, 23450
NOTICES
Meetings:
Gulf of Mexico Fishery Management Council, 23490
Pacific Fishery Management Council, 23490
Permits:
Experimental fishing, 23489
Marine mammals, 23490

Navy Department
NOTICES
Inventions, Government-owned; availability for licensing; correction, 23514

Personnel Management Office
NOTICES
Agency information collection activities under OMB review, 23504

Postal Service
PROPOSED RULES
Domestic Mail Manual:
Mail disputes, 23477

Presidential Documents
EXECUTIVE ORDERS
Terrorism victims compensation; authority delegation (EO 12598), 23421

Public Health Service
NOTICES
Organization, functions, and authority delegations:
Assistant Secretary for Health Office, 23502

Securities and Exchange Commission
NOTICES
Applications, hearings, determinations, etc.:
IDS Mutual, Inc., et al., 23504

Small Business Administration
NOTICES
Disaster loan areas:
New Jersey, 23506
License surrenders:
Hampshire Capital Corp., 23506

Tennessee Valley Authority
NOTICES
Meetings; Sunshine Act, 23513

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Coast Guard; Federal Aviation Administration; Maritime Administration

Treasury Department
See also Comptroller of the Currency; Customs Service; Internal Revenue Service
NOTICES
Agency information collection activities under OMB review, 23508

Separate Parts In This Issue

Part II
Department of Education, 23519

Part III
Department of Transportation, Maritime Administration, 23522

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR
Executive Orders:
12576 (Superseded by EO 12598)..... 23421
12598..... 23421

7 CFR
418..... 23423
419..... 23423
422..... 23424
427..... 23423
429..... 23423
Proposed Rules:
1011..... 23453

12 CFR
309..... 23425
Proposed Rules:
18..... 23456

14 CFR
39 (2 documents)..... 23427, 23428
71 (3 documents)..... 23429, 23430
97..... 23430
Proposed Rules:
39 (4 documents)..... 23461–23466
71 (4 documents)..... 23468–23470

26 CFR
1..... 23432
602..... 23432
Proposed Rules:
1..... 23471
602..... 23471

30 CFR
251..... 23440

33 CFR
117..... 23441
165 (2 documents)..... 23442
Proposed Rules:
117 (2 documents)..... 23472

36 CFR
Proposed Rules:
254..... 23473

37 CFR
202..... 23443
Proposed Rules:
202..... 23476

39 CFR
Proposed Rules:
111..... 23477

40 CFR
52..... 23446
270..... 23447
Proposed Rules:
Ch. I..... 23477
52..... 23485
61..... 23486
123..... 23487

42 CFR
Proposed Rules:
405..... 23514
412..... 23514
413..... 23514
466..... 23514

46 CFR
32..... 23515
276..... 23522

50 CFR
640..... 23450
674..... 23450

Federal Register
Vol. 52, No. 119
Monday, June 22, 1987

Presidential Documents

Title 3—

The President

Executive Order 12598 of June 17, 1987

Victims of Terrorism Compensation

By the authority vested in me as President by the Constitution and laws of the United States of America, including Title VIII of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 (Public Law 99-399, 100 Stat. 853) ("the Act"), and in order to provide for the implementation of that Act, it is hereby ordered as follows:

Section 1. The functions vested in the President by that part of section 803(a) of the Act to be codified at 5 U.S.C. 5569 are delegated to the Secretary of State.

Sec. 2. The functions vested in the President by that part of section 803(a) of the Act to be codified at 5 U.S.C. 5570 are delegated to the Secretary of State, to be exercised in consultation with the Secretary of Labor.

Sec. 3. The functions vested in the President by section 806(a) (to be codified at 37 U.S.C. 559), section 806(c) (to be codified at 10 U.S.C. 1095), and section 806(d) (to be codified at 10 U.S.C. 2181-2185) are delegated to the Secretary of Defense.

Sec. 4. The functions vested in the President by section 806(b) (to be codified at 10 U.S.C. 1051) are delegated to the Secretary of Defense, to be exercised in consultation with the Secretary of Labor.

Sec. 5. The Secretaries of State and Defense shall consult with each other and with the heads of other appropriate Executive departments and agencies in carrying out their functions under this Order.

Sec. 6. Executive Order No. 12576 of December 2, 1986, is hereby superseded.

Ronald Reagan

THE WHITE HOUSE,
June 17, 1987.

[FR Doc. 87-14222
Filed 6-18-87; 3:14 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 52, No. 119
Monday, June 22, 1987

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 418, 419, 427, and 429

[Doc. No. 4409S]

Wheat, Barley, Oat, and Rye Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) amends the Wheat, Barley, Oat, and Rye Crop Insurance Regulations (7 CFR Parts 418, 419, 427, and 429, respectively), effective for the 1988 calendar year only, by extending the date for filing contract changes specified in the policies for insuring such crops. The intended effect of this rule is to allow additional time for FCIC to complete its studies of these programs and to amend the contracts for the 1988 crop year. The authority for the promulgation of the rule is contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: June 22, 1987. Written comments, data, and opinions on this interim rule must be submitted not later than August 21, 1987.

ADDRESS: Written comments on this interim rule should be sent to Peter F. Cole, Office of the Manager, Federal Crop Insurance Corporation, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations remains unchanged and is made part of each regulation affected.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Section 16 of the policy for each of the crops affected provides that any changes in the contract must be placed on file in the service office by a certain date. The contract consists of the application, the policy, and the actuarial table. Due to the timeframe involved in making changes for each crop insured in each county where such insurance is offered the counties where changes must now be on file by June 30, 1987, must have that date extended to July 30, 1987.

FCIC is reviewing the wheat, barley, oat, and rye crop insurance regulations with a view toward making necessary changes in the policy for insurance based on actuarial soundness. In order to allow time for completion of this review, and filing of the applicable changes in each service office before the first required date for such filing (June 30), FCIC is amending such regulations to extend the time for filing program changes for these crops from June 30 to July 30, effective for the 1988 calendar year only.

E. Ray Fosse, Manager, FCIC, has determined that an emergency situation exists which warrants publication of this rule without providing for a period for public comment before such publication. Without this review, the statutory mandate that the program be actuarially sound could not be met. The timeframe involved in making these changes will not permit filing of such changes by the present contract change date of June 30. There is not sufficient time to provide for public comment and implement these changes prior to June 30. It has been determined that the date by which such changes are required to be placed on file in the service office shall be extended from June 30, 1987 until July 30, 1987, and made effective for the 1988 calendar year only for Wheat, Barley, Oat, and Rye.

The changes for the crops affected by this rule may be beneficial in some instances and detrimental in others. All policyholders should be aware of the changes affecting their individual crop insurance contract and of the additional time provided for FCIC to file such changes.

FCIC is soliciting public comment on this interim rule for 60 days after publication in the **Federal Register.** The rule will be scheduled for review so that any amendment made necessary by public comment may be published in the **Federal Register** as quickly as possible thereafter.

Any comments received pursuant to this rule will be available for public inspection in the Office of the Manager, Room 4090, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Parts 418, 419, 427, and 429

Crop insurance; Wheat, Barley, Oat, Rye.

Interim Rule

PARTS 418,419, 427, AND 429—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation amends the Wheat, Barley, Oat, and Rye Crop Insurance Regulations (7 CFR Parts 418, 419, 427, and 429, respectively) effective for the 1988 calendar year only in the following instances:

1. The Authority citation for 7 CFR Parts 418, 419, 427, and 429, continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. 7 CFR 418.7(d)16, 419.7(d)16, and 427.7(d)16 are revised to read as follows:

§ 418.7, 419.7, and 427.7 Application and policy.

* * * * *

(d) * * *

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by December 31 preceding the cancellation date for counties with an April 15 cancellation date and by June 30 (July 30 for the 1988 calendar year only) preceding the cancellation date for all other counties. Acceptance of any change will be conclusively presumed in the absence of notice from you to cancel the contract.

3. 7 CFR 429.7(d)16 is revised to read as follows:

§ 429.7 Application and policy.

* * * * *

(d) * * *

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by June 30 (July 30 for the 1988 calendar year only) preceding the cancellation date. Acceptance of any change will be conclusively presumed in the absence of notice from you to cancel the contract.

Done in Washington, DC on June 3, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87–14064 Filed 6–19–87; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 422

[Amdt. No. 2; Doc. No. 4333S]

Potato Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends the Potato Crop Insurance Regulations (7 CFR Part 422), effective for the 1987 and succeeding crop years, to change the cancellation, termination for indebtedness, and end of insurance period dates for certain counties in Texas. The intended effect of this rule is to correctly reflect the normal harvest period for such counties and to correct an inequity in the insurance coverage. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: June 22, 1987.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447–3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512.1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is October 1, 1990.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

On Tuesday, February 18, 1986, FCIC published a final rule in the **Federal Register** at 51 FR 5689, revising and reissuing the Potato Crop Insurance Regulations (7 CFR Part 422), effective for the 1987 and succeeding crop years. These regulations list the date for the end of the insurance period in Texas as July 15.

On October 9, 1986, the FCIC Board of Directors approved expansion of the potato crop insurance program into certain Texas counties beginning with the 1987 crop year. The July 15 end-of-insurance-period date currently in effect for the State of Texas is approximately three months before the normal harvest period in all but one of these newly approved counties. Insurance protection would therefore not be provided for a significant part of the normal risk period thus necessitating a change in the end-of-insurance date.

FCIC determined that it was also necessary to change the cancellation and termination for indebtedness dates for these counties to coincide with the more important insurance period change.

The Texas counties approved by the Board of Directors, and the dates are as follows:

County	Cancellation/ termination	End of insurance period
Knox	2/28/87	8/15/87
Bailey	4/15/87	10/15/87
Castro	do	do.
Dallam	do	do.
Deaf Smith	do	do.
Floyd	do	do.
Gaines	do	do.
Hale	do	do.
Hartley	do	do.
Lamb	do	do.

County	Cancellation/ termination	End of insurance period
Parmer	do	do.

For the purpose of potato crop insurance in Knox County, Texas, the cancellation date and termination date (February 28, 1987) are waived for the 1987 crop year only because there are no current policies of crop insurance which may be cancelled or terminated.

Therefore, on Tuesday, March 24, 1987, FCIC published a notice of proposed rulemaking in the **Federal Register** at 52 FR 9301, to change the cancellation, termination, and end of insurance period dates in certain counties in Texas.

The public was invited to submit written comments, data, and opinions on the proposed rule for 30 days following such publication, but none were received. Therefore, the rule as proposed at 52 FR 9301, is hereby adopted as final.

List of Subjects in 7 CFR Part 422

Crop insurance; Potatoes.

Final rule

PART 422—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends the Potato Crop Insurance Regulations (7 CFR Part 422), effective for the 1987 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 422, continues to read as follows:

Authority: Secs. 506, 516, Pub. L. 75.430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

2. In § 422.7(d), the Potato Crop Insurance Policy is amended by revising paragraphs 7.b and 15.e to read as follows:

§ 422.7 The application and policy.

* * * * *

(d) * * *

7. * * *

b. Insurance ends at the earliest of:

(1) Total destruction of the potatoes on the unit;

(2) Harvesting or removal from the field;

(3) Final adjustment of a loss;

(4) The following dates of the calendar year in which the potatoes are normally harvested:

(a) Missouri and all Texas counties except Bailey, Castro, Dallam, Deaf Smith, Floyd, Gaines, Hale, Hartley, Knox, Lamb, and Parmer—July 15;

(b) North Carolina—July 25;

(c) Delaware, Maryland, New Jersey, Virginia, and Knox County, Texas—August 15;

(d) Alaska—October 1;

(e) Nebraska and Wyoming—October 10;

(f) Connecticut, Massachusetts, Nevada, New York and Pennsylvania—October 31;

(g) Idaho, Maine, Oregon, and Washington (Russett type only)—October 31;

(h) Idaho, Maine, Oregon, and Washington (all other types)— October 15;

(i) Alabama, California, and Florida, the dates established by the actuarial table for each planting period; and

(j) Bailey, Castro, Dallam, Deaf Smith, Floyd, Gaines, Hale, Hartley, Lamb, and Parmer Counties, Texas, and all other states—October 15.

* * * * *

15. * * *

e. The cancellation and termination dates are:

State and county	Cancellation and termination dates
Manatee, Hardee, Highlands, Okeechobee, and St. Lucie Counties, Florida, and all Florida counties lying south thereof.	Sept. 30.
Contra Costa, San Joaquin, Calaveras, and Alpine Counties, California, and all California counties lying south thereof, and all Texas counties except Bailey, Castro, Dallam, Deaf Smith, Floyd, Gaines, Hale, Hartley, Knox, Lamb, and Parmer.	Nov. 30.
Alabama, Delaware, Maryland, Missouri, New Jersey, North Carolina, Virginia, and all other Florida counties.	Dec. 31.
Knox County, Texas (effective beginning with the 1988 crop year).	Feb. 28.
Bailey, Castro, Dallam, Deaf Smith, Floyd, Gaines, Hale, Hartley, Lamb, and Parmer counties, Texas, all other California counties and all other states.	Apr. 15.

* * * * *

Done in Washington, DC, on June 9, 1987.

E. Ray Fosse,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 87-14063 Filed 6-19-87; 8:45 am]

BILLING CODE 3410-08-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 309

Disclosure of Information to Shareholders

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The FDIC is amending its regulations to implement the provisions of the Freedom of Information Reform Act of 1986, Pub. L. 99-570, and the Uniform Freedom of Information Act Fee Schedule and Guidelines adopted by the Office of Management and Budget (52 FR 10012).

DATES: The amendments are effective July 22, 1987.

FOR FURTHER INFORMATION CONTACT: Margaret M. Olsen, Deputy Executive Secretary, FDIC, 550 17th Street, NW., Washington, DC 20429, telephone (202) 898-3812.

SUPPLEMENTARY INFORMATION: The Freedom of Information Reform Act ("FOI Reform Act") created a new structure for agency fees which may be charged for processing Freedom of Information Act requests. The FOI Reform Act required agencies to issue implementing regulations, pursuant to notice and receipt of public comment, which were to conform to guidelines established by the Office of Management and Budget. On April 27, 1987, the FDIC published proposed amendments to Part 309 of its regulations for a 30-day comment period.

The FDIC received one comment on its proposed rules, which was jointly from Public Citizen and the Freedom of Information Clearinghouse. This comment has two major thrusts vis-a-vis FDIC's amendments. First, portions of OMB's guidelines were advisory in nature and not obligatory in that OMB's authority was limited to establishing a "fee schedule." Second, objection was taken to several of OMB's definitions relating to the categories of requester entitled to fee waiver, with the basic argument being that the agency should make additional fee waivers available. After a review of the comment, no changes are being made to the proposed amendments as it is believed that FDIC's regulation is consistent with the statute.

FDIC's amendments permit the FDIC to recover the full direct costs incurred by it in searching for, reviewing and duplicating documents responsive to FOIA requests. The amendments incorporate FDIC's existing schedule of fees but classify requesters into categories for the purpose of assessing fees to be charged. Commercial use requesters will be charged search, review and duplication costs. Educational and non-commercial scientific institutions and representatives of the news media will be charged duplication costs, with the first 100 pages being without charge. All

other requesters will be charged search and duplication costs, with the first two hours of search time and first 100 pages being without charge. As is presently, where billable costs are less than $25.00, no charges will be assessed.

Conforming changes are also made to the exemptive provision relating to law enforcement records, 5 U.S.C. 552(b)(7).

As the amendments do not impose any recordkeeping or information collection requirements, the Paperwork Reduction Act does not apply. Also, the requirements of the Regulatory Flexibility Act inapplicable as the amendments do not have a substantial economic impact on a significant number of small entities.

List of Subjects in 12 CFR Part 309

Banks, banking, Credit, Federal Deposit Insurance Corporation, Foreign banking, Freedom of Information, Privacy.

The Board of Directors, therefore, amends Part 309 of its regulations as follows:

PART 309—[AMENDED]

1. The authority citation for Part 309 continues to read as follows:

Authority: 12 U.S.C. 1819 "Seventh" and "Tenth"; 5 U.S.C. 552.

2. Section 309.5 is amended by revising paragraphs (a)(1), (b), and (c)(7), to read as follows:

§ 309.5 Information made available upon request.

(a) *Initial request.* (1) Except as provided in paragraphs (c), (g), and (h) of this section, the FDIC, upon request for any record in its possession, will make the record available to any person who agrees to pay the costs of searching, review and duplication as set forth in paragraph (b) of this section. The request must be in writing, provide information reasonably sufficient to enable the FDIC to identify the requested records and specify a dollar limit which the requester is willing to pay for the costs of searching, review and duplication, unless the costs are believed to be less than $25.00. Requests under this paragraph (a) should be addressed to the Office of the Executive Secretary, FDIC, 550–17th Street, NW., Washington, DC 20429.

* * * * *

(b) *Fees*—(1) *Definitions.* (i) "Search" includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. The term includes the extraction of information from a computer using existing programming.

(ii) "Duplication" refers to the process of making a copy of a document necessary to respond to a request for disclosure of records or for inspection of original records that contain exempt material or that cannot otherwise be directly inspected.

(iii) "Review" refers to the process of examining documents responsive to a commercial use request to determine whether any portion of any document contains exempt material. It includes processing any document for disclosure, *e.g.* doing all that is necessary to excise them or otherwise prepare them for release.

(iv) "Commercial use request" refers to a request from or on behalf of a requester who seeks information for a use or purpose that furthers the commercial, trade or profit interests of the requester or the person on whose behalf the request is made.

(v) "Educational institution" refers to a school, an institution of higher education, an institution of professional education or an institution of vocational education, which operates a program or programs of scholarly research.

(vi) "Non-commercial scientific" institution refers to an institution that is not operated on a commercial basis and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(vii) "Representative of the news media" refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public.

(2) *General rules.* (i) Persons requesting records of the FDIC shall be charged for the direct costs of search, duplication and review as set forth in § 309.5(b)(3), unless such costs are less than $25.00.

(ii) Requesters will be charged for search and review costs even if responsive documents are not located and, if located, are determined to be exempt from disclosure.

(iii) Multiple requests seeking similar or related information from the same requester will be aggregated for the purposes of this section.

(iv) If the FDIC determines that the estimated costs of search, duplication or review of requested records will exceed the dollar amount specified in the request or if no dollar amount is specified, the FDIC will advise the requester of the estimated costs (if greater than $25.00). The requester must agree in writing to pay the costs of search, duplication and review.

(v) If FDIC estimates that its search, duplication and review costs will exceed $250.00, the requester must pay in advance an amount equal to 20 percent of the estimated costs.

(vi) Any requester who has previously failed to pay the charges under this section within 30 days of receipt of the invoice therefore must pay in advance the total estimated costs of search, duplication and review.

(vii) The time limit for FDIC to respond to a request will not begin to run until the FDIC has received the requester's written agreement under paragraph (b)(2)(iv) of this section or advance payment under paragraph (b)(2) (v) or (vi) of this section.

(viii) As part of the initial request, a requester may ask that the FDIC waive or reduce fees if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester. Determinations as to a waiver or reduction of fees will be made by the Executive Secretary (or designee) and the requester will be notified in writing of his/her determination.

(3) *Chargeable fees by category of requester.* (i) Commercial use requesters shall be charged search, duplication and review costs.

(ii) Educational institutions, non-commercial scientific institutions and news media representatives shall be charged duplication costs, except for the first 100 pages.

(iii) Requesters not within scope of § 309.05(b)(3) (i) or (ii) shall be charged search and duplication costs, except for the first two hours of search time and first 100 pages of duplication.

(4) *Fee schedule.* The following fees apply:

Supervisory or professional staff.	$14.50/hour.
Clerical staff	7.50/hour.
Duplication	0.10/page.
Computer Generated Documents:	
Computer central processing unit (CPU).	0.021/CPU second.
Core (Main storage)	0.000023/1000.
Bytes/second: Magnetic tape drive.	0.17/1000 tape.
Input/output	Operation.
Disk storage device	0.153/1000 disk.
Input/output	Operation.
Computer paper printout.	0.16/1000 lines.
Photocopy printed output.	0.76/1000 lines.
Output on computer magnetic tape reel.	75.00.
Address labels	8.00/1000 labels.

(c) * * *

(7) Records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information:

(i) Could reasonably be expected to interfere with enforcement proceedings,

(ii) Would deprive a person of a right to a fair trial or an impartial adjudication,

(iii) Could reasonably be expected to constitute an unwarranted invasion of personal privacy,

(iv) Could reasonably be expected to disclose the identity of a confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis,

(v) Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or

(vi) Could reasonably be expected to endanger the life or physical safety of any individual.

* * * * *

By order of the Board of Directors.

Dated at Washington, DC, this 15th day of June, 1987.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 87-14001 Filed 6-19-87; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-NM-60-AD; Amdt. 39-5652]

Airworthiness Directive; British Aerospace Model BAe-125 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace Model BAe-125 series airplanes, which requires an inspection of certain battery supply cables, and replacement, if necessary. This amendment is prompted by reports of a circuit overheating and damage to the ZL panel. This condition, if not corrected, could result in a fire.

EFFECTIVE DATE: July 7, 1987.

ADDRESSES: The applicable service information may be obtained from British Aerospace, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The United Kingdom Civil Aviation Authority (CAA) has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of an unsafe condition, which may exist or develop on certain British Aerospace Model BAe-125 airplanes. There have been reports of local chafing of the battery cable, which has resulted in circuit overheating and damage to the ZL panel. This condition, if not corrected, could result in a fire.

British Aerospace has issued Alert Service Bulletin BAe-125 24-A261, dated March 6, 1987, which describes procedures for inspection of the battery cables for chafing and local damage and replacement, if necessary. The CAA has classified this service bulletin as mandatory.

British Aerospace has advised the FAA that a service bulletin describing re-routing of the battery cables is being planned. The FAA may consider further rulemaking when this service bulletin is published.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on airplanes of the same type design registered in the United States, this AD requires inspection of battery cables, and replacement, if necessary, in accordance with the British Aerospace service bulletin previously mentioned.

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

The FAA has determined that this regulation is an emergency regulation that is not considered to be 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 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 Regulations (14 CFR 39.13) 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.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

British Aerospace: Applies to Model BAe-125 airplanes, as listed in British Aerospace BAe-125 Alert Service Bulletin 24-A261, dated March 6, 1987, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent circuit overheat and possible fire, accomplish the following:

A. Within the next 10 days after the effective date of this AD, inspect the battery cables for chafing and local damage, in accordance with BAe-125 Alert Service Bulletin 24-A261, dated March 6, 1987. If chafing or damage is found, replace the affected cable before further flight.

B. Repeat the inspection required by paragraph A., above, at intervals not to exceed one year, and, if chafing or damage is found, replace the affected cable before further flight.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

D. 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 the inspection required by this AD.

All persons affected by this directive who have not already received the appropriate service information from the

manufacturer, may obtain copies upon request to British Aerospace, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at 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 July 7, 1987.

Issued in Seattle, Washington, on June 12, 1987.

Robert E. Waiblinger,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-14087 Filed 6-19-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-11-NM-AD; Amdt. 39-5647]

Airworthiness Directives; Cessna Models S550 and 650 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the **Federal Register** and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of certain Cessna Models S550 and 650 series airplanes by individual letters. This AD requires disconnection of electrical power to the interior cabinetry. This action is prompted by reports of chafing of the cabin accessory wiring on Model 650 airplanes. Similar construction and the same type of materials are also used on the Model S550 airplanes. This condition, if not corrected, could result in cabin smoke, charred paneling, and/or fire.

DATES: Effective July 6, 1987.

This AD was effective earlier to all recipients of Priority Letter AD 87-03-15, dated February 6, 1987.

ADDRESSES: The applicable service information may be obtained from Cessna Aircraft Company, P.O. Box 7706, Wichita, Kansas 67277. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Mr. Edward N. Mosman, Aerospace Engineer, Systems and Equipment Branch, ACE-130W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4419.

SUPPLEMENTARY INFORMATION: On February 6, 1987, the FAA issued Priority Letter AD 87-03-15, applicable to Cessna Models S550 and 650 series airplanes, which requires disconnection of electrical power to the interior cabinetry. This AD was prompted by reports of chafing of the cabin accessory wiring used to power or to control items, such as lighting, water heaters, and entertainment units on the airplanes. The chafing is such that the copper wire has made contact with the graphite layer in the composite paneling used in the various interior cabinetry, and has resulted in cabin smoke, charred paneling, and, in two incidents, fire. The reported incidents have occurred on Cessna Model 650 series airplanes; however, similar construction and the same type of materials are also used in Cessna Model S550 series airplanes.

The problem results from the use of the composite graphite paneling in combination with inadequate wire protection and specifications as to wire routing, clamping, and component mounting in the various Cessna interior cabinetry.

The FAA has reviewed and approved Cessna Alert Service Bulletins SBAS550-25-16 and SBA650-25-12, both dated February 3, 1987, which describe procedures for removal of all electrical power to the various interior and cabinetry until the cabinets have been modified in accordance with instructions provided in Cessna Service Letters SLS550-25-02, Revision 3, and SL650-25-02, Revision 3, both dated January 29, 1987.

Since a situation existed, and still 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.

The Federal Aviation Administration has determined that this regulation is an emergency regulation that is not considered to be 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.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

CESSNA: Applicable to Model S550 series airplanes, Serial Numbers (S/N) S550-0001 through S550-0039, and S550-0041 through S550-0120; and Model 650 series airplanes, S/N 650-0001 through 650-0126, except the vanities on S/N 650-0087 and 650-0105 through 650-0126; certificated in any category.

Compliance is required as indicated, unless previously accomplished. To preclude wiring failure, which can result in cabin smoke and/or fire, accomplish the following:

A. For Cessna Model S550 series airplanes: Before next activation of the airplane's electrical power, disconnect the electrical power to the interior cabinetry in accordance with the accomplishment instructions of Cessna Alert Service Bulletin SBAS550-25-16, dated February 3, 1987.

1. Electrical wiring may be reconnected following modification of the interior cabinetry wiring and electrical components described in, and in accordance with, Cessna Service Letter SLS550-25-02, Revision 3, dated January 29, 1987, or later FAA-approved revision.

B. For Cessna Model 650 series airplanes: Before next activation of the airplane's electrical power, disconnect the electrical power to the interior cabinetry in accordance with the accomplishment instructions of Cessna Service Bulletin SBA650-25-12, dated February 3, 1987.

1. Electrical wiring may be reconnected following modfication of the interior cabinetry wiring and electrical components described in, and in accordance with, Cessna Service Letter SL650-25-02, Revision 3, dated January 29, 1987, or later FAA-approved revision.

C. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Wichita Aircraft Certification Office, FAA, Central Region.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer, may obtain copies upon request to Cessna Aircraft Company, P.O. Box 7706, Wichita, Kansas 67277. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

This amendment becomes effective July 6, 1987, as to all persons, except those persons to whom it was made immediately effective by Priority Letter AD 87-03-15, issued February 6, 1987.

Issued in Seattle, Washington, on June 6, 1987.

Frederick M. Isaac,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-14081 Filed 6-19-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 87-AGL-6]

Alteration to Control Zone and Transition Area; Belleville, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this action is to alter the existing Belleville, IL, control zone and transition area to accommodate existing Standard Instrument Approach Procedures (SIAPs) to Scott Air Force Base (AFB), Belleville, IL. The alterations are needed to accommodate high performance Lear 35 aircraft operating at Scott Air Force Base and to coincide with present control zone and transition area criteria.

The intended effect of this action is to increase the transition area radius, and add an extension to the control zone.

EFFECTIVE DATE: 0901 UTC, September 24, 1987.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION:

History

On Wednesday, May 6, 1987, the Federal Aviation Administration (FAA) proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the Belleville, IL, control zone and transition area (52 FR 16854).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the present control zone and transition area. The modified control zone will consist of an extension from the 5 mile radius zone to 9 miles southeast of the Scott AFB TACAN. The modified transition area will consist of a 9 mile radius.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Belleville, IL [Amended]

Within a 5-mile radius of Scott AFB, Belleville, IL (lat. 38°32'34"N., long. 89°51'04"W.) and within 2 miles each side of the 317° bearing from the Belleville RBN, extending from the 5 mile radius zone to 5.5 miles southeast of the southeast end of Scott AFB runway 31 and within 2 miles either side of the Scott AFB TACAN 101 radial extending from the 5 mile radius zone to 9 miles southeast of the Scott AFB TACAN.

§ 71.181 [Amended]

3. Section 71.181 is amended as follows:

Belleville, IL [Amended]

That airspace extending upward from 700 feet above the surface within a 9 mile radius of Scott AFB, Belleville, IL (lat. 38°32'34"N., long. 89°51'04"W.), excluding that portion overlying the East St. Louis and St. Jacob, IL transition area.

Issued in Des Plaines, Illinois, on June 8, 1987.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 87-14082 Filed 6-19-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 87-ANM-15]

Alteration of Transition Area, Watford City, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action changes the low altitude airway designation of V-465E which appears in the description of the Watford City, North Dakota, 1,200' transition area to V-545. This change is editorial in nature and has no aeronautical impact.

EFFECTIVE DATE: 0901 UTC, July 30, 1987.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, ANM-535, Federal Aviation Administration, Docket No. 87-ANM-15, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2535.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to § 71.181 of the Federal Aviation Regulations changes the low-altitude airway designation of V-465E which appears in the description of the Watford City, North Dakota, 1,200' transition area to V-545. This change is necessitated by a previous rulemaking action (84-ANM-18) which renumbered numerous alternate low altitude airways.

I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor

amendment in which the public would not be particularly interested.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Watford City, North Dakota [Amended]

Wherever "V-465E" appears substitute "V-545".

Issued in Seattle, Washington, on June 12, 1987.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 87-14075 Filed 6-19-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 87-ANM-5]

Alteration of Transition Area, The Dalles, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action alters the 700 foot transition area for The Dalles Municipal Airport, The Dalles, Oregon, in order to wholly contain the Standard Instrument Approach Procedure (SIAP) for the airport in controlled airspace.

EFFECTIVE DATE: 0901 UTC, July 30, 1987.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, ANM-535, Federal Aviation Administration, Docket No. 87-ANM-5, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2535.

SUPPLEMENTARY INFORMATION:

History

On March 23, 1987, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the 700 foot transition area for The Dalles, Oregon (52 FR 9183).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the 700 foot transition area at The Dalles, Oregon, by establishing additional controlled airspace to wholly contain the VOR/DME-A Standard Instrument Approach Procedures to The Dalles Municipal Airport.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

The Dalles, Oregon, [Amended]

After the words, "... 11.5 mile radius circle centered on The Dalles Municipal Airport;" add the words, "... and 5 miles either side of a 17.3 mile ARC of The Dalles VORTAC between the 121(T) degree radial and the 206(T) degree radial."

Issued in Seattle, Washington, on June 4, 1987.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 87-14080 Filed 6-19-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 25306; Amdt. No. 1349]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

Incorporation by reference—approved by the Director of the Federal Register

on December 31, 1980, and reapproved as of January 1, 1982.

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

For Examination— 1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase— Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

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

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFS-230), Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8277.

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

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

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

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

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

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC on June 12, 1987.

William T. Brennan,

Acting Director of Flight Standards.

Adoption of the Amendment

PART 97—[AMENDED]

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

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOG/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . *Effective September 24, 1987*

Moundsville, WV—Marshall County, VOR/DME-A, Orig

. . . *Effective July 30, 1987*

Fort Yukon, AK—Fort Yukon, VOR RWY 3, Amdt. 4
Fort Yukon, AK—Fort Yukon, VOR/DME or TACAN RWY 3, Amdt. 1
Fort Yukon, AK—Fort Yukon, VOR RWY 21, Amdt. 4
Fort Yukon, AK—Fort Yukon, VOR/DME or TACAN RWY 21, Amdt. 1
Fort Yukon, AK—Fort Yukon, NDB RWY 21, Amdt. 7
Talkeetna, AK—Talkeetna, VOR/DME RWY 36, Orig.
Talkeetna, AK—Talkeetna, VOR-A, Amdt. 9
Talkeetna, AK—Talkeetna, NDB RWY 36, Amdt. 1
Tucson, AZ—Tucson Intl, VOR/DME or TACAN RWY 11L, Amdt. 1
Tucson, AZ—Tucson Intl, VOR/DME or TACAN RWY 29R, Amdt. 1
Tucson, AZ—Tucson Intl, ILS RWY 11L, Amdt. 10
Augusta, GA—Bush Field, VOR/DME RWY 17, Orig
Augusta, GA—Bush Field, VOR-A, Amdt. 20, CANCELLED
Augusta, GA—Bush Field, NDB RWY 17, Amdt. 13
Augusta, GA—Bush Field, NDB RWY 35, Amdt. 26
Augusta, GA—Bush Field, ILS RWY 17, Amdt. 6
Augusta, GA—Bush Field, ILS RWY 35, Amdt. 25
Augusta, GA—Daniel Field, VOR/DME-B, Orig.
Augusta, GA—Daniel Field, VOR-B, Amdt. 14, CANCELLED

Augusta, GA—Daniel Field, NDB/DME-C, Amdt. 1
Augusta, GA—Daniel Field, NDB RWY 10, Amdt. 1
Augusta, GA—Daniel Field, RNAV RWY 10, Amdt. 5
Macon, GA—Lewis B. Wilson, NDB RWY 5, Amdt. 20
Macon, GA—Lewis B. Wilson, ILS RWY 5, Amdt. 24
Monroe, GA—Monroe-Walton County, NDB RWY 3, Amdt. 2
Statesboro, GA—Statesboro Muni, LOC RWY 32, Amdt. 3
Statesboro, GA—Statesboro Muni, NDB RWY 32, Amdt. 3
Thomson, GA—Thomson-McDuffie County, VOR/DME-A, Orig.
Thomson, GA—Thomson-McDuffie County, VOR/DME RWY 27, Amdt. 2, CANCELLED
Thomson, GA—Thomson-McDuffie County, NDB RWY 28, Amdt. 5
Harlan, IA—Harlan Muni, VOR/DME-A, Amdt. 3, CANCELLED
Milford, IA—Fuller, NDB RWY 18, Amdt. 2, CANCELLED
Wellington, KS—Wellington Muni, VOR/DME RWY 17, Amdt. 1
Ruston, LA—Ruston Muni, NDB RWY 34, Orig.
Bedford, MA—Laurence G Hanscom Fld, NDB RWY 11, Amdt. 18
Bedford, MA—Laurence G Hanscom Fld, ILS RWY 11, Amdt. 21
Omaha, NE—Eppley Airfield, VOR RWY 32L, Amdt. 9
Omaha, NE—Eppley Airfield, NDB RWY 14R, Amdt. 23
Omaha, NE—Eppley Airfield, ILS RWY 14R, Amdt. 3
Omaha, NE—Eppley Airfield, ILS RWY 17, Amdt. 2
Omaha, NE—Eppley Airfield, ILS RWY 32L, Amdt. 4
Omaha, NE—Eppley Airfield, RNAV RWY 32L, Amdt. 5
Claremont, NH—Claremont Muni, NDB-A, Amdt. 4
Albuquerque, NM—Alameda, VORTAC-A, Orig., CANCELLED
Albuquerque, NM—Alameda, RADAR-1, Orig., CANCELLED
Charleston, SC—Charleston Executive, RNAV RWY 9, Amdt. 5
Columbia, SC—Columbia Metropolitan, VOR-A, Amdt. 15
Columbia, SC—Columbia Metropolitan, NDB RWY 11, Amdt. 22
Columbia, SC—Columbia Metropolitan, ILS RWY 11, Amdt. 13
Orangeburg, SC—Orangeburg Muni, VOR RWY 4, Amdt. 1
Orangeburg, SC—Orangeburg Muni, NDB RWY 4, Amdt. 1
Winchester, VA—Winchester Muni, VOR/DME-A, Amdt. 3

. . . *Effective July 2, 1987*

Denver, CO—Stapleton Intl, CONVERGING ILS/DME RWY 8R, Orig
Denver, CO—Stapleton Intl, CONVERGING ILS/DME RWY 17L, Orig
Waterville, ME—Waterville Robert LaFleur, VOR/DME RWY 5, Amdt. 6
Waterville, ME—Waterville Robert LaFleur, NDB-A, Amdt. 12

The FAA published an Amendment in Docket No. 25273, Amdt. No. 1347 to Part 97 of the Federal Aviation Regulations (VOL 52 FR No. 102 page 19841; dated Thursday, May 28, 1987) under § 97.25 effective 2 JUL 87 which is hereby amended as follows:

Ontario, CA—Ontario Intl, LOC RWY 26R, Orig.

Should read:

Ontario, CA—Ontario Intl, LOC RWY 26R, Orig. CANCELLED

The FAA published an Amendment in Docket No. 25273, Amdt. No. 1347 to part 97 of the Federal Aviation Regulations (VOL 52 FR No. 102 page 19841; dated Thursday, May 28, 1987) under § 97.27 effective 2 JUL 87 which is hereby amended as follows:

Spirit Lake, IA—Spirit Lake Muni, NDB RWY 16, Amdt. 6

Should read:

Spirit Lake, IA—Spirit Lake Muni, NDB RWY 16, Amdt. 6, CANCELLED
Spirit Lake, IA—Spirit Lake Muni, NDB RWY 34, Amdt. 2

Should read:

Spirit Lake, IA—Spirit Lake Muni, NDB RWY 34, Amdt. 2, CANCELLED

[FR Doc. 87-14077 Filed 6-19-87; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[T.D. 8144]

Income Taxes; Low-Income Housing Credit

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations concerning the low-income housing credit under section 42 of the Internal Revenue Code of 1986, as enacted by the Tax Reform Act of 1986 (Pub. L. 99-514). These regulations provide guidance concerning the State low-income housing credit authority limitation. In addition, the text of the temporary regulations set forth in this document serves as the comment document for the proposed regulations cross-referenced in the notice of proposed rulemaking in the Proposed Rules section of this issue of the **Federal Register.**

EFFECTIVE DATE: The regulations apply to buildings placed in service after December 31, 1986, in taxable years ending after that date.

FOR FURTHER INFORMATION CONTACT: Robert Beatson of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attention: CC:LR:T LR-82-86) (202-566-3829, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to the low-income housing credit under section 42 of the Internal Revenue Code of 1986 as enacted by section 252 of the Tax Reform Act of 1986 (Pub. L. 99-514). New § 1.42-1T is added by this document to Part 1 of Title 26 of the Code of Federal Regulations. The temporary regulations provided by this document will remain in effect until superseded by final regulations on this subject.

Explanation of Provisions

Section 252 of the Tax Reform Act of 1986 enacted a new low-income housing credit equal to the applicable percentage of the qualified basis of each qualified low-income building. The temporary regulations provide guidance with respect to the State housing credit ceiling, the special set-aside for qualified nonprofit organization projects, apportionment of housing credit dollar amounts among housing credit agencies within each State, the time and manner for making housing credit allocations to qualified low-income buildings, the manner in which housing credit allocations are taken into account by owners of qualified low-income buildings, rules for low-income housing financed in whole or in part with tax-exempt bonds, termination of authority to make housing credit allocations, information reporting, and certain definitional issues.

Non-Applicability of Executive Order 12291

The Commission of Internal Revenue has determined that these temporary regulations are not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required.

Regulatory Flexibility Act

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) because these are temporary regulations, and there is a need to provide the public with immediate guidance. Accordingly, the Regulatory Flexibility Act does not apply and no Regulatory Flexibility Analysis is required for this rule.

Paperwork Reduction Act

The collection of information contained in these regulations has been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB (Control no. 1545-0988).

Drafting Information

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

List of Subjects

26 CFR 1.0-1—1.58-8

Income taxes, Tax liability, Tax rates, Credits.

26 CFR Part 602

Reporting and recordkeeping requirements.

Amendments to the Regulations

The amendments to 26 CFR Parts 1 and 602 are as follows:

PART 1—INCOME TAX REGULATIONS

Paragraph 1. The authority for Part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. * * * Section 1.42-1T also issued under 26 U.S.C. 42 (m).

Par. 2. A new § 1.42-1T is added immediately following § 1.41-8 to read as follows:

§ 1.42-1T Limitation on low-income housing credit allowed with respect to qualified low-income buildings receiving housing credit allocations from a State or local housing credit agency (temporary).

(a) *In general*—(1) *Determination of amount of low-income housing credit.* Section 42 provides that, for purposes of section 38, a low-income housing credit is determined for a building in an amount equal to the applicable percentage of the qualified basis of the qualified low-income building. In general, the credit may be claimed annually for a 10—year credit period, beginning with the taxable year in which the building is placed in service or, at the election of the taxpayer, the succeeding taxable year. If, after the first year of the credit period, the qualified basis of a building is increased in excess of the qualified basis upon which the credit was initially determined, the allowable credit with respect to such additional qualified basis is determined using a credit percentage equal to two-thirds of the applicable percentage for the initial qualified basis. The credit for additions to qualified basis is generally allowable for the remaining years in the 15-year compliance period which begins with the first taxable year of the credit period for the building. In general, the low-income housing credit is available with respect to buildings placed in service after December 31, 1986, in taxable years ending after that date. *See* section 42 for the definitions of "qualified low-income building", "applicable percentage", "qualified basis", "credit period", "compliance period", and for other rules relating to determination of the amount of the low-income housing credit.

(2) *Limitation on low-income housing credit allowed.* Generally, the low-income housing credit determined under section 42 is allowed and may be claimed for any taxable year if, and to the extent that, the owner of a qualified low-income building receives a housing credit allocation from a State or local housing credit agency. The aggregate amount of housing credit allocations that may be made in any calendar year by all housing credit agencies within a State is limited by a State housing credit ceiling, or volume cap, described in paragraph (b) of this section. The authority to make housing credit allocations within the State housing credit ceiling may be apportioned among the State and local housing credit agencies, under the rules prescribed in paragraph (c) of this section. Upon apportionment of the State housing credit volume cap, each State or local housing credit agency receives an aggregate housing credit dollar amount that may be used to make housing credit allocations among qualified low-income buildings located within an agency's geographic jurisdiction. The rules governing the making of housing credit allocations by any state or local housing credit agency are provided in paragraph (d) of this section. Housing credit allocations are required to be taken into account by owners of qualified low-income buildings under the rules prescribed in paragraph (e) of this section. Exceptions to the requirement that a qualified low-income building receive a housing credit allocation from a State or local housing credit agency are provided in paragraph (f) of this section. Rules regarding termination of the authority of State and local housing credit agencies to make housing credit allocations after December 31, 1989, are specified in paragraph (g) of this section. Rules concerning information reporting by State and local housing credit agencies and owners of qualified low-income buildings are provided in paragraph (h) of this section. Special statutory transitional rules are incorporated into this section of the regulations as described in paragraph (i) of this section.

(b) *The State housing credit ceiling.* The aggregate amount of housing credit allocations that may be made in any calendar year by all State and local housing credit agencies within a State may not exceed the State's housing credit ceiling for such calendar year. The State housing credit ceiling for each State for any calendar year is equal to $1.25 multiplied by the State's population. A State's population for any calendar year is determined by reference to the most recent census estimate (whether final or provisional) of the resident population of the State released by the Bureau of the Census before the beginning of the calendar year for which the State's housing credit ceiling is set. Unless otherwise prescribed by applicable revenue procedure, determinations of population are based on the most recent estimates of population contained in the Bureau of the Census publication, "Current Population Reports, Series P-25: Population Estimates and Projections, Estimates of the Population of States". For purposes of this section, the District of Columbia and United States possessions are treated as States.

(c) *Apportionment of State housing credit ceiling among State and local housing credit agencies*—(1) *In general.* A State's housing credit ceiling for any calendar year is apportioned among the State and local housing credit agencies within such State under the rules prescribed in this paragraph. A "State housing credit agency" is any State agency specifically authorized by gubernatorial act or State statute to make housing credit allocations on behalf of the State and to carry out the provisions of section 42(h). A "local housing credit agency" is any agency of a political subdivision of the State that is specifically authorized by a State enabling act to make housing credit allocations on behalf of the State or political subdivision and to carry out the provisions of section 42(h). A "State enabling act" is any gubernatorial act, State statute, or State housing credit agency regulation (if authorized by gubernatorial act or State statute). A State enabling act enacted on or before October 22, 1986, the date of enactment of the Tax Reform Act of 1986, shall be given effect for purposes of this

paragraph if such State enabling act expressly carries out the provisions of section 42(h).

(2) *Primary apportionment.* Except as otherwise provided in paragraphs (c) (3) and (4) of this section, a State's housing credit ceiling is apportioned in its entirety to the State housing credit agency. Such an apportionment is the "primary apportionment" of a State's housing credit ceiling. There shall be no primary apportionment of the State housing credit ceiling and no grants of housing credit allocations in such State until a State housing credit agency is authorized by gubernatorial act or State statute. If a State has more than one State housing credit agency, such agencies shall be treated as a single agency for purposes of the primary apportionment. In such a case, the State housing credit ceiling may be divided among the multiple State housing credit agencies pursuant to gubernatorial act or State statute.

(3) *States with 1 or more constitutional home rule cities*—(i) *In general.* Notwithstanding paragraph (c)(2) of this section, in any State with 1 or more constitutional home rule cities, a portion of the State housing credit ceiling is apportioned to each constitutional home rule city. In such a State, except as provided in paragraph (c)(4) of this section, the remainder of the State housing credit ceiling is apportioned to the State housing credit agency under paragraph (c)(2) of this section. *See* paragraph (c)(3)(iii) of this section. The term "constitutional home rule city" means, with respect to any calendar year, any political subdivision of a State that, under a State constitution that was adopted in 1970 and effective on July 1, 1971, had home rule powers on the first day of the calendar year.

(ii) *Amount of apportionment to a constitutional home rule city.* The amount of the State housing credit ceiling apportioned to a constitutional home rule city for any calendar year is an amount that bears the same ratio to the State housing credit ceiling for that year as the population of the constitutional home rule city bears to the population of the entire State. The population of any constitutional home rule city for any calendar year is determined by reference to the most recent census estimate (whether final or provisional) of the resident population of the constitutional home rule city released by the Bureau of the Census before the beginning of the calendar year for which the State housing credit ceiling is apportioned. However, determinations of the population of a constitutional home rule city may not be based on Bureau of the Census estimates that do not contain estimates for all of the constitutional home rule cities within the State. If no Bureau of the Census estimate is available for all such constitutional home rule cities, the most recent decennial census of population shall be relied on. Unless otherwise prescribed by applicable revenue procedure, determinations of population for constitutional home rule cities are based on estimates of population contained in the Bureau of the Census publication, "Current Population Reports, Series P-26: Local Population Estimates".

(iii) *Effect of apportionments to constitutional home rule cities on apportionments to other housing credit agencies.* The aggregate amounts of the State housing credit ceiling apportioned to constitutional home rule cities under this paragraph (c)(3) reduce the State housing credit ceiling available for apportionment under paragraph (c) (2) or (4) of this section. Unless otherwise provided in a State constitutional amendment or by law changing the home rule provisions adopted in a manner provided by the State constitution, the power of the governor or State legislature to apportion the State housing credit ceiling among local housing credit agencies under paragraph (c)(4) of this section shall not be construed as allowing any reduction of the portion of the State housing credit ceiling apportioned to a constitutional home rule city under this paragraph (c)(3). However, any constitutional home rule city may agree to a reduction in its apportionment of the State housing credit ceiling under this paragraph (c)(3), in which case the amount of the State housing credit ceiling not apportioned to the constitutional home rule city shall be available for apportionment under paragraph (c) (2) or (4) of this section.

(iv) *Treatment of governmental authority within constitutional home rule city.* For purposes of determining which agency within a constitutional home rule city receives the apportionment of the State housing credit ceiling under this paragraph (c)(3), the rules of this paragraph (c) shall be applied by treating the constitutional home rule city as a "State", the chief executive officer of a constitutional home rule city as a "governor", and a city council as a "State legislature". A constitutional home rule city is also treated as a "State" for purposes of the set-aside requirement for housing credit allocations to projects involving a qualified nonprofit organization. *See* paragraph (c)(5) of this section for rules governing set-aside requirements. In this connection, a constitutional home rule city may agree with the State housing credit agency to exchange an apportionment set aside for projects involving a qualified nonprofit organization for an apportionment that is not so restricted. In such a case, the authorizing gubernatorial act, State statute, or State housing credit agency regulation (if authorized by gubernatorial act or State statute) must ensure that the set-aside apportionment transferred to the State housing credit agency be used for the purposes described in paragraph (c)(5) of this section.

(4) *Apportionment to local housing credit agencies*—(i) *In general.* In lieu of the primary apportionment under paragraph (c)(2) of this section, all or a portion of the State housing credit ceiling may be apportioned among housing credit agencies of governmental subdivisions. Apportionments of the State housing credit ceiling to local housing credit agencies must be made pursuant to a State enabling act as defined in paragraph (c)(1) of this section. Apportionments of the State housing credit ceiling may be made to housing credit agencies of constitutional home rule cities under this paragraph (c)(4), in addition to apportionments made under paragraph (c)(3) of this section. Apportionments of the State housing credit ceiling under this paragraph (c)(4) need not be based on the population of political subdivisions and may, but are not required to, give balanced consideration to the low-income housing needs of the entire State.

(ii) *Change in apportionments during a calendar year.* The apportionment of the State housing credit ceiling among State and local housing credit agencies under this paragraph (c)(4) may be changed after the beginning of a calendar year, pursuant to a State enabling act. No change in apportionments shall retroactively reduce the housing credit allocations made by any agency during such year. Any change in the apportionment of the State housing credit ceiling under this paragraph (c)(4) that occurs during a calendar year is effective only to the extent housing credit agencies have not previously made housing credit allocations during such year from their original apportionments of the State housing credit ceiling for such year. To the extent apportionments of the State housing credit ceiling to local housing credit agencies made pursuant to this paragraph (c)(4) for any calendar year are not used by such local agencies

before a certain date (*e.g.*, November 1) to make housing credit allocations in such year, the amount of unused apportionments may revert back to the State housing credit agency for reapportionment. Such reversion must be specifically authorized by the State enabling act.

(iii) *Exchanges of apportionments.* Any State or local housing credit agency that receives an apportionment of the State housing credit ceiling for any calendar year under this paragraph (c)(4) may exchange part or all of such apportionment with another State or local housing credit agency to the extent no housing credit allocations have been made in such year from the exchanged portions. Such exchanges must be made with another housing credit agency in the same State and must be consistent with the State enabling act. If an apportionment set aside for projects involving a qualified nonprofit organization is transferred or exchanged, the transferee housing credit agency shall be required to use the set-aside apportionment for the purposes described in paragraph (c)(5) of this section.

(iv) *Written records of apportionments.* All apportionments, exchanges of apportionments, and reapportionments of the State housing credit ceiling which are authorized by this paragraph (c)(4) must be evidenced in the written records maintained by each State and local housing credit agency.

(5) *Set-aside apportionments for projects involving a qualified nonprofit organization*—(i) *In general.* Ten percent of the State housing credit ceiling for a calendar year must be set aside exclusively for projects involving a qualified nonprofit organization (as defined in paragraph (c)(5)(ii) of this section). Thus, at least 10 percent of apportionments of the State housing credit ceiling under paragraphs (c) (2) and (3) of this section must be used only to make housing credit allocations to buildings that are part of projects involving a qualified nonprofit organization. In the case of apportionments of the State housing credit ceiling under paragraph (c)(4) of this section, the State enabling act must ensure that the apportionment of at least 10 percent of the State housing credit ceiling be used exclusively to make housing credit allocations to buildings that are part of projects involving a qualified nonprofit organization. The State enabling act shall prescribe which housing credit agencies in the State receive apportionments that must be set aside for making housing credit allocations to buildings that are part of projects involving a qualified nonprofit organization. These set-aside apportionments may be distributed disproportionately among the State or local housing credit agencies receiving apportionments under paragraph (c)(4) of this section. The 10-percent set-aside requirement of this paragraph (c)(4) is a minimum requirement, and the State enabling act may set aside more than 10 percent of the State housing credit ceiling for apportionment to housing credit agencies for exclusive use in making housing credit allocations to buildings that are part of projects involving a qualified nonprofit organization.

(ii) *Projects involving a qualified nonprofit organization.* The term "projects involving a qualified nonprofit organization" means projects with respect to which a qualified nonprofit organization is to materially participate (within the meaning of section 469(h)) in the development and continuing operation of the project throughout the 15-year compliance period. The term "qualified nonprofit organization" means any organization that is described in section 501(c) (3) or (4), is exempt from tax under section 501(a), and includes as one of its exempt purposes the fostering of low-income housing.

(6) *Expiration of unused apportionments.* Apportionments of the State housing credit ceiling under this paragraph (c) for any calendar year may be used by housing credit agencies to make housing credit allocations only in such calendar year. Any part of an apportionment of the State housing credit ceiling for any calendar year that is not used for housing credit allocations in such year expires as of the end of such year and does not carry over to any other year. However, any part of an apportionment for 1989 that is not used to make a housing credit allocation in 1989 may be carried over to 1990 and used to make a housing credit allocation to a qualified low-income building described in section 42(n)(2)(B). *See* paragraph (g)(2) of this section.

(d) *Housing credit allocations made by State and local housing credit agencies*—(1) *In general.* This paragraph governs State and local housing credit agencies in making housing credit allocations to qualified low-income buildings. The amount of the apportionment of the State housing credit ceiling for any calendar year received by any State or local housing credit agency under paragraph (c) of this section constitutes the agency's aggregate housing credit dollar amount for such year. The aggregate amount of housing credit allocations made in any calendar year by a State or local housing credit agency may not exceed such agency's aggregate housing credit dollar amount for such year. A State or local housing credit agency may make housing credit allocations only to qualified low-income buildings located within the agency's geographic jurisdiction.

(2) *Amount of a housing credit allocation.* In making a housing credit allocation, a State or local housing credit agency must specify a credit percentage, not to exceed the building's applicable percentage determined under section 42(b), and a qualified basis amount. The amount of the housing credit allocation for any building is the product of the specified credit percentage and the specified qualified basis amount. In specifying the credit percentage and qualified basis amount, the State or local housing credit agency shall not take account of the first-year conventions described in section 42(f) (2)(A) and (3)(B). A State or local housing credit agency may adopt rules or regulations governing conditions for specification of less than the maximum credit percentage and qualified basis amount allowable under section 42 (b) and (c), respectively. For example, an agency may specify a credit percentage and a qualified basis amount of less than the maximum credit percentage and qualified basis amount allowable under section 42 (b) and (c), respectively, when the financing and rental assistance from all sources for the project of which the building is a part is sufficient to provide the continuing operation of the building without the maximum credit amount allowable under section 42.

(3) *Counting housing credit allocations against an agency's aggregate housing credit dollar amount.* The aggregate amount of housing credit allocations made in any calendar year by a State or local housing credit agency may not exceed such agency's aggregate housing credit dollar amount (*i.e.*, the agency's apportionment of the State housing credit ceiling for such year). This limitation on the aggregate dollar amount of housing credit allocations shall be computed separately for set-aside apportionments received pursuant to paragraph (c)(5) of this section. Housing credit allocations count against an agency's aggregate housing credit dollar amount without regard to the amount of credit allowable to or claimed by an owner of a building in the taxable year in which the allocation is made or in any subsequent year. Thus, housing

credit allocations (which are computed without regard to the first-year conventions as provided in paragraph (d)(2) of this section) count in full against an agency's aggregate housing credit dollar amount, even though the first-year conventions described in section 42(f) (2)(A) and (3)(B) may reduce the amount of credit claimed by a taxpayer in the first year in which a credit is allowable. *See also* paragraph (e)(2) of this section. Housing credit allocations count against an agency's aggregate housing credit dollar amount only in the calendar year in which made and not in subsequent taxable years in the credit period or compliance period during which a taxpayer may claim a credit based on the original housing credit allocation. Since the aggregate amount of housing credit allocations made in any calendar year by a State or local housing credit agency may not exceed such agency's aggregate housing credit dollar amount, an agency shall at all times during a calendar year maintain a record of its cumulative allocations made during such year and its remaining unused aggregate housing credit dollar amount.

(4) *Rules for when applications for housing credit allocations exceed an agency's aggregate housing credit dollar amount.* A State or local housing credit agency may adopt rules or regulations governing the awarding of housing credit allocations when an agency expects that applicants during a calendar year will seek aggregate allocations in excess of the agency's aggregate housing credit dollar amount. The State enabling act may provide uniform standards for the awarding of housing credit allocations when there is actual or anticipated excess demand from applicants in any calendar year.

(5) *Reduced or additional housing credit allocations*—(i) *In general.* A State or local housing credit agency may not reduce or rescind a housing credit allocation made to a qualified low-income building in the manner prescribed in paragraph (d)(8) of this section. Thus, a housing credit agency may not reduce or rescind a housing credit allocation made to a qualified low-income building which is acquired by a new owner who is entitled to a carryover of the allowable credit for such building under section 42(d)(7). A housing credit agency may make additional housing credit allocations to a building in any year in the building's compliance period, whether or not there are additions to qualified basis for which an increased credit is allowable under section 42(f)(3). Each additional housing credit allocation made to a building is treated as a separate allocation and is subject to the rules and requirements of this section. However, in the case of an additional housing credit allocation made with respect to additions to qualified basis for which an increased credit is allowable under section 42(f)(3), the amount of the allocation that counts against the agency's aggregate housing credit dollar amount shall be computed as if the specified credit percentage were unreduced in the manner prescribed in section 42(f)(3)(A) and the specified qualified basis amount were unreduced by the first-year convention prescribed in section 42(f)(3)(B).

(ii) *Examples.* The rules of paragraph (d)(5)(i) of this section may be illustrated by the following examples:

Example (1). For 1987, the County L Housing Credit Agency has an aggregate housing credit dollar amount of $2 million. D, an individual, places in service on July 1, 1987, a new qualified low-income building. As of the close of each month in 1987 in which the building is in service, the building consists of 100 residential rental units, of which 20 units are both rent-restricted and occupied by individuals whose income is 50 percent or less of area median gross income. The total floor space of the residential rental units is 120,000 square feet, and the total floor space of the low-income units is 20,000 square feet. Tne building is not Federally subsidized within the meaning of section 42(i)(2). As of the end of 1987, the building has eligible basis under section 42(d) of $1 million. Thus, the qualified basis of the building determined without regard to the first-year convention provided in section 42(f) is $166,666.67 (*i.e.*, $1 million eligible basis times ⅙, the floor space fraction which is required to be used instead of the larger unit fraction). However, the amount of the low-income housing credit determined for 1987 under section 42 reflects the first-year convention provided in section 42(f)(2). Since the building has the same floor space and unit fractions as of the close of each of the six months in 1987 during which it is in service, upon applying the first-year convention in section 42(f)(2), the qualified basis of the building in 1987 is $83,333.33 (*i.e.*, $1 million eligible basis times 1/12, the fraction determined under section 42(f)(2)(A)). Under paragraph (d)(2) of this section, the County L Housing Credit Agency may make a housing credit allocation by specifying a credit percentage, not to exceed 9 percent, and a qualified basis amount, which may be greater or less than the qualified basis of the building in 1987 as determined under section 42(c), without regard to the first-year convention provided in section 42(f)(2). If the County L Housing Credit Agency specifies a credit percentage of 8 percent and a qualified basis amount of $100,000, the amount of the housing credit allocation is $8,000. Under paragraph (d)(3) of this section, the County L Housing Credit Agency's aggregate housing credit dollar amount for 1987 is reduced by $8,000, notwithstanding that D is entitled to claim less than $8,000 of the credit in 1987 under the rules in paragraph (e) of this section. Under paragraph (e)(2) of this section, in 1987 D is entitled to claim only $4,000 of the credit, determined by applying the first-year convention of 6/12 to the specified qualified basis amount contained in the housing credit allocation (*i.e.*, .08 x $100,000 x (6/12)).

Example (2). The facts are the same as in *Example (1)* except that on July 1, 1988, the number of occupied low-income units increases to 50 units and the floor space of the occupied low-income units increases to 48,000 square feet. These occupancy fractions remain unchanged as of the close of each month remaining in 1988. Under section 42(c), the qualified basis of the building in 1988, without regard to the first-year convention in section 42(f)(3)(B), is $400,000 (*i.e.*, $1 million eligible basis times .4, the floor space fraction which is required to be used instead of the larger unit fraction). D's 1987 housing credit allocation from the County L Housing Credit Agency remains effective in 1988 and entitles D to a credit of $8,000 (*i.e.*, .08, the specified credit percentage, times $100,000, the specified qualified basis amount). With respect to the additional $300,000 of qualified basis which the 1987 housing credit allocation does not cover, D must apply to the County L Housing Credit Agency for an additional housing credit allocation. Assume that the County L Housing Credit Agency has a sufficient aggregate housing credit dollar amount for 1988 to make a housing credit allocation to D in 1988 by specifying a credit percentage of 9 percent and a qualified basis amount of $300,000. The amount of the housing credit allocation that counts against the County L Housing Credit Agency's aggregate housing credit dollar amount is $27,000 (*i.e.*, the amount counted (.09 times $300,000) is unreduced in the manner prescribed in section 42(f)(3) (A) and (B)). Since D's qualified basis in 1987 was $166,666.67, D is entitled to claim a credit in 1988 with respect to such basis of $14,000 (*i.e.*, .08 x $100,000, the 1987 credit alllocation, + .09 x $66,666.67, the 1988 credit allocation). In addition, D is entitled to claim a credit in 1988 and subsequent years in the 15-year compliance period with respect to the additional $233,333.33 of qualified basis covered by the 1988 housing credit allocation. However, the allowable credit for 1988 with respect to this amount of additional qualified basis is subject to reductions prescribed in section 42(f)(3) (A) and (B). Thus, D is entitled in 1988 to a credit at a 6-percent rate applied to $116,666.67 of additional qualified basis, which is reduced to reflect the first-year convention. D's total allowable low-income housing credit in 1988 is $21,000 (*i.e.*, $14,000 with respect to original qualified basis + $7,000 with respect to 1988 additions to qualified basis). If the County L Housing Credit Agency had specified an 8-percent credit percentage in 1988 with respect to the qualified basis not covered by the 1987 housing credit allocation to D, D's allowable credit with respect to the $233,333.33 of additions to qualified basis would not exceed, in 1988 and subsequent years, an amount determined by applying a specified

credit percentage of 5.33 percent (*i.e.*, two-thirds of 8 percent). In 1988, D's specified qualified basis amount would be adjusted for the first-year convention.

(6) *No carryover of unused aggregate housing credit dollar amount.* Any portion of a State or local housing credit agency's aggregate housing credit dollar amount for any calendar year that is not used to make a housing credit allocation in such year may not be carried over to any other year, except as provided in paragraph (g) of this section. An agency may not permit owners of qualified low-income buildings to transfer housing credit allocations to other buildings. However, an agency may provide a procedure whereby owners may return to the agency, prior to the end of the calendar year in which housing credit allocations are made, unusable portions of such allocations. In such a case, an owner's housing credit allocation is deemed reduced by the amount of the allocation returned to the agency, and the agency may reallocate such amount to other qualified low-income buildings prior to the end of the year.

(7) *Effect of housing credit allocations in excess of an agency's aggregate housing credit dollar amount.* In the event that a State or local housing credit agency makes housing credit allocations in excess of its aggregate housing credit dollar amount for any calendar year, the allocations shall be deemed reduced (to the extent of such excess) for buildings in the reverse order in which such allocations were made during such year.

(8) *Time and manner for making housing credit allocations.*—(i) *Time.* Housing credit allocations are effective for the calendar year in which made in the manner prescribed in paragraph (d)(8)(ii) of this section. A State or local housing credit agency may not make a housing credit allocation to a qualified low-income building prior to the calendar year in which such building is placed in service. An agency may adopt its own procedures for receiving applications for housing credit allocations from owners of qualified low-income buildings. An agency may provide a procedure for making, in advance of a building's being placed in service, a binding commitment (*e.g.*, by contract, inducement resolution, or other means) to make a housing credit allocation in the calendar year in which a qualified low-income building is placed in service or in a subsequent calendar year. Any advance commitment shall constitute a housing credit allocation for purposes of this section.

(ii) *Manner.* Housing credit allocations are deemed made when Part I of IRS Form 8609, Low-Income Housing Credit Allocation Certification, is completed and signed by an authorized official of the housing credit agency and mailed to the owner of the qualified low-income building. A copy of all completed (as to Part I) Form 8609 allocations along with a single completed Form 8610, Annual Low-Income Housing Credit Agencies Report, must also be mailed to the Internal Revenue Service not later than the 28th day of the second calendar month after the close of the calendar year in which the housing credit was allocated to the qualified low-income building. Housing credit allocations to a qualified low-income building must be made on Form 8609 and must include—

(A) The address of the building;

(B) The name, address, and taxpayer identification number of the housing credit agency making housing credit allocation;

(C) The name, address, and taxpayer identification number of the owner of the qualified low-income building;

(D) The date of the allocation of housing credit;

(E) The housing credit dollar amount allocated to the building on such date;

(F) The specified maximum applicable credit percentage allocated to the building on such date;

(G) The specified maximum qualified basis amount;

(H) The percentage of the aggregate basis financed by tax-exempt bonds taken into account for purposes of the volume cap under section 146;

(I) A certification under penalties of perjury by an authorized State or local housing credit agency official that the allocation is made in compliance with the requirements of section 42(h); and

(J) Any additional information that may be required by Form 8609 or by an applicable revenue procedure.

See paragraph (h) of this section for additional rules concerning filing of forms.

(iii) *Certification.* The certifying official for the State or local housing credit agency need not perform an independent investigation of the qualified low-income building in order to certify on Part I of Form 8609 that the housing credit allocation meets the requirements of section 42(h). For example, the certifying official may rely on information contained in an application for a low-income housing credit allocation submitted by the building owner which sets forth facts necessary to determine that the building is eligible for the low-income housing credit under section 42.

(iv) *Fee.* A State or local housing credit agency may charge building owners applying for housing credit allocations a reasonable fee to cover the agency's administrative expenses for processing applications.

(v) *No continuing agency responsibility.* The State or local housing credit agency need not monitor or investigate the continued compliance of a qualified low-income building with the requirements of section 42 throughout the applicable compliance period.

(e) *Housing credit allocation taken into account by owner of a qualified low-income building*—(1) *Time and manner for taking housing credit allocation into account.* An owner of a qualified low-income building may not claim a low-income housing credit determined under section 42 in any year in excess of an effective housing credit allocation received from a State or local housing credit agency. A housing credit allocation made to a qualified low-income building is effective with respect to any owner of the building beginning with the owner's taxable year in which the housing credit allocation is received. A housing credit allocation is deemed received in a taxable year, except as modified in the succeeding sentence, if that allocation is made (in the manner described in paragraph (d)(8) of this section) not later than the earlier of (i) the 60th day after the close of the taxable year, or (ii) the close of the calender year in which such taxable year ends. A housing credit allocation is deemed received in a taxable year ending in 1987, if such allocation is made (in the manner described in paragraph (d)(8) of this section) on or before December 31, 1987. A housing credit allocation is not effective for any taxable year if received in a calendar year which ends prior to when the qualified low-income building is placed in service. A housing credit allocation made to a qualified low-income building remains effective for all taxable years in the compliance period. A taxpayer is required to complete the Form 8609 on which a housing credit agency made the applicable housing credit allocation and submit a copy of such Form 8609 with its Federal income tax return for each year in the compliance period. Failure to comply with the requirement of the preceding sentence with respect to any taxable year after the first taxable year in the credit period shall be treated as a mathematical or clerical error for purposes of the provisions of section 6213 (b)(1) and (g)(2).

(2) *First-year convention limitation on housing credit allocation taken into account.* For purposes of the limitation that the allowable low-income housing

credit may not exceed the effective housing credit allocation received from a State or local housing credit agency, as provided in paragraph (e)(1) of this section, the amount of the effective housing credit allocation shall be adjusted by applying the first-year convention provided in section 42(f)(2)(A) and (3)(B) and the percentage credit reduction provided in section 42(f)(3)(A). Under paragraphs (d) (2) and (5) of this section, the State of local housing credit agency must specify the credit percentage and qualified basis amount, the product of which is the amount of the housing credit allocation, without taking account of the first-year convention described in section 42(f)(2)(A) and (3)(B) or the percentage credit reduction prescribed in section 42(f)(3)(A). However, for purposes of the limitation on the amount of the allowable low-income housing credit, as provided in paragraph (e)(2) of this section, in a taxable year in which the first-year convention applies to the amount of credit determined under section 42(a), the specified qualified basis amount shall be adjusted by the first-year convention fraction which is equal to the number of full months (during the first taxable year) in which the building was in service divided by 12. In addition, for purposes of the limitation on the amount of the allowable low-income housing credit, as provided in paragraph (e)(1) of this section, in a taxable year in which the reduction in credit percentage applies to additions to qualified basis, as prescribed in section 42(f)(3), the specified credit percentage shall be reduced by one-third. *See* examples in paragraphs (d)(5)(ii) and (e)(3)(ii) of this section.

(3) *Use of excess housing credit allocation for increases in qualified basis*—(i) *In general.* If the housing credit allocation made to a qualified low-income building exceeds the amount of credit allowable with respect to such building in any taxable year (without regard to the first-year conventions under section 42(f)), such excess is not transferable to another qualified low-income building. However, if in a subsequent year there are increases in the qualified basis for which an increased credit is allowable under section 42(f)(3) at a reduced credit percentage, the original housing credit allocation (including the specified credit percentage and qualified basis amount) would be effective with respect to such increased credit.

(ii) *Example.* The provisions of this paragraph (e)(3) may be illustrated by the following example:

Example. In 1987, a newly-constructed qualified low-income building receives a housing credit allocation of $90,000 based on a specified credit percentage of 9 percent and a specified qualified basis amount of $1,000,000. The building is placed in service in 1987, but the qualified basis in such year is only $800,000, resulting in an allowable credit in 1987 (determined without regard to the first-year conventions) of $72,000. In 1988, the qualified basis is increased to $1,100,000, resulting in an additional credit allowable under section 42(f)(3) (without regard to the first-year conventions) of $18,000 (*i.e.*, $300,000 × .06, or ⅔ of .09). The unused portion of the 1987 housing credit allocation ($18,000) is effective in 1988 and in each subsequent year in the compliance period only with respect to the specified qualified basis for the 1987 housing credit allocation ($1,000,000). Thus, the owner is allowed to claim a credit in 1988 and in each subsequent year (without regard to the first-year conventions), based on the effective housing credit allocation from 1987, of $84,000 (*i.e.*, $72,000 + ($200,000 × .06)). The owner of the qualified low-income building must obtain a new housing credit allocation in 1988 with respect to the additional $100,000 of qualified basis in order to claim a credit on such basis in 1988 and in each subsequent year. If the applicable first-year convention under section 42(f)(3)(B) entitled the owner in 1988 to only ½ of the otherwise applicable credit for the additions to qualified basis, under paragraph (e)(2) of this section the owner is allowed to claim a credit in 1988, based on the effective housing credit allocation from 1987, of $78,000 (*i.e.*, $72,000 + ($200,000 × .06 × .5)).

(4) *Separate housing credit allocations for new buildings and increases in qualified basis.* Separate housing credit allocations must be received for each building with respect to which a housing credit may be claimed. Rehabilitation expenditures with respect to a qualified low-income building are treated as a separate new building under section 42(e) and must receive a separate housing credit allocation. Increases in qualified basis in a qualified low-income building are not generally treated as a new building for purposes of section 42. To the extent that a prior housing credit allocation received with respect to a qualified low-income building does not allow an increased credit with respect to an increase in the qualified basis of such building, an additional housing credit allocation must be received in order to claim a credit with respect to that portion of increase in qualified basis. *See* paragraph (e)(3) of this section. The amount of credit allowable with respect to an increase in qualified basis is subject to the credit percentage limitation of section 42(f)(3)(A) and the first-year convention of section 42(f)(3)(B). *See* paragraph (d)(5) of this section for a rule requiring that the State or local housing credit agency count a housing credit allocation made with respect to an increase in qualified basis as if the specified credit percentage were unreduced in the manner prescribed in section 42(f)(3) and the specified basis amount were unreduced by the first-year convention prescribed in section 42(f)(3)(B).

(5) *Acquisition of building for which a prior housing credit allocation has been made.* If a carryover credit would be allowable to an acquirer of a qualified low-income building under section 42(d)(7), such acquirer need not obtain a new housing credit allocation with respect to such building. Under section 42(d)(7), the acquirer would be entitled to claim only such credits as would have been allowable to the prior owner of the building.

(6) *Multiple housing credit allocations.* A qualified low-income building may receive multiple housing credit allocations from different housing credit agencies having overlapping jurisdictions. A qualified low-income building that receives a housing credit allocation set aside exclusively for projects involving a qualified nonprofit organization may also receive a housing credit allocation from a housing credit agency's aggregate housing credit dollar amount that is not so set aside.

(f) *Exception to housing credit allocation requirement*—(1) *Tax-exempt bond financing*—(i) *In general.* No housing credit allocation is required in order to claim a credit under section 42 with respect to that portion of the eligible basis (as defined in section 42(d)) of a qualified low-income building that is financed with the proceeds of an obligation described in section 103(a) ("tax-exempt bond") which is taken into account for purposes of the volume cap under section 146. In addition, no housing credit allocation is required in order to claim a credit under section 42 with respect to the entire qualified basis (as defined in section 42(c)) of a qualified low-income building if 70 percent or more of the aggregate basis of the building and the land on which the building is located is financed with the proceeds of tax-exempt bonds which are taken into account for purposes of the volume cap under section 146. For purposes of this paragraph, "land on which the building is located" includes only land that is functionally related and subordinate to the qualified low-income building. *See* § 1.103–8(b)(4)(iii) for the meaning of the term "functionally related and subordinate". For purposes of this paragraph, the basis of the land shall be determined using principles that

are consistent with the rules contained in section 42(d).

(ii) *Determining use of bond proceeds.* For purposes of determining the portion of proceeds of an issue of tax-exempt bonds used to finance (A) the eligible basis of a qualified low-income building, and (B) the aggregate basis of the building and the land on which the building is located, the proceeds of the issue must be allocated in the bond indenture or a related document (as defined in § 1.103-13(b)(8)) in a manner consistent with the method used to allocate the net proceeds of the issue for purposes of determining whether 95 percent or more of the net proceeds of the issue are to be used for the exempt purpose of the issue. If the issuer is not consistent in making this allocation throughout the bond indenture and related documents, or if neither the bond indenture nor a related document provides an allocation, the proceeds of the issue will be allocated on a pro rata basis to all of the property financed by the issue, based on the relative cost of the property.

(iii) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. In 1987, County K assigns $500,000 of its volume cap for private activity bonds under section 146 to a $500,000 issue of exempt facility bonds to provide a qualified residential rental project to be owned by A, an individual. The aggregate basis of the building and the land on which the building is located is $700,000. Under the terms of the bond indenture, the net proceeds of the issue are to be used to finance $490,000 of the eligible basis of the building. More than 70 percent of the aggregate basis of the qualified low-income building and the land on which the building is located is financed with the proceeds of tax-exempt bonds to which a portion of the volume cap under section 146 was allocated. Accordingly, A may claim a credit under section 42 without regard to whether any housing credit dollar amount was allocated to that building. If, instead, the aggregate basis of the building and land were $800,000, A would be able to claim the credit under section 42 without receiving a housing credit allocation for the building only to the extent that the credit was attributable to eligible basis of the building financed with tax-exempt bonds.

(g) *Termination of authority to make housing credit allocation*—(1) *In general.* No State or local housing credit agency shall receive an apportionment of a State housing credit ceiling for calendar years after 1989. Consequently, no housing credit allocations may be made after 1989, except as provided in paragraph (g)(2) of this section. Housing credit allocations made prior to January 1, 1990, remain effective after such date.

(2) *Carryover of unused 1989 apportionment.* Any State or local housing credit agency that has an unused portion of its apportionment of the State housing credit ceiling for 1989 from which housing credit allocations have not been made in 1989 may carry over such unused portion into 1990. Such carryover portion of the 1989 apportionment shall be treated as the agency's apportionment for 1990. From this 1990 apportionment, the State or local housing credit agency may make housing credit allocations only to a qualified low-income building meeting the following requirements:

(i) The building must be constructed, reconstructed, or rehabilitated by the taxpayer seeking the allocation;

(ii) More than 10 percent of the reasonably anticipated cost of such construction, reconstruction, or rehabilitation must have been incurred as of January 1, 1989; and

(iii) The building must be placed in service before January 1, 1991.

(3) *Expiration of exception for tax-exempt bond financed projects.* The exception to the requirement that a housing credit allocation be received with respect to any portion of the eligible basis of a qualified low-income building, as provided in paragraph (f) of this section, shall not apply to any building placed in service after 1989, unless such building is described in paragraph (g)(2) (i), (ii), and (iii) of this section.

(h) *Filing of forms and special rules*—(1) *Completed form.* For purposes of this section, a form shall be treated as completed if the State or local housing credit agency or the building owner has made a good faith effort to complete the form in accordance with the form and the instructions for the form.

(2) *Manner of filing.* A completed Form 8586, Low-Income Housing Credit, shall be filed with the owner's Federal income tax return for each taxable year the owner of a qualified low-income building is claiming the low-income housing credit during the 10-year credit period. A completed Form 8609 (or copy thereof) shall be filed with the owner's Federal income tax return for each of the 15 taxable years in the compliance period. If a housing credit allocation is not required to be received by an owner under paragraph (f) of this section, the owner shall obtain a blank copy of Form 8609 and fill in the address of the building and the name and address of the owner in Part I. Part II of Form 8609 shall be completed by the owner of the qualified low-income building only for the first year the low-income housing credit is claimed by the building owner. Part III of Form 8609 (Statement of Qualification) shall be completed by the owner of the qualified low-income building for each year of the 15-year compliance period.

(3) *Revised or renumbered forms.* If any form is revised or renumbered, any reference in this section to the form shall be treated as a reference to the revised or renumbered form.

(i) *Transitional rules.* The transitional rules contained in section 252(f)(1) of the Tax Reform Act of 1986 are incorporated into this section of the regulations for purposes of determining whether a qualified low-income building is entitled to receive a housing credit allocation or is excepted from the requirement that a housing credit allocation be received. Housing credit allocations made to qualified low-income buildings described in section 252(f)(1) shall not count against the State or local housing credit agency's aggregate housing credit dollar amount. The transitional rules contained in section 252(f)(2) of the Tax Reform Act of 1986 are incorporated into this section of the regulations for purposes of determining amounts available to certain State or local housing credit agencies for the making of housing credit allocations to certain qualified low-income housing projects. Amounts available to housing credit agencies under section 252(f)(2) shall be treated as special apportionments unavailable for housing credit allocations to qualified low-income buildings not described in section 252(f)(2). Housing credit allocations made from the special apportionments shall not count against the State or local credit agency's aggregate housing credit dollar amount. The set-aside requirements shall not apply to these special apportionments. The transitional rules contained in section 252(f)(3) of the Tax Reform Act 1986 are incorporated in this section of the regulations for purposes of determining the amount of housing credit allocations received by certain qualified low-income buildings. Housing credit allocations deemed received under section 252(f)(3) shall not count against the State or local housing credit agency's aggregate housing credit dollar amount.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 3. The authority citation for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

Par. 4. Section 602.101(c) is amended by inserting in the appropriate place in the table "§ 1.42-1T. . . 1545-0988".

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

Approved: June 4, 1987.

J. Roger Mentz,

Assistant Secretary of the Treasury.

[FR Doc. 87-14093 Filed 6-17-87; 3:31 pm]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 251

Geological and Geophysical (G&G) Explorations of the Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Temporary rule.

SUMMARY: The Minerals Management Service (MMS) is issuing a temporary rule to suspend the release of proprietary geophysical data and information collected under a permit. This action is necessary to enable MMS to review and amend its regulations governing the term of protection of proprietary geophysical data and information with the option of applying any revised rules to data and information currently in the possession of MMS.

EFFECTIVE DATE: This rule is effective from June 22, 1987, until June 22, 1988.

FOR FURTHER INFORMATION CONTACT: Gerald Rhodes, (703) 648-7816 or (FTS) 959-7816.

SUPPLEMENTARY INFORMATION: Section 26(c) of the OCS Lands Act requires that—

> The Secretary shall prescribe regulations to (1) assure that the confidentiality of privileged or proprietary information received by the Secretary under this section will be maintained, and (2) set forth the time periods and conditions which shall be applicable to the release of such information. . . .

Current regulations at 30 CFR 251.14 provide 10-year terms during which geophysical data and analyzed geophysical information collected under a permit are not available to the public without the consent of the permittee. Industry has suggested to the Department of the Interior (DOI) that these timeframes are inadequate to protect the collector from loss of the commercial value of the data and information.

The DOI has reviewed these rules giving consideration to the commercial value of the data and information and to the public need for the data and information. The basic question of how long data and information should be protected is complex and is further complicated when the lease sale activity which was anticipated when data and information were collected fails to occur.

The MMS believes that a thorough review of these rules is necessary and that the review should cover release of data and information currently in the possession of MMS as well as data and information submitted in the future. To enable MMS to consider revising terms of protection of data and information which, under current rules, would be eligible for release during the course of the review, MMS is issuing a temporary rule to suspend the release of prelease geophysical data and information for a period of 1 year. During this 1-year period, MMS intends to solicit additional public comment on the subject through a notice of proposed rulemaking and subsequently to issue a final rule. The MMS believes that it is necessary to temporarily amend the rules without notice and comment and for the temporary rule to become effective upon publication. This action is considered to be in the public interest since failure to do so will result in the release of proprietary data and information before MMS can determine whether such data and information should be released at this time. By issuing an immediately effective temporary rule, data and information which would otherwise be eligible for release will ultimately be protected or released in accordance with rules which will be modified following notice and comment. If notice and comment were allowed before making this temporary rule effective, then over 100,000 line-miles of data and information would have to be released. This release would, in large part, render the broader rulemaking moot. Therefore, MMS has determined that pursuant to 5 U.S.C. 553(b)(3)(B), notice and comment prior to the issuance of this temporary rule are contrary to public interest. Additionally, 5 U.S.C. 553(d)(1) provides that publication of a rule 30 days prior to the effective date is not required when a rule grants an exemption. The MMS has determined that this temporary rule grants an exemption. Additionally, making the temporary rule effective upon publication is in the public interest.

The temporary rule applies to geophysical data and information submitted under a permit and stipulates that such data and information will not be released for 1 year following the publication of this rule. If an amendment to the rules governing the term of protection of geophysical data and information is published during this year, it is anticipated that MMS will write the amendment to supersede this temporary rule.

The DOI has determined that this action does not constitute a major Federal action affecting the quality of the human environment; therefore, an environmental impact statement is not required.

The DOI has also determined that this document is not a major rule under Executive Order 12291 because the annual economic effect is less than $100 million.

The DOI also certifies that the rule will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) as the entities that engage in offshore activities are not considered small due to the technical complexity and financial resources necessary to conduct offshore activities.

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Author

The document was prepared by John V. Mirabella; Rules, Orders, and Standards Branch; Offshore Rules and Operations Division; Minerals Management Service.

List of Subjects in 30 CFR Part 251

Continental shelf, Freedom of information, Oil and gas exploration, Public lands—mineral resources, Reporting and recordkeeping requirements, Research.

Dated: June 1, 1987.

William D. Bettenberg,

Director, Minerals Management Service.

PART 251—[AMENDED]

For the reasons set forth above, 30 CFR Part 251 is amended as follows:

1. The authority citation for Part 251 continues to read as follows:

> **Authority:** Outer Continental Shelf Lands Act, 43 U.S.C. 1331 *et seq.*, as amended, 92 Stat. 629; National Environmental Policy Act of 1969, 42 U.S.C. 4332 *et seq.* (1970); Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 *et seq.*

2. Section 251.14-1 is amended by adding paragraph (e) to read as follows:

§ 251.14-1 Disclosure of information and data to the public.

* * * * *

(e) Notwithstanding other provisions of this section, no geophysical data or information shall be released without the consent of the permittee from June 22, 1987, until June 22, 1988.

[FR Doc. 87-14059 Filed 6-19-87; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD5-87-033]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Core Creek, Beaufort, NC

AGENCY: Coast Guard, DOT.

ACTION: Interim rule with request for comments.

SUMMARY: At the request of the U.S. Army Corps of Engineers, Wilmington, North Carolina, the Coast Guard is issuing an interim rule amending the regulations that govern the operation of the drawbridge across the AICWW, mile 195.8, at Beaufort, North Carolina and requesting comments on the rule. This rule is being issued to limit the number of bridge openings caused by high volumes of daytime marine traffic during the boating season. The frequent bridge openings far exceed the 50 year old bridge's design. The openings are causing excessive wear on the bridge and its machinery. Implementation of this rule should reduce the number of machinery failures, before a replacement bridge can be constructed.

DATES: This interim rule is effective June 15, 1987; comments must be received on or before August 28, 1987.

ADDRESS: Comments should be mailed to Commander (oan), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004. The comments received will be available for inspection and copying at Room 609 at the above address between 8 a.m. and 4 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, (804) 398-6222.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for concurrence with or any recommended change to the interim rule. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope. The Commander, Fifth Coast Guard District, will evaluate all communications received and determine a course of final action. The interim regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Linda L. Gilliam, project officer, and CDR Robert J. Reining, project attorney.

Discussion of Interim Rule

At the request of the U.S. Army Corps of Engineers, the Coast Guard is issuing an interim rule amending the regulations governing the operation of the drawbridge across the Atlantic Intracoastal Waterway at Core Creek, in Beaufort, North Carolina. The U.S. Army Corps of Engineers has requested a limit on the number of drawbridge openings during the boating season to avoid any unnecessary wear and tear on this 50 year old bridge. There is a need to reduce the frequency of drawbridge openings until a new fixed high-rise bridge is constructed. This action will prolong the life of the machinery and increase the reliability of the bridge. The bridge has a history of machinery failures that result in unscheduled closures, which disrupt both highway and waterway traffic.

The existing regulation requires the drawbridge to open on signal. The U.S. Army Corps of Engineers has requested that the regulations be changed to only require the draw to open daily on the hour and half hour from April 1 through November 30, between 6 a.m. to 7 p.m.

The request was based on an engineer's report that the structure and its machinery are not able to withstand the current rate of openings. The bridge's machinery is near the end of its reliable life. Machinery failures are becoming more end more frequent.

Under this interim rule, a comment period is provided which extends to August 28, 1987. This allows interested parties an opportunity to evaluate and comment on the effect of the regulations during the early months of the boating season. The Coast Guard finds that good cause under 5 U.S.C. 553 exist to publish this interim rule without a notice of proposed rulemaking and make it effective in less than 30 days after **Federal Register** publication. Publishing a notice of proposed rulemaking and delaying the effective date are unnecessary and contrary to the public interest since immediate action is required to reduce the likelihood of premature failure of the drawbridge machinery and in order to avoid the resulting disruption to highway and waterway traffic.

Economic Assessment and Certification

This interim rule is considered to be non-major under the Executive Order 12291 and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this rule is expected to be so minimal that a full regulatory evaluation is unnecessary. This conclusion is based on the fact that the interim regulation will provide bridge openings every 30 minutes allowing a smooth transition for both highway and waterway traffic.

Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, 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 Regulations

PART 117—[AMENDED]

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

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

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

2. In § 117.821, paragraphs (a), (b), and (c) are redesignated as paragraphs (b), (c), and (d) respectively.

3. A new paragraph (a) is added to § 117.821 to read as follows:

§ 117.821 Atlantic Intracoastal Waterway, Bogue Sound to Wrightsville Beach, North Carolina.

(a) From April 1 to November 30, the S.R. 101 bridge at Beaufort shall open:

(1) On the hour and half hour from 6:00 a.m. to 7:00 p.m. for the passage of pleasure craft.

(2) On signal for public vessels of the United States, state and local government vessels, commercial vessels, and any vessel in an emergency involving danger to life or property.

(3) If a pleasure boat is approaching the drawbridge and cannot reach the draw on the half hour, the drawtender may delay the opening up to 10 minutes past the half hour.

* * * * *

Dated: June 15, 1987.

B.F. Hollingsworth,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 87-14104 Filed 6-19-87; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[CGD7 87-15]

Safety Zone; St. Johns River, FL

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: The Coast Guard is establishing the following safety zones:

Safety Zone A. A moving safety zone extending out 200 yards in all directions around any specified Maritime Prepositioned Ship transiting the St. Johns River to and from its berth inside Mayport Naval Basin (Ribault Bay), Mayport, FL. The prescribed zone will also be in effect from the St. Johns River entrance sea buoy (STJ) to its berth at Blount Island Marine Terminal, Jacksonville, Florida.

Safety Zone B. A fixed safety zone around specific portions of Jacksonville Port Authority's Blount Island Terminal, Jacksonville, Florida, a facility of particular hazard, restricting access to the Blount Island facility bordering the St. Johns River including all land within 100 yards and water within 200 yards of the shoreline. The zone is required to prevent interference with safe cargo handling operations of military explosives aboard Maritime Prepositioned Ships while they are moored at Blount Island, Jacksonville, Florida. These vessels are required to support U.S. forces overseas in a military emergency.

Entry into these zones is prohibited unless authorized by the Captain of the Port, Jacksonville, Florida or the Commander, Seventh Coast Guard District.

EFFECTIVE DATE: This regulation becomes effective June 22, 1987.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander H. Henderson, c/o Commanding Officer, USCG Marine Safety Office, 2831 Talleyrand Avenue, Jacksonville, FL 32206, Tel: (904) 791-2648.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation because it involves military or foreign affairs of the United States and is exempt under 5 U.S.C. 553(a)(1) from notice and comment requirements.

Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure that the regulation is both reasonable and workable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under "**ADDRESS**" in the preamble. Commenters should include their names and addresses, identify the docket number for the regulation and give the reason for their comments. Receipt of comments will be acknowledged if a self-addressed postcard or envelope is enclosed. Based upon comments received, the regulation may be changed. The emergency rule covering the period October 2–October 4, 1986 has expired and is no longer in effect.

Drafting Information

The drafters of this regulation are Lieutenant (junior grade) K. L. Rhodes, Project Officer for the Captain of the Port, and Lieutenant Commander S. T. Fuger, Jr., Project Attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulation

These safety zones are required to protect environment and public and ensure safe operation aboard Maritime Prepositioned Ships while they are transitting the St. Johns River or moored at Blount Island Terminal, Jacksonville, Florida. These vessels are part of the Department of Defense logistic chain required to support U.S. forces overseas in a military emergency. Operations involving Maritime Prepositioned Ships are scheduled to be conducted monthly and run indefinitely. The safety zones will be activated by means of locally promulgated notices.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Final Regulation

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

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: (33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5)

2. Section 165.728 is revised to read as follows:

§ 165.728 Jacksonville, Florida—Safety Zones.

(a) The water, land, and land and water within the following boundaries are established as Safety Zones during the specified conditions:

(1) *Zone A.* 200 yards in all directions around any specified Maritime Prepositioned Ship as it transits between the St. Johns River entrance sea buoy (STJ) and its berth inside the Mayport Basin (Ribault Bay), Mayport, Florida. The prescribed safety zone will also be in effect as the vessel transits to its berth at Blount Island Marine Terminal, Jacksonville, Florida.

(2) *Zone B.* 100 yards in all directions on land and 200 yards on water from the eastern end of Transit Shed #2 to the east shore of Alligator Creek at Blount Island Terminal, Jacksonville, Florida.

(b) The areas described in paragraph (a) of this section may be closed to all vessels and persons, except those vessels and persons authorized by Commander, Seventh Coast Guard District, or the Captain of the Port, Jacksonville, Florida, whenever specified Maritime Prepositioned Ships are moored at Blount Island, or in transit to and from berths at Mayport, Naval Basin, Mayport Florida, and Blount Island Terminal, Jacksonville, Florida.

(c) The general regulations governing safety zones contained in 33 CFR 165.23 apply.

(d) COTP Jacksonville, Florida, will activate the safety zones or specific portions of them by means of locally promulgated notices. The closing of the area at Blount Island, described above, will be signified by the display of a rotating yellow light located on the waterfront at Blount Island Terminal. Appropriate Notices to Mariners will also be broadcast on 2670 KHZ.

Dated: June 1, 1987.

M. Woods,

Captain, U.S. Coast Guard, Captain of the Port, Jacksonville, Florida.

[FR Doc. 87-14105 Filed 6-19-87; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[CGD7 87-16]

Security Zone; St. Johns River, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing the following security zones:

Security Zone A. A moving security zone extending out 200 yards in all directions around any specified Maritime Prepositioned Ship transitting the St. Johns River to and from its berth inside Mayport Naval Basin (Ribault

Bay), Mayport, FL. The prescribed zone will also be in effect from the St. Johns River entrance sea buoy (STJ) to its berth at Blount Island Marine Terminal, Jacksonville, Florida.

Security Zone B. A fixed security zone around specific portions of Jacksonville Port Authority's Blount Island Terminal, Jacksonville, Florida, a facility of particular hazard, restricting access to the Blount Island facility bordering the St. Johns River including all land within 100 yards and water within 200 yards of the shoreline. The zone is necessary for protection of vital United States assets abroad Maritime Prepositioned Ships while they are moored at Blount Island Terminal, Jacksonville, Florida on the St. Johns River. These vessels are required to support U.S. forces overseas in a military emergency.

Entry into these zones is prohibited unless authorized by the Captain of the Port, Jacksonville, Florida, or the Commander, Seventh Coast Guard District.

EFFECTIVE DATE: This regulation becomes effective June 22, 1987.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander H. Henderson, c/o Commanding Officer, USCG Marine Safety Office, 2831 Talleyrand Avenue, Jacksonville, FL 32206, Tel: (904) 791-2648.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation because it involves military or foreign affairs of the United States and is exempt under 5 U.S.C. 553(a)(1) from notice and comment requirements.

Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure that the regulation is both reasonable and workable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under **"ADDRESS"** in the preamble. Commenters should include their names and addresses, identify the docket number for the regulation and give the reason for their comments. Receipt of comments will be acknowledged if a self-addressed postcard or envelope is enclosed. Based upon comments received, the regulation may be changed. The emergency rule covering the period 2 October–4 October 1986 has expired and is no longer in effect.

Drafting Information

The drafters of this regulation are Lieutenant (junior grade) K. L. Rhodes, Project Officer for the Captain of the Port, and Lieutenant Commander S. T. Fuger, Jr., Project Attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulation

These security zones are required to protect U.S. Maritime Prepositioned Ships against covert or subversive threats while transiting the St. Johns River or moored at Blount Island Terminal, Jacksonville, Florida. These vessels are part of the Department of Defense logistic chain required to support U.S. forces overseas in a military emergency. With the increase of terrorism worldwide, the U.S. Marines have requested the U.S. Coast Guard to provide security for these Maritime Prepositioned Ships. Operations involving Maritime Prepositioned Ships are scheduled to be conducted monthly and run indefinitely. The security zones will be activated by means of locally promulgated notices.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Final Regulation

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

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: (33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5)

2. Section 165.729 is revised to read as follows:

§ 165.729 Jacksonville Harbor, Florida—Security Zone.

(a) The water, land, and land and water within the following boundaries are established as Security Zones during the specified conditions:

(1) *Zone A.* 200 yards in all directions around any specified Maritime Prepositioned Ship as it transits between the St. Johns River entrance sea buoy (STJ) and its berth inside the Mayport Naval Basin (Ribault Bay), Mayport, Florida. The prescribed security zone will also be in effect as the vessel transits to its berth at Blount Island Marine Terminal, Jacksonville, Florida.

(2) *Zone B.* 100 yards in all directions on land and 200 yards on water from the eastern end of Transit Shed #2 to the east shore of Alligator Creek at Blount Island Terminal, Jacksonville, Florida.

(b) The areas described in paragraph (a) of this section shall be closed to all vessels and persons, except those vessels and persons authorized by Commander, Seventh Coast Guard District, or the Captain of the Port, Jacksonville, Florida, whenever specified Maritime Prepositioned Ships are moored at Blount Island, or in transit to and from berths at Mayport Naval Basin, Mayport, Florida and Blount Island Terminal, Jacksonville, Florida.

(c) The general regulations governing security zones contained in 33 CFR 165.33 apply.

(d) COTP Jacksonville, Florida, will activate the security zones or specific portions of them by means of locally promulgated notices. The closing of the area at Blount Island, described above, will be signified by the display of a rotating yellow light located on the waterfront at Berth 12, Blount Island Terminal. Appropriate Notices to Mariners will also be broadcast on 2670 KHZ.

Dated: June 1, 1987.

M. Woods,

Captain, U.S. Coast Guard, Captain of the Port, Jacksonville, Florida.

[FR Doc. 87-14106 Filed 6-19-87; 8:45 am]

BILLING CODE 4910-14-M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. RM 86-1A]

Copyright Registration for Colorized Versions of Black and White Motion Pictures

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of registration decision.

SUMMARY: This notice of a registration decision is issued to inform the public that the Copyright Office of the Library of Congress has determined that claims to copyright in certain computer-colorized versions of black and white motion pictures may be registered. The notice gives guidance to the public about the standards and practices governing registration of computer-colorized motion pictures. The notice also confirms the validity of existing regulation 37 CFR 201.1(a), prohibiting copyright registration for mere variations of coloring.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, Copyright Office, Library of Congress, Washington, DC 20559. Telephone (202) 287-8380.

SUPPLEMENTARY INFORMATION:

Registration of Colorized Black and White Motion Pictures As Derivative Works

1. Background

The Copyright Act, title 17 of the U.S. Code, defines a derivative work as "a work based upon one or more preexisting works such as a translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgement, condensation, or any other form in which a work may be recast, transformed, or adapted. A work consisting of editorial revisions, annotations, elaborations, or other *modifications, which, as a whole, represent an original work of authorship,* is a "derivative work." 17 U.S.C. 101 (emphasis added).

The Copyright Act also spells out that copyright protection in a derivative work "extends only to the material contributed by the author of such work, as distinguished from the preexisting material employed in the work, and does *not imply any exclusive right in the preexisting material. The copyright in such work is independent of, and does not affect or enlarge the scope, duration, ownership, or subsistence of, any copyright protection in the preexisting material.*" 17 U.S.C. 103(b) (emphasis added).

An existing Copyright Office regulation provides that "mere variations of . . . coloring" are not subject to copyright. 37 CFR 202.1(a). This does not preclude registration where the work contains some other elements of originality such as an original arrangement or combination of colors. Courts have held that while color *per se* is uncopyrightable and unregistrable, arrangements or combinations of colors may warrant copyright protection.[1]

Between 1985 and 1986, several parties submitted the colorized versions of ten motion pictures and one television program to the Copyright Office for registration of the colorized version as a derivative work. The Copyright Office did not register any of these works. Because of the unusual nature of the claimed authorship and to obtain information about the process of creating the colorized versions from persons other than the claimants, on September 15, 1986, the Copyright Office published a Notice of Inquiry in the **Federal Register** (51 FR 32665) asking for comments in four specific areas.

1. Which steps, if any, in the colorization processes involve individual creative human authorship?

2. Who are the authors of the copyrightable elements, if any, in colorized film?

3. With specific reference to the role of computer programs in colorization processes:

(a) How are colors selected? How are colors made available for selection? What factors influence color selection? How wide is the range of choice?

(b) In addition to coloring in the strict sense, are other cinematographic contributions, such as animation or other hand or computer assisted effects, utilized in colorizing?

4. Are all colorization processes intended solely to create videotapes in color? Are any methods now available or under development that would permit the commercially feasible colorization of 35mm prints of a quality that would permit theatrical distribution?

The Copyright Office explained that it was interested in this information in order to come to a determination of whether the coloring of black and white motion pictures is subject to copyright registration; furthermore, the Copyright Office specified that aesthetic or moral arguments about the propriety of coloring black and white film did not, and could not, form any part of its inquiry.[2]

2. Summary of the Comments

In all 46 comments (43 original and three reply) were filed with the Copyright Office. Despite the Copyright Office's caveat against arguments regarding aesthetic considerations, many of the comments filed related simply to the question of whether or not the commentator found the colorized motion picture aesthetically pleasing. And most did not. Other comments attempted to respond to the four question areas set out in the Notice of Inquiry.

a. *The colorization processes.* The Copyright Office noted the existence of two different types of processes in which color is added to a black and white film. One ("chromoloid") involves a color-retrieval process and the other ("colorization") adds color to individual scenes and then the entire film. The second system is the one used by both the Color Systems Technology, Inc. of Hollywood, and Colorization, Inc. of Toronto, Canada.

(1) *The chromoloid process.* In this process a fine grained black and white positive print is first reproduced by an optical printer in three distinct prints: red, blue, and green. Then a subsequent printing process combines the three prints into a single full color film. This process was not described in any of the comments, and no films colored by this process have been submitted to the Copyright Office for registration.

(2) *The colorization process.* Both the Canadian firm, Colorization, Inc. that is associated with Hal Roach Studios, and Color Systems Technology use separately developed processes that basically involve colorization of one frame by a computer operator and then colorization of each succeeding frame in the entire scene by the computer.

The first step of the colorization process is to transform a pristine black and white print to a videotape. This videotape is then broken down into discrete scenes and sequences. A color plan is developed for each scene as well as the entire videotape. The spectrum of colors initially available is virtually unlimited,[3] but colors are generally selected to convey a particular time period, to create a certain mood, and to be faithful where possible to the coloring of the actors and actresses involved.

Next an artist uses a computer controlled graphics tablet and an electronic palette to hand-color key frames. Then a high-speed computer is directed to color the intervening frames, gearing adjustments to variations in the luminosity of the black and white original.

Each color converted scene is reviewed and revisions are made where necessitated, *e.g.*, where dictated by a change in one of the intervening frames not consistent with the hand-colored key frame.

b. *Original authorship.* Although the general public response was against copyright registration on aesthetic grounds, the consensus of those who responded regarding the legal issue of original authorship was that colorized versions of black and white motion pictures satisfied the copyright law's standard for copyright subject matter. They based this argument on the position that the creation of a computer color version is a process that involves

[1] See also 1 Nimmer on Copyright 3 § 2.14 (1985).

[2] Copyright registration determinations cannot be made on aesthetic grounds. Original works of authorship that meet the legal and formal requirements of the Copyright Act are entitled to registration, irrespective of their artistic worth. Moreover, the present federal copyright law does not extend protection to the so-called "moral right" of an author to prevent the distortion or mutilation of the work, after transfer of the copyright.

[3] The comment of Colorization, Inc. alleges that selections are made from a palette of 16 million colors, from which 4,096 colors are selected for each movie and 64 colors for each scene.

individual creative human authorship and requires an amount of technical or artistic judgment that meets copyright law standards of original, creative expression. One justification was that all of the steps involved in colorization involve human authorship since the process is directed by human operators who follow the dictates of a human art director. The more prevalent justification is that the selection, coordination and application of color, and the review of the final product amount to "individual creative human authorship."

Those opposed to copyright registration asserted that colorizing is a technical process that does not have sufficient *human* authorship to merit copyright protection. This commentator examined three steps involved in the process: color selection, the data base, and the computer program and argued that none justify registration of colorized films under the following tests for derivative works claims:

(1) Are they based on more than ideas or mere facts and

(2) If so, are they based on more than trivial variations in the actual expression of an underlying work, these being both

(a) Attributable to original authorship and

(b) Representing a modicum of creativity.

As to color selection the opponents claimed that an artist's selection of palette is an idea that has not as yet produced any copyrightable expression. As to the "data base," this party noted that copyright does not cover the factual content of a work and contended that it is the color facts in the data base which are integrated into a preexisting visual pattern of the black and white film that is being reprocessed. These patterns, it was argued, serve as the actual expression in the new video product, which merely organizes the facts previously compiled in a different order. Furthemore, the opponents argued that "the protectible forms in which the facts were once complied, that is, expressed and organized, say, as a computer-readable data base, will, in the final video product, be quite simply left behind. . . ." Finally, the opponents asserted that copyright in a computer program cannot also support a claim in the product or output of the program—in this case the color-recoded film.

Several commentators raised the issue of whether only the handcolored scenes and not those done by computer are copyrightable. Another related issue is even if sufficient human authorship exists given today's colorization technology, what happens to a copyright claim when the complete coloring process is done by a computer program?

3. Appropriate Judicial Standard

Proponents and opponents would probably agree that whether or not a derivative work will support a copyright depends upon whether it is a distinguishable variation or merely a trivial variation. *See L. Batlin and Son* v. *Snyder*, 536 F.2d 486 (2d Cir. 1976), *cert. denied*, 429 U.S. 857 (1976). The disagreement between the two sides centers on what makes a variation distinguishable and also on whether a higher standard is required for a derivative work, especially if it is based on a work that is already in the public domain.

The second circuit held in the *Batlin* case that a higher standard exists for determining copyrightability of contributions to public domain works. Later this same court said that copyright for derivative works is subject to two related and important limitations:

1. To support a copyright the original aspects of a derivative work must be more than trivial.

2. The scope of protection afforded a derivative work must reflect the degree to which it relies on the preexisting material and must not in any way affect the scope of any copyright in this preexisting material.

Durham Industries, Inc. v. *Tomy Corporation*, 630 F.2d 905, 909 (2d Cir. 1980).

The seventh circuit has also indicated that a higher standard of originality is required in derivative works in order to prevent the first creator of a derivative work from interfering with the right of subsequent authors to depict the underlying work without fear of copyright problems. *Gracen* v. *Bradford Exchange*, 698 F.2d 300 (7th Cir. 1983).

Proponents of copyright for computer-colorized films assert that the *Gracen* case is a misreading of *Batlin*, that *Batlin* grapples with the problem of substantial similarity in the case of works grounded in common antecedents, and that the ruling does not deny copyright registrability to colorized motion pictures which meet the tests of original authorship as set out in *Batlin* and other cases.

Opponents of copyright in computer-colorized films argue that colorizing a film does not meet the *Batlin* test for authorship in derivative works. They interpret *Batlin* as distinguishing between human contributions that require sustained "artistic skill and effort" and those that exhibit only "physical skill" or technical competence. The former could be copyrightable; the latter would not.

Before the *Batlin* case was decided, a district court upheld the copyrightability of a compilation of colors on the basis of color selection which the court found to require "careful consideration of numerous artistic factors including the aesthetic attributes of each shade and its use in the commercial art field." *Pantone Inc.* v. *A. J. Friedman Inc.*, 294 F.Supp. 545, 547 (S.D.N.Y. 1968).

4. Registration Decision

After studying the comments responsive to the questions listed above, the Copyright Act, and the case law, the Copyright Office has concluded that certain colorized versions of black and white motion pictures are eligible for copyright registration as derivative works. The Office will register as derivative works those color versions that reveal a certain minimum amount of individual creative human authorship. This decision is restricted to the colorized films prepared through the computer-colorization process described above. No comments were received regarding the chromoloid process, and no claims are pending before the Copyright Office. The record before us does not contain sufficient information to make a decision regarding chromoloid films.

The Copyright Office finds that the issue of copyright in computer-colorized films requires a difficult determination of the presence of original authorship. The policy of the existing regulation prohibiting registration for "mere variations . . . of coloring" is sound and fully supported by case law. *Kitchens of Sara Lee, Inc.* v. *Nifty Foods Corp.*, 266 F.2d 541, 544–545 (2d Cir. 1959); *Manes Fabric Co., Inc.* v. *The Acadia Co.*, 139 U.S.P.Q. 339, 340 (S.D.N.Y. 1960); *Christianson* v. *West Publishing Co.*, 53 F. Supp. 454, 455 (N.D. Calif. 1944), *aff'd* 149 F.2d 202 (9th Cir. 1945). The regulation is applied by the Copyright Office to deny registration when the only authorship claimed consists of the addition of a relatively few number of colors to an existing design or work. The regulation also prohibits registration of multiple colored versions of the same basic design or work. Registration is not precluded, however, where the work consists of original selection, arrangement, or combinations of a large number of colors, or where the lines of an original design are fired by gradations of numerous colors. The Copyright Office finds that these registration practices are consistent with the standards of original authorship set by the Copyright Act, and we affirm the validity of the existing regulation.

The Office concludes that some computer-colorized films may contain sufficient original authorship to justify registration, but our decision is a close, narrow one based on the allegations that the typical colorized film is the result of the selection of as many as 4000 colors, drawn from a palette of 16 million colors. The Office does not consider registration would be justified based on a claimed "arrangement" or "combination" of the colors because the original black and white film predetermines the arrangement of colors. The Office is concerned about implications of registering a claim to copyright in public domain films based on colorizing, and we address that point below. Our decision is also limited to existing computer-coloring technology. We will monitor technological developments, and may reconsider the issue if the role of the computer in selecting the colors becomes more dominant.

The general standard for determining whether the color added to a black and white motion picture is sufficient to merit copyright protection is the statutory standard that already applies to all derivative works, i.e. "modifications" to a preexisting work "which, as a whole, represent an original work of authorship." 17 U.S.C. 101. In determining whether the coloring of a particular black and white film is a modification that satisfies the above standard, the Office will apply the following criteria:

(1) Numerous color selections must be made by human beings from an extensive color inventory.

(2) The range and extent of colors added to the black and white work must represent more than a trivial variation.

(3) The overall appearance of the motion picture must be modified; registration will not be made for the coloring of a few frames or the enhancement of color in a previously colored film.

(4) Removal of color from a motion picture or other work will not justify registration.

(5) The existing regulatory prohibition on copyright registration based on mere variations of color is confirmed.

When registration is warranted, the copyright will cover only the new material, that is, the numerous selections of color that are added to the original black and white film. The copyright status of the underlying work is unaffected. The black and white film version will remain in the public domain or enter the public domain as dictated by its own copyright term. When an underlying work is in the public domain, another party is free to use that work to make a different color version which may also be eligible for copyright protection.

List of Subjects in 37 CFR Part 202

Claims, Claims to copyright, Copyright registration.

A proposed rule on deposit of computer-colorized films will be published separately.

Dated: June 11, 1987.

Ralph Oman,

Register of Copyrights.

Approved by:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 87-14091 Filed 6-19-87; 8:45 am]

BILLING CODE 1410-07-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 52

[A-7-FRL-3194-2]

Approval and Promulgation of State Implementation Plans for Colorado; Revisions to Regulation No. 4, The Sale of New Woodstoves

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice approves a revision to Colorado Regulation No. 4 (The Sale of New Woodstoves). The revision establishes a new fee schedule for certification of new woodstoves sold, offered for sale, or advertised for sale on or after January 1, 1987. Regulation No. 4 was adopted to provide additional reductions in emissions of particulates and carbon monoxide.

DATES: This action will be effective on August 21, 1987 unless notice is received by July 22, 1987 that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the revision are available for public inspection between 8:00 a.m. and 4:00 p.m. Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, One Denver Place, Suite 500, 999 18th Street, Denver, Colorado 80202-2405

Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street, SW., Washington, DC 20460

FOR FURTHER INFORMATION CONTACT: Denise Link, Air Programs Branch, Environmental Protection Agency, One Denver Place, Suite 500, 999 18th Street, Denver, Colorado 80202-2405, (303) 293-1759

SUPPLEMENTARY INFORMATION: The revision to Colorado Regulation No. 4 was approved by the Colorado Air Quality Control Commission on June 27, 1986, and was submitted by the Governor as a State Implementation Plan (SIP) revision on October 24, 1986. This action will establish a new fee schedule for certification of new woodstoves sold, offered for sale, or advertised for sale on or after January 1, 1987. The fee structure currently in effect has not generated sufficient fees to pay for the projected costs of the certification program, including the costs associated with enforcement of Colorado Regulation No. 4.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of this **Federal Register** unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of this action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective August 21, 1987.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant impact on a substantial number of small entities (see 46 FR 8709).

Under section 307(b)(1) of the Clean Air Act (CAA), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 21, 1987. This action may not be challenged later in proceedings to enforce its requirements (see CAA section 307(b)(2)).

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

List of Subjects in 40 CFR Part 52

Air pollution control, Particulate matter, Carbon monoxide, Incorporation by reference.

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

Dated: April 22, 1987.

Lee M. Thomas,

Administrator.

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

PART 52—[AMENDED]

Subpart G—Colorado

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.320 is amended by adding paragraph (c)(33) to read as follows:

§ 52.320 Identification of plan.

* * * * *

(c) * * *

(33) A revision to Regulation No. 4, "Regulation on the Sale of New Woodstoves", to control emissions from new woodstoves was submitted by the Governor on October 24, 1986.

(i) Incorporation by reference

(A) Colorado Air Quality Control Commission Regulation No. 4, "Regulation on the Sale of New Woodstoves" (Section III.A., E., F., G. and Section VI.B. and C.) adopted June 27, 1985.

[FR Doc. 87–14133 Filed 6–19–87; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 270

[FRL–3184–9]

Development of Corrective Action Programs After Permitting Hazardous Waste Land Disposal Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency is today amending the regulations establishing information requirements for Part B permit applications under the Resource Conservation and Recovery Act (RCRA) as amended. Currently, RCRA regulations require owner/operators of facilities that treat, store, or dispose of hazardous waste in surface impoundments, waste piles, land treatment units, or landfills that received waste after July 26, 1982 to submit feasibility studies and plans for a corrective action program in the Part B permit application when hazardous constituents in the ground water exceed specified limits. These requirements have created delays in the timely issuance of land disposal permits. Further, as corrective action for other hazardous and solid waste management units is normally undertaken after issuance of the permit, these requirements can cause inconsistencies in the timing and approach for corrective action for various units at the same facility. This final amendment will allow the owner/operator, at the Regional Administrator's discretion, to conduct certain activities related to ground water corrective action after issuance of the permit.

DATES: These regulations shall become effective on June 22, 1987.

ADDRESSES: The public docket for this rulemaking is available for public inspection at Room S–212–E, U.S. EPA 401 M Street SW., Washington, DC 20460 from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. The docket number is F–86–RUP–FFFFF. Call (202) 475–9327 to make an appointment with the docket clerk. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: RCRA hotline at (800) 424–9346 (in Washington, DC call 382–3000) or Dave Fagan, Office of Solid Waste (WH–563), U.S. Environmental Protection Agency, Washington, DC 20460, telephone (202) 382–4497.

SUPPLEMENTARY INFORMATION:

I. Background

RCRA requires a permit for the treatment, storage, or disposal of any hazardous waste identified or listed in 40 CFR Part 261. Owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit, and for any applicable post-closure care period. Regulations in 40 CFR Part 270 describe the requirements for permit applications. Regulations in Part 264 specify technical and administrative standards that also apply to facilities that obtain permits.

A. Land Disposal Standards Issued in 1982

Subpart F of Part 264, promulgated in July 1982, establishes a three-stage program of detection, compliance, and corrective action for ground water contamination at new and existing "regulated" units. As defined in 40 CFR 264.90(a), a "regulated unit" is a surface impoundment, waste pile, land treatment unit, or landfill that received waste after July 26, 1982.[1] The permit application requirements for these standards are found in § 270.14(c)(1) through § 270.14(c)(8). Subsections (c)(1) through (c)(4) require the owner/operator to submit basic data for ground water monitoring, including a characterization of the aquifer and a description of the nature and extent of any plume of contamination that has entered ground water from a regulated unit. Sections 270.14(c)(5) through (c)(7) specify the required information for establishing the applicable detection and compliance program required under Part 264, Subpart F.

Section 270.14(c)(8) addresses the information necessary to establish a corrective action program. Such a program is required when hazardous constituents in the ground water exceed the ground water protection standard. Under § 264.94 the ground water protection standard is defined as either the background concentration of the constituent in ground water, one of 14 specified maximum concentration limits (§ 264.94(a)), or a site-specific alternate concentration limit. Sections 270.14(c)(8)(iii) and(c)(8)(iv) require detailed engineering plans and an engineering report describing the corrective action to be taken, and a description of how the ground water monitoring program will demonstrate the adequacy of the corrective action. An engineering feasibility plan for a corrective action program is also required as part of a compliance monitoring program under the first paragraph of text in § 270.14(c)(7).

B. Effect of the 1984 Amendments

The new requirements of the Hazardous and Solid Waste Amendments (HSWA) of 1984 have a major impact on the RCRA permit application process for land disposal facilities. Under new section 3005(c)(2) of RCRA, final disposition must be made on permit applications for all land disposal facilities by November 8, 1988. Further, new section 3004(u) of RCRA requires that any permit issued after November 8, 1984 must require corrective action for all releases of hazardous waste or constituents from all solid waste managements units at a facility, and financial assurance for such corrective action. Section 3004(u) provides that permits may contain schedules of compliance where corrective action for releases from solid waste management units cannot be completed prior to permit issuance. The legislative history to the provision

[1] This date was originally identified in the 1982 regulations as January 26, 1983, but was amended to July 26, 1982 (50 FR 28715) in accordance with section 3005(i) of RCRA.

explained that a schedule of compliance can include activities needed to investigate releases for potential corrective action. The term "solid waste management units" includes "regulated units." Hence, section 3004(u) can be interpreted to authorize EPA to revise the 1982 regulations for regulated units that require owners and operators to complete investigations of ground water releases prior to permit issuance.

EPA believes that there are important reasons for such a revision. Under the current regulations, owners and operators of hazardous waste facilities that contain both regulated units and "non-regulated" solid waste units may have to develop two separate corrective action programs: one for releases to ground water from regulated units that must be fully planned before a permit is issued; and one for releases to ground water from "non-regulated" units that may be developed after permit issuance. This second program could also include releases to other environmental media from both regulated and "non-regulated" units.

The Agency is concerned that the requirement for facility owner/operators to develop engineering plans, studies and reports for a corrective action program under § 270.14(c)(7), (c)(8)(iii) and (c)(8)(iv) prior to permit issuance may have several detrimental effects in light of the HSWA amendments. Specifically, the requirement may create delays in the timely processing and issuance of land disposal permits, the imposition of the more stringent Part 264 permitting standards, and possibly the application of section 3004(u) corrective action requirements. These delays are more serious in light of the 1988 permitting deadline, (RCRA section 3005(c)(2)). In addition, the requirement can cause inconsistencies in timing and approach for regulated units as opposed to other non-regulated units at the same facility which may have contaminated ground water, but which could be subject to corrective action under section 3004(u). Where plumes of contamination from regulated and non-regulated units at a facility are not intermingled, the plume of contamination can be analyzed and an effective corrective action plan developed that addresses only the regulated units. Where contaminant plumes are mixed, a full analysis of the entire plume would be required under current regulations (§ 270.14(c)(7)), but the corrective action plan has only to address contamination from the regulated unit. In these situations, concurrent development and approval of a corrective action plan that addresses both regulated and non-regulated units would be a more efficient approach for implementing ground water cleanup programs. Development of such a plan as part of the permit application, however, may unduly delay issuance of the permit. On December 9, 1986, the Agency issued a proposed amendment to the regulations (FR 44418) to address this inconsistency.

II. Discussion of Today's Final Rule

The Agency is today promulgating the December 9 proposed amendments in final form. The rule amends the Part 270 regulations to allow the information related to detailed corrective action planning currently required under the first paragraph of § 270.14(c)(7), § 270.14 (c)(8)(iii) and (c)(8)(iv) to be developed, at the Regional Administrator's discretion, after permit issuance through schedules of compliance included in the permit. Owner/operators will be required to obtain advance written authorization from the Regional Administrator waiving these information requirements if the corrective action plan for regulated units is to be developed through a permit schedule of compliance. Such authorization by the Regional Administrator will be granted on a case-by-case basis, depending on the circumstances at each facility.

This amendment will have several benefits. It will serve to expedite the process of bringing land disposal facilities under the more stringent Part 264 permitting standards. In addition, as discussed above, the amendment will allow a more coherent process for development and review of corrective action programs at facilities with complex ground water contamination problems resulting from both regulated units and solid waste management units.

EPA wishes to emphasize that today's rule does not affect other application information requirements found in § 270.14(c)(1) through (c)(8), including identification of the uppermost aquifer, characterization of contaminated ground water, and development of a detection or compliance ground water monitoring system. In particular, the ground water protection standard, which provides both the trigger level for initiation of corrective action as well as the clean-up standard for regulated units, will have to be developed and approved prior to permit issuance. Accordingly, the public will have the same opportunity to review and comment on these activities through the permit application process. Under today's rule, only the actual design of a corrective measures program can be developed after permit issuance through a permit schedule of compliance. Regulations governing permit modifications (§ 270.41) will be followed to incorporate the actual corrective action program into the permit once it is developed. These permit modification procedures include public notice and opportunity for comment on the design of the corrective measures program.

On October 24, 1986, the Agency proposed regulations (51 FR 37854) requiring financial assurance for corrective action as mandated by RCRA § 3004(u). The proposal would require that financial assurance for corrective action must be demonstrated when corrective action measures have been specified in the permit. The preamble to that proposal explained that, under the current proposal, financial assurance for corrective action must be demonstrated when corrective action measures have been specified in the permit. The preamble to that proposal explained that, under the current regulations, EPA expected corrective action measures for ground water releases from regulated units to be specified at the time of permit issuance. Financial assurance for these actions would be required immediately after the permit is issued.

As a result of today's rule, however, corrective action for releases to ground water from regulated units may be specified after a permit is issued. Under the proposed financial assurance rule, this change would also change the timing for submission of financial assurances. Where corrective action measures and financial assurance are specified after a permit is issued, the owner or operator will have to follow EPA's procedures for major modifications to permits. These procedures require notice and opportunity for public comment. See 40 CFR 270.

In developing today's final rule, EPA considered several options for modifying § 270.14(c) information requirements related to land disposal units. Specifically, EPA considered allowing owners and operators to develop ground water protection standards under schedules of compliance. Where an owner or operator seeks an alternative concentration limit, development of such alternative limits can be very time-consuming. Although EPA had tentatively rejected this option, it solicited public comment on the impacts of such an approach.

In response, two commentors recommended that alternate concentration limits be developed after permit issuance, since the time and resource requirements for development

of ACLs may delay permit issuance. EPA has decided, however, to retain the present approach as outlined in § 270.14(c). Ground water protection standards and alternative concentration limits are the levels at which protection of human health and the environment will be measured. EPA believes that these requirements should be developed, undergo public comment, and be approved prior to an owner/operator receiving a permit to operate a regulated unit, and are, therefore, an integral part of the permit application process.

EPA received eleven comments on other aspects of the proposed rule. All but one expressed general support for the proposal. Outlined below is a summary of those comments.

One commentor was concerned about the possibility that financially unsound facilities might receive a permit but would be unable to afford the necessary corrective action if a corrective action plan were not required in the permit application. This situation, however, is addressed in the current regulations. Should a facility fail to provide financial assurance for corrective action after permit issuance, the permit could be terminated under § 270.43(a)(1) for noncompliance with a permit condition. Corrective action at that facility would then be addressed under other RCRA or Superfund authorities.

Another commentor stated that the requirement for formal written approval by the Regional Administrator to allow for development of the corrective action plan after permit issuance would unnecessarily delay the permitting process. The Agency disagrees with this comment. The time and resources required for the owner/operator to develop the corrective action plan and for the Agency to review the plan are considerable. Formal authorization will help to assure that: (1) The reasons for allowing development of the plan after permit issuance are clear; and (2) both parties have agreed to this provision, thereby avoiding any misunderstandings and corresponding delays in reviewing the permit application.

Finally, one commenter expressed concern regarding the preamble discussion in the proposed rule which dealt with the efficiency of addressing in a concurrent and comprehensive manner cleanup of ground water which has been contaminated by regulated units and other sources at a facility. EPA wishes to clarify that it is not the Agency's intention, nor is it allowed under Part 264 Subpart F regulations, to defer or delay corrective action for releases from regulated units until all sources of contamination and all ground water contaminant plumes at the facility are fully characterized, and corrective action plans for that contamination have been developed. When ground water contamination from a regulated unit has been characterized, corrective action for that contamination will be implemented as prescribed by the standards in Subpart F.

III. State Authority

A. Applicability of Rules in Authorized States

Under Section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. (See 40 CFR Part 271 for the standards and requirements for authorization.) Following authorization, EPA retains enforcement authority under sections 3008, 7003, and 3013 of RCRA, although authorized States have primary enforcement responsibility.

Prior to the Hazardous and Solid Waste Amendments of 1984 (HSWA), a State with final authorization administered its hazardous waste program entirely in lieu of EPA administering the Federal program in that State. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities in the State which the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obliged to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by the HSWA take effect in authorized States at the same time that they take effect in nonauthorized States. EPA is directed to carry out those requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorization, the HSWA applies in authorized States in the interim.

B. Effect on State Authorizations

Today's announcement promulgates standards that would not be effective in authorized States since the requirements would not be imposed pursuant to the Hazardous and Solid Waste Amendments of 1984. Thus, the requirements will be applicable only in those States that do not have interim or final authorization.

Further, authorized States are only required to modify their programs when EPA promulgates Federal standards that are more stringent or broader in scope than the existing Federal standards. For those Federal program changes that are less stringent or reduce the scope of the program, States are not required to modify their programs. This is a result of section 3009 of RCRA which allows States to impose standards in addition to those in the Federal program. The standards proposed today are considered to be less stringent than the scope of the existing Federal requirements. Therefore, authorized States are not required to modify their programs to adopt requirements equivalent or substantially equivalent to the provisions listed above.

IV. Effective Dates

EPA believes it has a sound basis for suspending the statutory six-month effective date (RCRA 3010(b)) for this regulatory amendment. HSWA amended section 3010(b) to provide that EPA may shorten or provide for an immediate effective date where (1) the regulated community does not need six months to come into compliance, (2) the regulation responds to an emergency situation, or (3) there is other good cause. The regulated community does not need six months to come into compliance with this regulation amendment, since the amendment does not materially affect the regulatory responsibilities of owner/operators. Therefore, these regulations will become effective immediately upon promulgation.

V. Regulatory Analysis

A. Executive Order 12291 and Regulatory Impact Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, thus, subject to the requirement of a Regulatory Impact Analysis. The notice published today is not major because: the rule will not result in an effect on the economy of $100 million or more, will not result in increased costs or prices, will not have significant adverse effects on competition, employment, investment, productivity, innovation, and will not significantly disrupt domestic or export markets. Therefore, the Agency has not prepared a Regulatory Impact Analysis (RIA). The rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et*

seq.), the information collection requirements contained in this rule were previously approved by OMB and were assigned OMB control number 2050-0007.

C. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small businesses (i.e. small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant impact on a substantial number of small entities.

EPA has determined that this amendment will have no adverse economic impact on small entities. In fact, the rule will have a positive effect because it will reduce the amount of information required for RCRA Part B permit applications. Therefore, I hereby certify that this regulation will not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 270

Administrative practice and procedure, Reporting and recordkeeping requirements, Hazardous Materials, Waste Treatment and disposal, Water Pollution control, Water supply, Confidential business information.

Dated: June 15, 1987.

Lee M. Thomas,

Administrator.

For the reasons set out in the preamble, Part 270 of Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

1. The authority citation for Part 270 continues to read as follows:

Authority: Sections 1006, 2002, 3005, 3007, and 7004 of the Solid Waste Dispoal Act, as amended by the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6905, 6912, 6925, 6927, 6974), unless otherwise noted.

2. In § 270.14 paragraph (c) introductory text is republished, paragraph (c)(7) introductory text is revised, and (c)(8)(v) and an OMB control number are added to read as follows:

§ 270.14 Contents of Part B: General Requirements.

* * * * *

(c) *Additional information requirements.* The following additional information regarding protection of ground water is required from owners or operators of hazardous waste surface impoundments, piles, land treatment units, and landfills except as provided in § 264.90(b):

* * * * *

(7) If the presence of hazardous constituents has been detected in the ground water at the point of compliance at the time of the permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of § 264.99. Except as provided in § 264.98(h)(5), the owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of § 264.100, unless the owner or operator obtains written authorization in advance from the Regional Administrator to submit a proposed permit schedule for submittal of such a plan. To demonstrate compliance with § 264.99, the owner or operator must address the following items:

* * * * *

(8) * * *

(v) The permit may contain a schedule for submittal of the information required in paragraphs (c)(8) (iii) and (iv) provided the owner or operator obtains written authorization from the Regional Administrator prior to submittal of the permit application.

(Information requirements approved by the Office of Management and Budget under control number 2050-0007)

[FR Doc. 87-14134 Filed 6-19-87; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 640

[Docket No. 70345-7101]

Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic; Correction

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

ACTION: Final rule; correction.

SUMMARY: This document corrects the effective date in the preamble of the final rule for the Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic which appeared in the **Federal Register** on June 15, 1987 (52 FR 22656).

FOR FURTHER INFORMATION CONTACT: Michael E. Justen, 813-893-3722.

In rule document 87-13618 beginning on page 22656 the following correction is made: On page 22658, column 1, line 12 from the bottom of the page, the date July 8, 1987, is corrected to read "July 15, 1987."

Dated: June 16, 1987.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 87-14102 Filed 6-19-87; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 674

[Docket No. 70619-7119]

High Seas Salmon Fishery off Alaska

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

ACTION: Final rule.

SUMMARY: The Secretary of Commerce (Secretary) announces the commercial salmon fishing periods in the exclusive economic zone (EEZ) off southeast (S.E.) Alaska for 1987. The Secretary notes that the Pacific Salmon Commission (Commission) has established a base harvest limit of 263,000 chinook salmon for all commercial and recreational fisheries in S.E. Alaska in 1987. This action is necessary to establish the opening of the commercial troll fishery for 1987 and is intended to conserve chinook salmon stocks covered by the Pacific Salmon Treaty.

EFFECTIVE DATE: June 20, 1987.

FOR FURTHER INFORMATION CONTACT: Aven M. Andersen (Fishery Management Biologist, NMFS), 907-586-7228.

SUPPLEMENTARY INFORMATION:

Background

Section 7(a) of Pub. L. 99-5, the Pacific Salmon Treaty Act of 1985, 16 U.S.C. 3631 *et seq.*, requires the Secretary to issue conforming amendatory regulations applicable to the EEZ to fulfill U.S. treaty obligations to Canada. This action amends the regulations at 50 CFR Part 674 to adopt fishing seasons and catch limitations for 1987 that, in conjunction with similar measures adopted by the State of Alaska (State) for its waters, will ensure that the high-seas salmon fishery is conducted in a manner that fulfills our international obligations under the Pacific Salmon Treaty.

Quotas Set for Chinook Salmon

The Commission established the 1987 chinook salmon quotas at its meeting in March 1987. For all salmon fisheries in S.E. Alaska, the Commission set the base harvest quota at 263,000 chinook salmon; this is an increase of 9,000 fish from last year's base quota of 254,000. In addition, the Commission entitled Alaska to exceed this base harvest quota by 22,500 chinook as long as Alaska could demonstrate to the Commission that this supplement was the contribution of Alaska's new enhancement activities and that the harvest would not extend the chinook rebuilding schedule beyond 1998. This supplement is an estimate provided by the Alaska Department of Fish and Game for the number of newly enhanced chinook it expects will be harvested by the salmon fisheries in S.E. Alaska. The supplement could bring the total quota to 285,500 chinook.

The Commission set no other quotas or imposed any other restrictions that apply to the high-seas salmon fisheries off the coast of S.E. Alaska.

Chinook Harvest Guidelines for the Troll Fishery

The Alaska Board of Fisheries (Board) met in Juneau during April 1987, and set harvest guidelines for the 263,000 base chinook quota as follows: sport—22,000, net (seine, drift gill net, set gill net, and trap)—20,000, troll—221,000 (winter troll, 30,000, and summer troll, 191,000). The Board did not allocate the new enhancement supplement of 22,500, but each fishery will be allowed to catch as many of those supplemental chinook as it can until the Commission's total quota is reached. The exact number of newly enhanced chinook salmon each fishery harvests will be determined as the season progresses from the recovery of coded-wire tags from the enhanced fish.

The guideline on the harvest of chinook salmon by the summer troll fishery of 191,000 legal-sized chinook salmon applies to all commercial salmon trolling in the marine waters of S.E. Alaska and the EEZ; there is no separate quota for the troll fishery in the EEZ.

The Summer Troll Fishing Season

The Board set the opening date for the summer commercial troll season for June 20 and directed that the season be closed when the quota has been harvested. The Board intended that the chinook troll fishery be managed so that there is a single fishing period and that specific areas be closed if necessary to extend the chinook season to about July 26.

Seasons are scheduled to avoid, as much as practicable, nonretainable incidental catches of chinook during fisheries for other species. Chinook that are caught and released suffer a high rate of mortality and, thus, managers attempt to minimize their incidence in nonretention fisheries. After the troll share of the chinook quota is taken, chinook retention will be prohibited during fishing for the other salmon species (coho, sockeye, pink, and chum). In the past 4 years, NMFS and the State have closed trolling in some small areas in State and Federal waters where chinook are known to concentrate. This is expected to occur again this year.

Also, depending on the size of the coho run and the speed at which the coho move from the offshore waters into the inside waters and spawning grounds, the Secretary, in cooperation with the State, may close the troll fishery to the harvest of all salmon species for up to 10 days between late July and mid-August to protect coho.

Under existing State and Federal regulations, the commercial troll salmon fishery closes on September 20 each year.

Fishing Periods

The fishing periods (Alaska Daylight Time) for the commercial troll fishery in the EEZ off S.E. Alaska are as follows, unless later modified:

All salmon species: From 0001 hours on June 20, 1987, until the chinook quota is reached (probably about July 26).

All salmon species but chinook: From the time the chinook retention is prohibited in the troll fishery until 2400 hours on September 20, 1987.

Note.—After the fishing season begins, NOAA may issue notices to modify the above fishing seasons on the basis of the following or other contingencies:

(a) The fishery for all species but chinook might be closed for up to 10 days between late July and mid-August unless an evaluation of the Southeast Alaska coho salmon runs shows them to be well above average and that there is good inshore movement. This closure, if necessary, is designed (i) to stabilize or reduce the proportion of the coho runs harvested in the offshore and coastal fisheries, (ii) to allow adequate harvests by the inside (State) fisheries, and (iii) to allow adequate numbers of coho to escape the fisheries and reach the spawning grounds.

(b) The fishery for chinook salmon might be allowed to resume for a short time after it has been closed if statistics on the harvest reveal that the fishery had been closed before the quota established by the treaty had been reached and that there were enough chinook remaining for the fishery to be reopened for more than 12 hours. Any such reopening of the fishery in the EEZ would be identical to a reopening of the fishery in State waters.

(c) If management actions need to be taken to slow the rate of chinook harvest to minimize the wastage of chinook taken incidentally during the fishery for other salmon species, localized areas of high chinook concentrations may be closed as has been done in the past.

Copies of this notice have been provided to the North Pacific Fishery Management Council, U.S. Fish and Wildlife Service, and the U.S. Coast Guard for review and consultation as required by section 7(a) of the Pacific Salmon Treaty Act.

Other Matters

One provision of the Pacific Salmon Treaty (annex IV, chapter 3) requires each nation to submit the plans it has developed for managing its salmon fisheries to the other nation before the start of the fishing season. The United States and Canada exchanged their fishing plans at the February and March meetings of the Pacific Salmon Commission.

Classification

Under section 7(a) of the Pacific Salmon Treaty Act, this action is exempt from sections 4 through 8 of the Administrative Procedure Act (5 U.S.C. sections 553 to 557), the Regulatory Flexibility Act, and the National Environmental Policy Act. It is exempt from Executive Order 12291 because it involves a foreign affairs function. It contains no collection of information for purposes of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 674

Administrative practice and procedure, Fisheries, Fishing, International organizations.

Dated: June 16, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth above, 50 CFR Part 674 is amended as follows:

PART 674—[AMENDED]

1. The authority citation for Part 674 continues to read as follows:

Authority: 16 U.S.C. 3631 *et seq.;* 16 U.S.C. 1801 *et seq.*

2. In § 674.21, paragraph (a)(2) is revised to read as follows:

§ 674.21 Time and area limitations.

(a) * * *

(2) *East area.* Fishing periods in 1987 (Alaska Daylight Time) are as follows:

(i) All salmon species—0001 hours on June 20 until the 1987 commercial troll harvest reaches 221,000 chinook salmon.

(ii) All salmon species but chinook—from the time the commercial troll harvest reaches 221,000 chinook salmon until 2400 hours on September 20.

* * * * *

[FR Doc. 87-14101 Filed 6-17-87; 2:13 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 52, No. 119
Monday, June 22, 1987

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1011

[Docket No. AO-251-A32]

Milk in the Tennessee Valley Marketing Area; Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision amends the Tennessee Valley order to allow a handler operating more than one distributing plant to combine the receipts and dispositions of those plants for the purpose of qualifying them as pool plants. The decision is based on the record of a public hearing held February 12, 1987, at Knoxville, Tennessee.

The changes are necessary to accommodate more efficient procedures for handling milk, to reflect current marketing conditions and to assure orderly marketing in the Tennessee Valley area. The amendments were proposed by Dairymen, Inc., a cooperative association that represents a substantial majority of producers who supply the market. In addition, the changes were supported by a proprietary handler operating a pool supply plant under the order. Cooperative associations will be polled to determine whether producers favor the issuance of the amended order.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, DC 20250, (202) 447-7183.

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. Only one multi-plant handler operation is expected to elect unit pooling to effect more efficient processing of certain milk products. The amended order will promote orderly marketing of milk by producers and regulated handlers.

Prior documents in this proceeding:

Notice of Hearing: Issued January 29, 1987; published February 3, 1987 (52 FR 3251).

Recommended Decision: Issued April 10, 1987; published April 15, 1987 (52 FR 12186).

Preliminary Statement

A public hearing was held upon proposed amendments to the tentative marketing agreement and the order regulating the handling of milk in the Tennessee Valley marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice (7 CFR Part 900), at Knoxville, Tennessee, on February 12, 1987. Notice of such hearing was issued on January 29, 1987, and published February 3, 1987 (52 FR 3251).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Marketing Programs, on April 10, 1987, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein.

The material issues on the record of hearing relate to pool plant qualification standards for distributing plants.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

The provisions affecting the pool qualification of distributing plants under the Tennessee Valley Federal milk order should be changed. Currently, 60 percent of the amount of milk received at or diverted from each distributing plant during the months of August through November, January and February must be disposed of as Class I milk in order for the plant to be qualified as a pool plant. The applicable percentage requirement for the months of March through July and December is 40 percent. These provisions should be amended to allow a handler who operates two or more distributing plants to consider them as a unit for the purpose of meeting the order's total Class I disposition requirement. Each plant should continue to be required to distribute at least 10 percent of the total amount of milk received at or diverted from the plant as route disposition in the marketing area.

Dairymen, Inc. (DI), a cooperative association representing nearly three-quarters of the producers whose milk is pooled on the Tennessee Valley order, proposed that the order provide for unit pooling of distributing plants. Under DI's proposal, the receipts and disposition of the distributing plants requested by a multi-plant handler to be considered as a unit would be combined, and the plants would be treated as a single plant for the purpose of determining whether the unit meets the total route disposition requirement for a pool distributing plant.

According to proponent witness, DI operates three Flav-O-Rich distributing plants that traditionally have been pooled under the Tennessee Valley order. These plants are located at Bristol, Virginia; London, Kentucky; and Rossville, Georgia. The witness explained that Flav-O-Rich, Inc., recently consolidated its Class II processing at its Bristol, Virginia, plant so that Class II products processed at Bristol may be distributed from other Flav-O-Rich locations, including London and Rossville. The witness stated that while the consolidation was undertaken to increase efficiency in operations, the result of increasing Class II use at the Bristol plant has been a reduction in the percentage of receipts used in Class I. As a consequence, DI has experienced difficulty in assuring that the Bristol plant meets the 60 percent Class I disposition pooling requirement of the Tennessee Valley order.

In order to maintain the pool status of the Bristol plant, the DI representative stated, DI has found it necessary to make bulk Class I sales to pool plants from the Bristol distributing plant instead of from a pool balancing plant operated by the cooperative, also located at Bristol. Although such action does result in maintaining the Bristol distributing plant's pool status, the witness pointed out that monitoring the percentage of the plant's Class I sales in order to shift the necessary amount of bulk sales from the balancing plant to the distributing plant is costly and inefficient, as is the additional movement of milk that must be undertaken to carry out such actions.

The DI witness testified that continued pooling of the Bristol Flav-O-Rich distributing plant is necessary to maintain the pool status of DI's member procedures who deliver milk to that plant. He also stated that DI's Bristol balancing plant meets the pool requirements of the Tennessee Valley order because 60 percent of all the DI producer milk pooled under the order is delivered to pool distributing plants each month. If the Bristol distributing plant does not maintain its status as a pool distributing plant, the witness said, it would be difficult and costly for Dairymen, Inc., to maintain the pool qualification of the Bristol balancing plant, which ships milk to the Bristol Flav-O-Rich plant. The witness also pointed out that a Kraft supply plant located at Greenville, Tennessee, qualifies as a pool plant by virtue of its shipments to the Flav-O-Rich distributing plant at Bristol. The witness stated that if the Bristol Flav-O-Rich plant were to lose its pool status, it would be almost impossible to maintain the pool status of the Greenville Kraft plant.

In addition to altering the pool status of the Bristol Flav-O-Rich plant, as well as two other pool plants, the DI representative testified that failure of the Bristol Flav-O-Rich plant to meet the 60-percent Class I disposition requirement of the Tennessee Valley order during fall months would result in that plant becoming a fully regulated pool distributing plant on the Ohio Valley Federal milk order, where the total route disposition requirement during the same period is only 40 percent. The witness stated that approximately 27 percent of the Bristol Flav-O-Rich plant's route disposition is distributed within the Ohio Valley marketing area, and that the Ohio Valley order requires only 15 percent of a distributing plant's route disposition to be distributed within the marketing area in order for the plant to be qualified for pooling. The witness stated that differences in the Class I and producer blend prices between the two orders would create disruptive marketing conditions among the affected handlers and producers. Also, he noted that as the percentage of Class I use at the Bristol Flav-O-Rich plant fluctuates above and below 60 percent, regulation of the plant would shift between the two orders.

A witness for Kraft, Inc., testified in support of the proposed order amendment. He stated that adoption of the amendment would assure that the nonmember producers currently shipping milk to the Kraft pool plant at Greenville would continue to have their milk priced and pooled under the Tennessee Valley order. The Kraft witness also introduced data to illustrate the difference between the producer pay prices under the Tennessee Valley and Ohio Valley orders, and expressed concern that disruptive marketing conditions would result from such a difference in prices to producers.

The proposed change in the pool distributing plant definition should be adopted. The record clearly establishes a need for amending the order to maintain the pool status of the Bristol Flav-O-Rich distributing plant and the DI and Kraft producers whose milk is pooled on the basis of the plant's fluid disposition. It has been necessary to suspend the 60-percent route disposition requirement of the order for the months of November 1986 and January and February 1987 to assure that DI will not have to engage in inefficient and uneconomic hauling practices in order to continue the pool status of all of its producers historically associated with the Tennessee Valley pool. This action temporarily mitigates DI's pooling problem until August 1987, when the route disposition requirement for Tennessee Valley pool distributing plants once more increases from 40 percent to 60 percent of a plant's receipts and diversions. However, the record evidence shows that the pooling problem in question is not temporary. Rather, it is the result of long-term changes in the distribution of Class I and Class II products from and between DI's Flav-O-Rich plants.

As the DI representative testified, the pool status of the Bristol Flav-O-Rich plant can be maintained only by closely monitoring the percentage of its receipts distributed as Class I disposition, and moving bulk Class I sales to other plants from the Bristol distributing plant instead of from DI's balancing plant at Bristol. Such a practice, however, adds unnecessarily to the cooperative's cost of handling its milk supplies. If the Flav-O-Rich plant fails to maintain its pool status, unnecessary and uneconomic handling and hauling will have to be undertaken to continue the pool status of the producer milk that is currently pooled at DI's Bristol balancing plant and at the Kraft Greenville supply plant on the basis of the Bristol Flav-O-Rich plant's pool qualification.

A provision of the order allowing the distributing plants of a handler to be pooled as a unit will remove the need to move milk solely for the purpose of qualifying it for pooling. Order provisions should not impede the ability of a multi-plant handler to achieve operational efficiencies by specializing in the processing of fluid milk products in one plant and by-products in another. With unit pooling, as herein adopted, it will be possible for a multi-plant handler to confine certain specialized operations to one plant in order to achieve an economy of scale comparable to that which would be realized by maintaining his total operation in one plant.

Data in the record indicate that while the Flav-O-Rich plant at Bristol has in some months barely met the order's 60-percent pooling requirements, Class I dispositions as a percentage of total receipts for the three Tennessee Valley Flav-O-Rich plants, when considered as a unit, have been well in excess of the required 60 percent. In addition, the plant's disposition within the Tennessee Valley marketing area clearly associates it more strongly with that market than with any other marketing area. In any case, the order will continue to assure that any distributing plant that disposes of a greater volume of fluid milk products on routes inside another order marketing area than in the Tennessee Valley area will become a pool plant under the other order. As under the present provisions of the order, adoption of the proposed amendment would not allow the pooling of any plant that does not distribute a significant amount of fluid milk, or any distributing plant that is not primarily associated with the Tennessee Valley marketing area. As indicated previously, to qualify for pooling as a unit, each distributing plant in the unit would still have to dispose of at least 10 percent of its receipts as route disposition in the marketing area. Such a requirement will ensure that each plant pooled in the unit has a significant commitment to supplying fluid milk products to the marketing area.

The witnesses' concerns about disorderly marketing conditions in the

event the Bristol distributing plant fails to qualify for pooling under the Tennessee Valley order and, as a result, becomes a pool plant under the Ohio Valley order are valid. Due to the fact that the Class I price differential at Bristol is significantly lower under the Ohio Valley order than under the Tennessee Valley order, a Bristol distributing plant pooled under the Ohio Valley order would have a distinct cost advantage in competing with handlers regulated under the Tennessee Valley order. In addition, prices to producers for milk delivered to the same location would differ significantly depending on the order under which the milk was pooled. For December 1986, for example, the Ohio Valley blend price at Bristol was $13.17, while the Tennessee Valley order price for producer milk delivered to Bristol was $13.77. A difference of sixty cents per hundredweight in producer pay prices at the same location certainly may cause disruptive marketing conditions. Further, it is possible that regulation of the Bristol Flav-O-Rich plant could shift between the two orders on a monthly basis. This would make it more difficult for affected parties to know how to plan their marketing arrangements.

In order to qualify for unit pooling, a handler would be required to notify the market administrator in writing prior to the first month in which plants are to be considered as a unit for pooling purposes. Unit pooling would be continued in each following month without further notification. However, if other plants of the handler are added to or dropped from the unit, the handler would need to notify the market administrator prior to the month in which such change is to be effective.

Adoption of the proposed amendment is in the best interests of orderly marketing, as well as economic and efficient handling, of milk in the marketing area. Unit pooling of distributing plants will allow DI more flexibility in pooling its members' milk and operating its distributing and balancing plants in the most efficient manner. Another means of alleviating DI's problem of maintaining the pool status of the Bristol Flav-O-Rich plant would be to lower the 60-percent pooling standard for distributing plants during fall months to 40 percent year-round. However, the percentage of producer milk used in Class I in the Tennessee Valley market averages over 60 percent. Therefore, adoption of unit pooling will allow all of the market's traditional milk supplies to continue to participate in marketwide pooling and pricing without relieving any handler of its obligation to supply its share of fluid milk to the market.

A proposal by Kraft, Inc., to amend the order's "plant" definition to eliminate a reload point with stationary storage tanks from the definition was abandoned by Kraft at the hearing. Since no testimony was presented in support of or opposition to the proposal, it was not considered for adoption.

Rulings on Proposed Findings and Conclusions

A brief and proposed findings and conclusions were filed on behalf of proponent. The brief and proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the Tennessee Valley order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

No exceptions to the recommended decision were received.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the order regulating the handling of milk in the Tennessee Valley marketing area, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered that this entire decision and the two documents annexed hereto be published in the **Federal Register.**

Determination of Producer Approval and Representative Period

January 1987 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Tennessee Valley marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

List of Subjects in 7 CFR Part 1011

Milk marketing orders, Milk, Dairy products.

Signed at Washington, DC, on June 16, 1987.

Kenneth A. Gilles,

Assistant Secretary for Marketing and Inspection Services.

Order Amending the Order Regulating the Handling of Milk in the Tennessee Valley Marketing Area

(This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.)

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Tennessee Valley marketing area. The hearing was held pursuant to the provisions of the

Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area; and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order Relative to Handling

It is therefore ordered that on and after the effective date hereof, the handling of milk in the Tennessee Valley marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Marketing Programs, on April 10, 1987, and published in the **Federal Register** on April 15, 1987 (52 FR 12186), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

PART 1011—MILK IN THE TENNESSEE VALLEY MARKETING AREA

1. The authority citation for CFR Part 1011 continues to read as follows:

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

2. In § 1011.7, paragraph (a)(2) is revised to read as follows:

§ 1011.7 Pool plant.

* * * * *

(a) * * *

(2) The total quantity of fluid milk products, except filled milk, disposed of in Class I is not less than 60 percent in each of the months of August through November and January and February, and 40 percent in each of the other months, of the total quantity of fluid milk products, except filled milk, physically received at such plant or diverted therefrom pursuant to § 1011.13, subject to the following conditions:

(i) Two or more plants operated by the same handler may be considered as a unit for the purpose of meeting the total Class I requirement percentages specified in paragraph (a)(2) of this section if each plant in the unit meets the in-area route disposition requirement specified in paragraph (a)(1) of this section, and if such handler requests that the plants be so considered before the first day of the month in which the plants are to be considered as a unit. If such a handler wishes to add or remove plants from consideration as a unit, such a request must be made before the first day of the month for which it is to be effective.

(ii) The applicable percentages in paragraph (a)(2) of this section may be increased or decreased up to 10 percentage points by the Director of the Dairy Division if the Director finds such revision is necessary to effect a similar adjustment pursuant to § 1011.13(e)(3). Before making such a finding, the Director shall investigate the need for revision either at the Director's own initiative or at the request of interested persons. If the investigation shows that a revision might be appropriate, the Director shall issue a notice stating that the revision is being considered and invite data, views, and arguments.

* * * * *

United States Department of Agriculture
Agricultural Marketing Service

Marketing Agreement Regulating the Handling of Milk in the Tennessee Valley Marketing Area

The parties hereto, in order to effectuate the declared policy of the Act, and in accordance with the rules of practice and procedure effective thereunder (7 CFR Part 900), desire to enter into this marketing agreement and do hereby agree that the provisions referred to in paragraph I hereof as augmented by the provisions specified in paragraph II hereof, shall be and are the provisions of this marketing agreement as if set out in full herein.

I. The findings and determinations, order relative to handling, and the provisions of §§ 1011.1 to 1011.94, all inclusive, of the order regulating the handling of milk in the Tennessee Valley marketing area (7 CFR PART 1011) which is annexed hereto; and

II. The following provisions:

Section 1011.95 Record of milk handled and authorization to correct typographical errors.

(a) Record of milk handled. The undersigned certifies that he handled during the month of January 1987, _____ hundredweight of milk covered by this marketing agreement.

(b) Authorization to correct typographical errors. The undersigned hereby authorizes the Director, or Acting Director, Dairy Division, Agricultural Marketing Service, to correct any typographical errors which may have been made in this marketing agreement.

Section 1011.96 Effective date. This marketing agreement shall become effective upon the execution of a counterpart hereof by the Secretary in accordance with section 900.14(a) of the aforesaid rules of practice and procedure.

In witness whereof, The contracting handlers, acting under the provisions of the Act, for the purposes and subject to the limitations herein contained and not otherwise, have hereunto set their respective hands and seals.

(Signature) _____
(Seal)
By _____
(Name) (Title) (Address)
Attest
Date

[FR Doc. 87–14132 Filed 6–19–87; 8:45 am]
BILLING CODE 3410–02–M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 18

[Docket No. 87–7]

Annual Financial Disclosures to Shareholders; Disclosure of Financial and Other Information By National Banks

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency ("Office") is proposing amendments to 12 CFR Part 18. The proposal would require all national banks to prepare an annual disclosure statement and make it available to security holders, depositors, and other interested persons. The purpose of the proposal is to promote public confidence in national banks and the national banking system. Providing timely information concerning a bank's financial condition and results of operations and making that information more readily available should facilitate more informed decision-making by investors, depositors, and the general public. Thus, the proposal complements Office efforts to promote bank safety and soundness and public confidence in the national banking system.

DATE: Written comments must be submitted on or before August 21, 1987.

ADDRESSES: Comments should be directed to: Docket No. [87-7], Communications Division, 5th Floor, Office of the Comptroller of the Currency, Washington, DC 20219. Attention: Lynnette Carter. Comments will be made available for inspection and photocopying at the same address.

Pursuant to the Paperwork Reduction Act of 1980, the collection of information requirements in the proposed rule have been submitted to the Office of Management and Budget (OMB). Comments specifically addressing those requirements should be directed to the Comptroller's Office at the above address and should also be submitted to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for Comptroller of the Currency.

FOR FURTHER INFORMATION CONTACT: Emily R. McNaughton, National Bank Examiner, Commercial Activities Division, Comptroller of the Currency, 490 L'Enfant Plaza, East, SW., Washington, DC 20219, 202-447-1164.

SUPPLEMENTARY INFORMATION:

A. Overview

The Office, as the primary regulator for national banks, is responsible for fostering the safety and soundness of the national banking system.

The Office believes that periodic financial disclosure is needed, not only to facilitate informed decision-making, but also to improve public understanding of the financial condition of individual banks. In the Office's view, improved financial disclosure should reduce the likelihood that the market will overreact to incomplete information. The Office believes that the required disclosure of financial information will complement the Office's supervisory efforts and enhance public confidence in the banking system.

The disclosure which would be required by the proposed rule is based on information that banks currently provide in the Reports of Condition and Income ("Call Reports") they file with this Office. While those reports are available to the public from the Federal Deposit Insurance Corporation, the Office believes that the public is not generally aware of this fact. The proposed disclosure requirements will ensure that the reports are more readily available to the general public and that the public is made aware of this availability. The Call Reports are designed to reflect accurately each bank's financial condition and results of operations. Using currently available information should minimize any burden associated with the annual disclosure statement.

The disclosures of financial information contained in the proposed rule are the minimum which a bank would be required to make. National banks are free, and encouraged, to make more frequent or expanded disclosures. For example, a bank might wish to supplement the financial information which would be required by the proposed rule with a narrative statement which would give bank management a way to provide the public with pertinent additional information concerning the bank and its operations or a more detailed explanation of the financial statements. The Office believes that, if the proposed annual disclosure statement is to serve its purpose, narratives should be written clearly. Therefore, bank management is encouraged to avoid using legalistic and technical terminology. Furthermore, if the bank does include this optional narrative, it must contain a legend which states that the Office has not verified or confirmed the accuracy of the information contained in it.

B. Background

The proposed rule is the third proposal in two and one-half years that requests public comment on a proposed disclosure program for national banks. The Office issued an Advance Notice of Proposed Rulemaking in July , 1984 ("Advance Notice") and a Notice of Proposed Rulemaking in October 1985 ("Notice"). The Office is now issuing this additional Notice of Proposed Rulemaking to solicit comments from all interested persons and groups, particularly shareholders, depositors and other users of financial reports.

The currently proposed revisions to Part 18 were developed on the basis of comments received on the Advance Notice and Notice, both of which are discussed below.

C. Comments Received Regarding the Advance Notice

On July 13, 1984, the Office published the Advance Notice (49 FR 28566). In the Advance Notice, the Office solicited comment on a wide range of issues relevant to developing an improved disclosure program for national banks. The 130 comments received were carefully considered and many were incorporated into the Notice discussed below.

D. Comments Received Regarding the Notice

On October 30, 1985, the Office published the Notice (50 FR 45372). In the Notice, the Office solicited comment on extensive proposed amendments to Part 18 which would have aligned it more closely with periodic disclosures made by banks and bank holding companies that are subject to the requirements of the Securities Exchange Act of 1934, including Office regulations in 12 CFR Part 11. The Office received 706 comments, mostly from banks, bank holding companies, trade and banking organizations, and state banking associations. Several members of Congress, the Office of Management and Budget (OMB), and consumer groups also sent comments. Relatively few comments were received from persons representing the views of non-management security holders or depositors. Two public hearings were held at which 25 witnesses representing banks, banking associations and consumer groups, testified. The principal issues raised by commenters are discussed below.

1. *Consumer-oriented disclosure requirements.* Consumer groups that responded to the Notice or appeared at public hearings held in connection with the Notice generally limited their comments to the need for improved disclosure concerning fees, service charges, and funds availability. They supported disclosure of the consumer information outlined in the Notice and urged banks to disclose other consumer information.

The Office believes that consumer-oriented disclosure requirements should be addressed separately and, therefore, has removed them from this proposal and is studying other ways of providing such disclosures. Legislation which would cover certain consumer-oriented disclosures has been introduced in the 100th Congress, and the Office currently is reviewing that legislation. The Office will consider the comments received in response to the Notice and proposed legislation in developing a separate proposal on disclosure of consumer information.

2. *Enforcement actions private.* Many bank commenters stated that, because enforcement actions are not punitive in nature, they should remain private to give the bank an opportunity to make the necessary changes. Commenters also were concerned that the general public might not understand the meaning of information relating to enforcement actions nor view such information in proper perspective.

However, several bank commenters stated that they were in favor of disclosure of enforcement actions against persons engaged in insider abuse or criminal activities.

The Office agrees that many enforcement actions are not punitive in nature. Rather, they are a tool to require and expedite corrective action that is needed to strengthen the bank. Therefore, the proposed rule does not require disclosure of all enforcement actions. The Office may require disclosure of enforcement actions on a case-by-case basis, as it has done in the past. In addition, a bank may consider an enforcement action significant and may wish to disclose and discuss any enforcement action in connection with annual disclosure.

3. *Timing poor.* Many commenters contended that banks suffering largely from poor local economic conditions might suffer inordinately if they were required to disclose the effects of these conditions. They said that many problems banks are currently facing are not of their own making, but rather are the result of economic forces beyond their control. Many also said that if banks are allowed to work on those problems in private, they may well solve them over time.

The Office is sympathetic to this concern but believes that it should be balanced against the benefits of at least a minimum amount of public disclosure. In an effort to reach the proper balance, the proposed rule would require disclosure only of information that historically has been publicly available (primarily Call Report data).

4. *Possible misunderstanding of information.* Some commenters were concerned that public misunderstanding of the disclosures could cause unnecessary funding problems for some banks.

The Office believes that the best way to prevent public misunderstanding is for banks to provide adequate and clear information.

5. *Holding company subsidiary disclosures.* The bank holding companies that responded to the Notice stated that current disclosures were sufficient. They said that depositors should look at the bank holding company strength rather than individual banks' statements.

The Office beleives, however, that because depositors place deposits in a bank, not a holding company, they should have access to information concerning the bank as well.

6. *Media misrepresentation.* Some bank commenters expressed concern that data about banks are not readily understood by the media or are easily distorted.

Although the required disclosures are currently available to the public and, thus to media interpretation, the Office cannot be certain how this information will be reported. As indicated in the proposal, bankers have the option of providing supplemental information to help the media and the public better understand the annual disclosure statement.

7. *Competitive disadvantage.* Many commenters stated that the disclosures proposed in the Notice would be unfair because national banks would be the only banks required to make them. Many suggested, as they had in response to the Advance Notice, that the Office work closely with the other regulatory agencies to formulate uniform disclosure requirements.

The Office agrees that it is desirable for all banks to be subject to substantially similar disclosure requirements. The Federal Deposit Insurance Corporation today approved for comment a proposed regulation which is substantially the same as this proposal. The Federal reserve Board is also considering publishing for comment a policy statement encouraging their banks to disclose information similar to that contained in this proposal. However, even if national banks are the only providers of financial services subject to the proposed disclosure requirements, they would not suffer a disproportionate burden because the proposed rule requires disclosure only of publicly available information.

8. *Burden.* Banks and bank holding companies of all sizes and from all areas of the country, as well as OMB, cited cost and time burdens as a major concern. Many smaller banks stated that they do not have enough employees to devote the time necessary to comply with the requirements proposed. The cost of reproducing documents and notifying all depositors was deemed excessive, particularly by the larger banks and bank holding companies. Many suggested that a notice in the bank lobby would be preferable.

The Office is particularly conscious of this concern and has made an effort to minimize the burden associated with the proposed disclosure requirement. Under the rule as now proposed, a bank can comply with a request for financial information by providing copies of its call reports. The suggestion of allowing a lobby posting to notify the public of the availability of financial information appears reasonable and functional, and has been incorporated in the proposed rule.

9. *No demonstrated need for disclosure.* Many commenters questioned the need for increased disclosure. They said that, because most deposits are federally insured, there is no apparent incentive for the general public to seek information about a bank's financial condition or management. In addition, a number of commenters indicated that they had received few, if any, requests for financial information about their banks.

The Office agrees that requests for information may vary from bank to bank and that, in some institutions, there may be no requests for financial information. To some extent, however, this may be because the public has not been aware that the information is available. Even though most deposits are federally insured, the Office believes that all depositors should have access to financial information about the banks with which they are doing business. Such information provides customers a basis on which to make informed decisions about where to do business. In addition, under the proposal, the rule would require only that information be given to those who request it.

10. *Enough information currently available.* Many commenters, as well as speakers at the public hearings, stated that there is already enough information available and suggested that only currently available information should be disclosed.

The Office agrees that much information concerning the financial condition and operations of national banks is currently available to the public. Therefore, the Office considers it appropriate to make maximum use of publicly available information and to make the existence and availability of this information more widely known.

11. *Invasion of privacy.* Several commenters opposed disclosure of information concerning major customers and officers and directors. They felt that a "major customer" to a small bank would not be a "major customer" to a larger bank. Small bank commenters stated that disclosure of significant customer relationships could adversely effect the competitive position of the bank and could seriously impair their customer base. In addition, many commenters urged that disclosure of executive compensation and officer and director relationships would be an invasion of privacy.

The Office believes these are serious and valid concerns. Therefore, the Office has reconsidered the desirability of disclosing such information and has excluded information regarding major customers, executive compensation, and

officer and director relationships from the proposed rule.

12. *Depositors need different information than shareholders.* Many commenters stated that depositors and shareholders do not need or want the same information. Several stated that they had little quarrel with providing shareholders with much of the information in the Notice, but did not believe that information also should be provided to depositors or the general public.

The Office understands this concern but believes that the financial information which would be required to be dislcosed under the proposed rule should be of interest, and made available, to depositors, shareholders, and the general public.

E. Office Action

The Office has considered carefully the comments and testimony received, and is fully conscious of its responsibility to ensure a safe and sound banking system. Further, the public may become more aware that the banking system and most financial institutions are vital and healthy entities. While keeping these factors in mind, the Office has attempted to design a disclosure program that will prove useful to the public but that will not improve an undue burden on national banks.

Therefore, the Office is proposing the following revisions to Part 18. Each national bank, beginning with fiscal year 1987, would be required to prepare and make available an annual disclosure statement. This statement would contain required financial information and an optional narrative discussion as set forth in proposed § 18.4. Information contained in the proposed annual disclosure statement is intended for the benefit of shareholders, depositors, and other interested persons. Shareholders would continue to be notified of the availability of the information before the annual meeting of shareholders, as currently provided in Part 18. Others would be notified through a notice prominently displayed in the lobby of the main office and each branch.

Annual Disclosure Statement (see proposed § 18.4)

The annual disclosure statement would contain the same information, all of which is currently publicly available, provided in the following schedules from the bank's Call Report:

Balance sheet (Schedule RC);

Information concerning past due, non-accrual, and renegotiated loans and lease financing receivables (Schedule RC-N) (Note: Loans and leases past due 30-89 days are not currently publicly available and need not be disclosed);

Income statement (Schedule RI);

Information concerning changes in equity capital (Schedule RI-A); and

Information concerning allowance for loan and lease losses (Schedule RI-B).

The bank, at its option, may provide such additional information as it deems significant including, for example, a narrative discussion. This might include a discussion of the financial data and other information which bank management deems important to evaluate the condition of the bank. Under certain circumstances, the Office may require the disclosure of specific information, such as, for example, an enforcement action wehere the Office deems it in the public interest to disclose this information. Types of enforcement actions which might be disclosed include, for example, those perpetrated by insider abuse.

A national bank having a class of securities registered pursuant to section 12 of the Securities Exchange Act of 1934, may meet the requirements of the proposed rule with its Form F-2.

Notification and delivery (see proposed § 18.7 and § 18.8)

Shareholders would be notified of the availability of the annual disclosure statement with the notice of the annual shareholders meeting. The general public would be notified by a notice posted in the lobby of the main office and each branch office of the bank. The notice, which would have to be prominently displayed at all times, would state that the annual disclosure statement is available and provide information about how to obtain it.

The bank may not charge for the first copy requested by any person and must grant requests for the information promptly.

Safe harbor and prohibited conduct (see proposed § 18.10 and § 18.11)

Providing false and misleading information, or omitting material information is prohibited. Information about future prospects, based on accurate current information will not be considered false and misleading if the prospects are not ultimately fulfilled. By providing a safe-harbor from the penalty provisions, the Office seeks to encourage bank management to present information concerning future direction and plans.

Penalties (see proposed § 18.10)

Violations of the proposed rule may subject the bank, its officers, directors, employees, or others participating in its affairs, to enforcement action by the Office. The precise nature of any action would, of course, depend on the particular facts and circumstances. The Office could, for example, assess civil money penalties.

Disclosure of examination reports (see proposed § 18.9)

While banks are encouraged to supplement the minimum disclosure of financial information with other information about the bank which is appropriate, banks are not permitted to disclose any report of examination or other supervisory activity or portion thereof, except in accordance with 12 CFR Part 4.

This proposal vs. current 12 CFR Part 18

Currently, Part 18 requires disclosure of certain financial information to shareholders of national banks. However, there are three major differences between the present disclosure requirement and the proposed rule. The first difference is that the information is being made available to the general public, as well as shareholders. The second major difference is that the annual disclosure statements will include past due loan information currently available to the public. The third major difference is that the bank may supplement the minimum disclosure requirement with information it deems important.

This proposal is a dramatic reduction of the quantity of information and the burden required to provide it from the disclosures which were proposed in the earlier Notice. The Office believes that the information to be disclosed under this proposal will be useful to those who request it and will not impose a burden on the banks that provide it.

Issues for Comment

The Office seeks comments, views and data on any aspect of this proposed rule. Commenters are encouraged to provide suggestions that would maximize the utility of the disclosure and reduce the attendant costs and burden on banks. In order to aid its consideration of the proposed rule, the Office is soliciting specific comments on the following issues:

1. Should any proposed disclosures be modified or eliminated, or should any additional disclosures be required?

2. Is the information included in the proposed rule meaningful to depositors, to prospective depositors, to shareholders, and to other users of financial reports?

3. What additional costs (money and/or time) would be incurred in complying with this proposed rule?

Regulatory Flexibility Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 5 U.S.C. 601 *et seq.*), this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

Pursuant to Executive Order 12291, it has been determined that this proposed rule, if issued as a final rule, will not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions; and will not have an adverse effect on competition, employment, investment, productivity, or the ability to United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The collection of information requirements contained in this proposed rule has been submitted to the Office of Management and Budget for its review under the Paperwork Reduction Act.

List of Subjects in 12 CFR Part 18

National Banks, Disclosure, Financial Information, Depositors, Shareholders.

Authority and Issuance

For the reasons set forth in the Preamble, Part 18 of Chapter I of Title 12 of the Code of Federal Regulations is proposed to be amended as follows:

1. The authority citation for Part 18 is revised to read as follows:

Authority: 12 U.S.C. 93a, 161, and 1818.

2. Part 18 is revised to read as follows:

PART 18—DISCLOSURE OF FINANCIAL AND OTHER INFORMATION BY NATIONAL BANKS

Sec.
18.1 Purpose and OMB control number.
18.2 Definitions.
18.3 Preparation of annual disclosure statement.
18.4 Contents of annual disclosure statement.
18.5 Alternative annual disclosure statements.
18.6 Signature and attestation.
18.7 Notice of availability.
18.8 Delivery.
18.9 Disclosure of examination reports.
18.10 Safe harbor provision.
18.11 Prohibited conduct and penalties.

§ 18.1 Purpose and OMB control number.

(a) *Purpose.* The purpose of this part is to require all national banks to prepare an annual financial disclosure statement, and to make the statement available to security holders, depositors, and anyone who requests it. The bank may, as its option, supplement this financial data with narrative information managment deems important. The availability of this information is expected to promote better public understanding of, and confidence in, individual national banks and the national banking system. Annual disclosure will serve to complement the Office's supervisory efforts to promote bank safety and soundness, and public confidence in the national banking system.

(b) *OMB control number.* The collection of information requirements contained in this Part were approved by the Office of Management and Budget under OMB control number 1557–

§ 18.2 Definitions.

Unless otherwise defined in this part, the terms used shall have the same meaning as in the Instructions to the Consolidated Reports of Condition and Income ("Call Report").

§ 18.3 Preparation of annual disclosure statement.

(a) Each national bank shall prepare an annual disclosure statement, beginning with fiscal year 1987. The statement shall contain information required by § 18.4 (a) and (b) of this part and may include other inforamtion that bank management believes appropriate, as discussed in § 18.4(c).

(b) The annual disclosure statement shall be prepared by March 1 of each year, or by such earlier date as necessary to be mailed to security holders in advance of the annual meeting of shareholders.

§ 18.4 Contents of annual disclosure statement.

(a) *Information concerning financial condition and results of operations.* The annual disclosure statement shall reflect a fair presentation of the bank's financial condition and results of operations for the two preceding years. The annual disclosure statement may, at the option of bank management, consist of the bank's entire Call Report, or applicable portions thereof, for the relevant periods. At a minimum, the statement must specifically contain the same information as provided in the following Call Report schedules:

(1) Schedule RC (Balance Sheet);

(2) Schedule RC–N (Past Due, Non-accrual, and Renegotiated Loans and Lease Financing Receivables—past due 30 through 89 days and still accruing need not be included);

(3) Schedule RI (Income Statement);

(4) Schedule RI–A (Changes in Equity Capital); and

(5) Schedule RI–B (Allowance for Loan and Lease Losses).

(b) *Other required information.* The annual disclosure statement shall include such other information as the Office may require. This could include disclosure of enforcement actions where the Office deems it in the public interest to do so.

(c) *Optional information.* Bank management may be their option provide a narrative discussion to supplement the required financial data. This optional narrative could include information which bank management deems important to evaluating the overall condition of the bank. Information which management might consider discussing includes, but is not limited to a discussion of the financial data; pertinent information relating to mergers and acquisitions; the existence of and underlying causes of enforcement actions; business plans; material changes in balance sheet and income statement items; future plans.

(d) *Disclaimer.* If the bank chooses to provide an optional narrative, the following legend shall be included to assure the public that the Office has not reviewed the information contained in that narrative: "This statement has not been edited, verified, or confirmed for accuracy or relevance by the Office of the Comptroller of the Currency."

§ 18.5 Alternative annual disclosure statements.

The § 18.3(a) requirement to prepare an annual disclosure statement is satisfied, in the case of a national bank having a class of securities registered pursuant to Section 12 of the Securities Exchange Act of 1934, by the bank's preparation of its annual report to security holders for meetings at which directors are to be elected (see 12 CFR 11.503) or its annual report on Form F–2 (see 12 CFR 11.301). In addition, if the bank has audited financial statements, they may also be substituted, as long as all of the required information is included.

§ 18.6 Signatures and attestation.

A duly authorized officer of the bank shall sign the annual disclosure statement and shall attest to the correctness of the information contained in the statement.

§ 18.7. Notice of availability.

(a) *Shareholders.* In its notice of the annual meeting of shareholders, each national bank shall indicate that the annual disclosure statement may be obtained from the bank, and shall include the name, title, address and telephone number of the bank employee or officer to be contacted for a copy. The first copy will be without charge.

(b) *Depositors and the general public.* In the lobby of its main office and each branch, each national bank shall prominently display, at all times, a notice that the annual disclosure staement may be obtained from the bank. The notice shall include the name, title, address, and telephone number of the bank employee or officer to be contacted for a copy. The first copy will be without charge.

§ 18.8. Delivery.

Each national bank shall, after receiving a request for an annual disclosure statement, promptly mail or otherwise furnish the statement to the requester.

§ 18.9 Disclosure of examination reports.

Except as permitted under specific provisions of 12 CFR Part 4, a national bank may not disclose any report of examination or report of supervisory activity or any portion thereof prepared by the Office. The bank also shall not make any representation concerning such report or the findings therein.

§ 18.10 Prohibited conduct and penalties.

(a) No officer, director, employee, agent, or other person participating in the affairs of a national bank, shall, directly or indirectly

(1) Disclose or cause to be disclosed false or misleading information in the annual disclosure statement, or omit or cause the omission of pertinent or required information in the annual disclosure statement; or

(2) Represent that the Office of the Comptroller of the Currency, or any employee thereof, has passed upon the acuracy or completeness of the disclosure statement.

(b) For purposes of this part, a person "participating in the affairs of a national bank" shall include (but not be limited to) any person who provides information contained in, or directly or indirectly assists in the preparation of, the annual disclosure statement. This includes any bank holding company, and any officer, director, employee, agent, auditor or independent accountant thereof.

(c) Conduct which violates paragraph (a) of this section also may constitute an unsafe or unsound banking practice or otherwise serve as a basis for enforcement action by the Office. This includes, but is not limited to, the assessment of civil money penalties against the bank or any officer, director, employee, agent or other person participating in the affairs of the bank who violates this regulation.

§ 18.11 Safe harbor provision.

The provision of § 18.10 shall not apply unless it is shown that the information disclosed was included without a reasonable basis or other than in good faith.

Dated: May 8, 1987.

Robert L. Clarke,

Comptroller of the Currency.

[FR Doc. 87-14128 Filed 6-19-87; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 87-CE-23-AD]

Airworthiness Directives; Beech Models 35, 35R, A35, B35, C35, D35, E35, F35, G35, H35, J35, K35, M35, N35, P35, S35, V35, V35A, and V35B Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), that supersedes AD 86-21-07 applicable to certain Beech Models 35, 35R, A35, B35, C35, D35, E35, F35, G35, H35, J35, K35, M35, N35, P35, S35, V35, V35A, and V35B airplanes. AD 86-21-07 restricts the maneuvering, the maximum structural cruise and never exceed speeds to preclude operation of the airplane where airloads may be developed that could result in structural failure of the V-tail. It also prohibits airplanes certified in the utility category from being operated other than in the normal category. As a result of subsequent testing, this proposed superseding AD would add provisions for removing those limitations by incorporation of Beech defined modifications. It would also require that the accuracy of the airplane weight and CG be assessed and if necessary require an actual weighing of the airplane, and require that certain precautionary instructions be placed in the airplane and in the Pilot's Operating Handbook and FAA approved Airplane Flight Manual. This proposed superseding action will prevent possible in-flight failures due to inadequate strength of the V-tail, and/or adverse flight characteristics resulting from operation outside the aft center of gravity envelope.

DATES: Comments must be received on or before July 22, 1987.

ADDRESSES: Beech Mandatory Service Bulletin (SB) 2188 dated May 1987, applicable to this AD may be obtained from Beech Aircraft Corporation, Commercial Service, Department 52, P.O. Box 85, Wichita, Kansas 67201-0085; telephone 316-681-9111. This information may be examined at the Rules Docket at the address below. Send comments on the AD in duplicate to FAA, Central Region, Attention: Rules Docket, No. 87-CE-23-AD, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Brian Yanez, FAA, Wichita Aircraft Certification Office, ACE-120W, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone 316-946-4409.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central

Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 87-CE-23-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

As a result of an inquiry from the American Bonanza Society, the FAA contracted with the Transportation System Center (TSC) to study the structural design criteria, structural design loads, structural analysis and other characteristics that might affect the airworthiness of the V-tail Bonanza. In their report, "Task Force Report—V-tail Bonanza Investigation," TSC concluded that the handling and stability characteristics of the V-tail Bonanza could contribute to a situation where an inexperienced or inattentive pilot could exceed the allowable flight envelope. TSC recommended that limited tests should be conducted to determine tail failure mechanisms and to define the actual structural margin of the Model 35 V-tail Bonanza. Beech Aircraft Corporation (Beech) responded by embarking on what became an extensive program involving wind tunnel, flight and static tests in an effort to address the TSC concerns.

The results of the Beech test program produced the following conclusions regarding airplane handling and stability qualities and tail strength. Test results indicate that handling and stability characteristics deteriorate when these airplanes are operated aft of the approved aft CG limits. There are indications that operations beyond the aft limit are common and are within the apparent capabilities of the airplane. For example, depending upon equipment, four occupants of normal weight without baggage can place the CG aft of the aft limit on some airplanes. In addition, it is apparent that most airplane modifications, equipment additions, painting, etc. generally move the empty CG aft. The number of modifications on many airplanes could result in significant errors in the weight and balance of these airplanes. In addition to degrading general handling qualities, operation outside the CG limits results in a reduction in stick force per "g" and increases the possibility for pilot induced structural overload.

The initial results from the tests conducted by Beech indicated that the empennage strength may be marginal when the airplane is operated in certain flight conditions within the approved flight envelope. Consequently, Priority Letter AD 86-21-07 was issued October 16, 1986, and subsequently codified into the **Federal Register** (51 FR 43337; December 3, 1986), to limit the maneuver, maximum structural cruise and never exceed speeds of all Beech Model 35 Series V-Tail airplanes. In addition, airplanes certificated in utility category were limited to normal category operation. These actions were considered necessary until the total investigation was completed and a modification could be accomplished.

The now completed testing and analyses establish a new set of empennage aerodynamic loads which support the initial findings that the V-tail empennage of certain models is structurally inadequate to sustain certain of these loads within the design flight envelope. Beech has issued Mandatory Service Bulletin (SB) 2188 dated May, 1987, applicable to the Models C35 through V35B airplanes, referencing Beech Kits 35-4016-3S, -5S, -7S and -9S. These Kits provide instructions and material for strengthening the V-tail. In addition, instructions are provided to inspect (and repair or replace as necessary) the aft fuselage and empennage to assure these components conform to type design and are structurally adequate for modification. Ruddervator system travel, tension and rigging checks are also defined to assure ruddervator operation is within design specifications. In addition, these kits reduce nosedown trim, change the ruddervator trim cables on some airplanes, install weight limitation placards and provide appropriate Pilot's Operating Handbook and FAA approved Airplane Flight Manual revisions addressing the weight and balance issue.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being proposed to supersede AD 86-21-07 that would reissue the limitations from AD 86-21-07 and would require compliance with SB 2188 as a means to remove the limitations imposed by AD 86-21-07. This proposed AD would also require checking the accuracy of the airplane weight and balance data and, if necessary, would require weighing the airplane. To assure continued flutter free operation, a check of the ruddervator static balance would also be required for all Models C35 through V35B airplanes. This proposed superseding AD is applicable to all Beech Models 35, 35R, A35, B35, C35, D35, E35, F35, G35, H35, J35, K35, M35, N35, P35, S35, V35, V35A, and V35B airplanes except those modified per Supplemental Type Certificate (STC) SA2149CE (straight tail conversion).

Several STCs have been issued since May 1981 that approve installation of stiffeners to the stabilizer root section as a means to reduce deflections of the leading edge. Subsequent to the issuance of the Beech SB, the FAA has reexamined in detail these STCs to determine if they could be approved as being equivalent to the Beech modifications. The results of this review indicate that while the STCs were approved based on loads criteria used in the original certification of the airplane, there is insufficient data to support approval of these modifications to the newly developed higher design loads criteria and to in turn approve them as equivalent to the Beech modifications. However, since the internal stub spars, installed per STC SA1649CE or SA1650CE, will have no adverse affect on the integrity of the airplane and do not interfere with the installation of the Beech kit, they may be retained. In addition, the external angles installed by STC SA1649CE on airplanes H35 thru V35B may also be retained but will require trimming of the forward section to permit installation of the Beech kit. Those angles installed per STC SA1650CE interfere with the external doubler required on Models C35 thru G35 and must therefore be removed.

There are approximately 7200 airplanes affected by the proposed AD. The cost of the modifications and inspections as defined in SB 2188 are $1460 per airplane for the Models C35 through G35, $77 per airplane for the Models H35 through M35, and $850 per airplane for the Models N35 through V35B. There are approximately 1600 Models C35 through G35, 1300 Models H35 through M35, and 3100 Models N35 through V35B airplanes; resulting in estimated costs of $2,336,000.00, $1,007,500.00 and $2,635,000.00 respectively. When all airplanes are modified, the estimated total cost of $5,978,500.00 will be absorbed by Beech Aircraft Corporation warranty provisions as specified in SB 2188.

In addition to the requirements of SB 2188 on Models C35 through V35B airplanes, the proposed AD would require ruddervator rebalancing, removal of any previously installed external stiffeners (other than previously described) and for all Model 35 airplanes, determination of the accuracy of the airplane CG data including an actual airplane weighing if required. The cost of these additional requirements is estimated to be $1,155,000. This yields an estimated total cost to the private sector of $7,134,000 which is less than the threshold for a significant economic impact. Further, few, if any, small entities are expected to own a sufficient number of airplanes

to exceed the threshold for the Regulatory Flexibility Act.

Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **"ADDRESSES."**

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 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.

§ 39.13 [Amended]

2. By adding the following new AD:

Beech: Applies to all Model 35, 35R, A35, B35, C35, D35, E35, F35, G35, H35, J35, K35, M35, N35, P35, S35, V35, V35A, and V35B (all serial numbers) airplanes certificated in any category except to those Models S35, V35, V35A and V35B airplanes modified per Supplemental Type Certificate (STC)SA2149CE (straight tail conversion).

Compliance: Required as indicated, unless already accomplished.

To prevent possible in-flight failures due to inadequate strength of the V-tail, and/or adverse flight characteristics resulting from operation outside the aft center of gravity envelope, accomplish the following:

(a) Prior to further flight after the effective date of this AD, unless accomplished per AD 86–21–07:

(1) For Models 35, 35R, A35, B35, C35, D35, E35, F35 or G35:

(A) Fabricate and install on the instrument panel as near as possible to the airspeed indicator and in clear view of the pilot the following placard using letters of 0.10 inch minimum height. "Never exceed speed, V_{ne}, 144 MPH (125 knots) IAS Maximum structural cruising speed, V_{no}, 135 MPH (117 knots) IAS Maneuvering speed, V_A, 127 MPH (110 knots) IAS."

(b) Mark the outside surface of the airspeed indicator with lines of approximately 1/16 inch by 3/16 inch as follows:

(i) Red line at 144 MPH (125 knots), and
(ii) Yellow line at 135 MPH (117 knots), and
(iii) A white slippage mark between the airspeed indicator glass and case to visually verify glass has not rotated.

(C) Place a copy of this AD in the Pilot's Operating Handbook and FAA approved Airplane Flight Manual (POH/AFM) and observe the specified limits.

(D) Operate the airplane in accordance with these speed limitations.

(2) For Models H35, J35, K35, M35, N35, P35, S35, V35, V35A, and V35B:

(A) Fabricate and install on the instrument panel as near as possible to the airspeed indicator and in clear view of the pilot the following placard using letters of 0.10 inch minimum height. "Never exceed speed, V_{ne}, 197 MPH (171 knots) IAS Maximum structural cruising speed, V_{no}, 177 MPH (154 knots) IAS Maneuvering speed, V_AA, 132 MPH (115 knots) IAS."

(B) Mark the outside surface of the airspeed indicator with lines of approximately 1/16 inch by 3/16 inch as follows:

(i) Red line at 197 MPH (171 knots), and
(ii) Yellow line at 177 MPH (154 knots), and
(iii) A white slippage mark between the airspeed indicator glass and case to visually verify glass has not rotated.

(C) Place a copy of this AD in the POH/AFM and observe the specified limits.

(D) Operate the airplane in accordance with these speed limitations.

(3) For all applicable models, fabricate and install on the instrument panel, over the existing "Utility Category" placard the following placard using letters of 0.10 inch minimum height: "Normal Category Operation Only" and operate the airplane accordingly.

(4) The requirements of paragraph (a) may be accomplished by the holder of a pilot certificate issued under Part 61 of the Federal Aviation Regulations on any airplane owned or operated by him which is not used under Part 121, 127, 129, or 135. The person accomplishing these actions must make the appropriate aircraft maintenance record entry as prescribed in FAR 43.9.

(b) Within the next 12 calendar months after the effective date of this AD, for Models C35, D35, E35, F35, G35, H35, J35, K35, M35, N35, P35, S35, V35, V35A, and V35B airplanes accomplish the following:

(1) Visually inspect the empennage, aft fuselage and ruddervator control system in accordance with the appropriate kit instructions specified in Beech SB 2188. Perform the following corrective actions as defined by these instructions:

(A) Replace or repair structural components as required.

(B) Set the elevator, rudder and tab system travels, tensions and rigging as specified in the appropriate airplane maintenance of shop manual, as referenced in SB 2188.

(2) Remove all external stabilizer reinforcements incorporated per STC SA845GL, SA846GL, SA1650CE, SA2286NM or SA2287NM. Seal or fill any residual holes with appropriate size rivets. The internal stub spar incorporated by SA1649CE and SA1650CE may be retained and the external angles installed per STC SA1649CE may also be retained by properly trimming the leading edge section to permit installation of the stabilizer reinforcements per paragraph (b)(4) of this AD. If any other modification has been incorporated on the stabilizer, notify the Wichita Aircraft Certification Office, telephone 316–946–4409 prior to accomplishing paragraph (b)(4) of this AD.

(3) Check the static balance of the ruddervator and balance as necessary using the methods and criteria specified in the appropriate airplane maintenance or shop manual, as referenced in SB 2188.

(4) Following completion of paragraphs (b)(1), (b)(2), and (b)(3) of this AD, install stabilizer reinforcements, install warning placards and set elevator nose down trim in accordance with Beech SB 2188 and for Models C35, D35, E35, F35, and G35 replace ruddervator tab control cables.

(5) Place the revision/supplement to the POH/AFM specified in SB 2188 in the airplane. Assure that the correct AFM/POH, as listed in lastest revision to the appropriate TCDS, is installed in the airplane.

(c) Upon completion of the requirements of paragraph (b) of this AD, within the next 12 calender months after the effective date of this AD, for all 35 Series airplanes determine the accuracy of airplane basic empty weight and balance information using one of the following three methods:

(1) Method Number 1: (A) Review existing weight and balance documentation to assure completeness and accuracy of the documentation from the most recent weighing, or from factory delivery, to date of compliance with this AD.

(B) Inspect the airplane and compare the actual configuration of the airplane to the configuration described in the weight and balance documentation, and

(C) If equipment additions or deletions are not reflected in the documentation or if modifications affecting the location of the center of gravity (e.g. paint or structural repairs) are not documented, determine the accuracy of the airplane weight and balance data by using either method number 2 shown in paragraph (c)(2) of this AD or weigh the airplane as specified in paragraph (c)(3) of this AD.

(2) Method Number 2: (A) Assemble the following equipment:

(1) One certified platform scale having a range of 750 to 1000 pounds capable of supporting the nose wheel without contacting the rest of the airplane.

(2) One scale ramp of sufficient incline to allow rolling the nose wheel onto the scale.

(3) One gear strut inflation system capable of inflating the gear struts to full extension.

(B) Procedure: (1) Prepare the airplane for weighing, utilizing steps 2, 3 and 4 of the Weighing Instructions in the Weight and Balance Section of the POH/AFM.

Ensure that the scale and airplane are on a level hangar floor and the aircraft is shielded from any wind.

(2) Inflate the main gear struts to maximum extension and completely deflate the nose

strut. Inflate tires to the correct tire pressures as listed in appropriate Maintenance or Shop Manual.

Caution: When deflating the nose strut, the aircraft may drop suddenly.

(3) Adjust the height of the scale platform to 12 inches above the hangar floor.

(4) Position the nose wheel onto the scale ensuring that the remainder of the airplane does not contact the scale and verify the 12 inch scale height. Set the parking brake and/or chock the main wheels.

(5) Record the net weight from the scale.

(6) Remove the nose wheel from the scale.

(7) Adjust the gear struts, per the appropriate maintenance or shop manual, to the proper extension lengths.

(8) Subtract the following unusable, less undrainable, fuel values from the current airplane Basic Empty Weight, CG and Moment:

	Weight (lbs)	Arm (in)	Moment (in-lbs)
For all Airplanes; and..	34.5	79.1	2730
In addition, for Airplanes with 10 gallon wing auxiliary tanks; or.....	5	94.0	470
In addition, for Airplanes with 20 gallon auxiliary fuselage tanks..	3	133.0	399

(9) Multiply the net weight obtained in paragraph (5) by 83.25 to obtain moment.

(10) Divide the weight obtained in paragraph (8) into the moment obtained in paragraph (9) to determine a value for X.

(11) Calculate a value of CG from: $C=92.50-1.01X$.

(12) Subtract the CG obtained in paragraph (11) from the CG obtained in paragraph (8).

(13) If the results of paragraph (12) indicate the difference in CG to be less than 0.5 inches, continue to use the basic empty airplane weight and CG data listed as the existing airplane records as the basis for computing the weight and CG for the loaded airplane using the criteria specified in the POH/AFM, Weight and Balance Section.

(14) If the resuts of paragraph (12) indicate the difference in CG to be more than 0.5 inches, determine the basic empty weight and CG of the airplane using Method Number 3.

Note.—Sample Calculation.

Basic Empty Weight (BEW).....2064.5 lbs.
Arm.....78.3 in.
Moment.....161650 in-lbs.
Paragraph (5): Nose Wheel Weight.....341 lbs.
Paragraph (8):

	Weight (lbs)	Arm (in)	Moment (in-lbs)
	2064.5	78.3	161,650
	−34.5	79.1	−2,730
	2030.0	*	158,920

$$*\text{Arm} = \frac{(158920)}{(2030.0)} = 78.29$$

Paragraph (9): Moment = (341 lbs) × (83.25 in) = 28388 in-lbs.

Paragraph (10): X

$$X = \frac{(28388 \text{ in-lbs})}{(2030.0 \text{ lb})} = 13.98 \text{ in.}$$

Paragraph (11): CG = 92.50 in. − (1.01) × (13.98 in) − 78.38 in.

Paragraph (12): Difference = (78.29 in) × (78.38 in) = −0.09 in.

Airplane is within ±0.5 in tolerance, therefore Paragraph (13) applies.

(3) Method Number 3: (1) Determine the basic empty weight and CG of the empty airplane using the Weighing Instructions in the Weight and Balance Section of the POH/AFM. Record the results in the airplane records, and use these new values as the basis for computing the weight and CG information as specified in the POH/AFM, Weight and Balance Section.

(d) Upon completion of the requirements of paragraphs (d) and (c) as aplicable, remove the following that were installed in accordance with AD 86-21-07, Amendment 39-5474, or in accordance with paragraph (a) of this AD.

(1) The airspeed placards and airspeed indicator makings, and resume operations observing the original limits

(2) The copy of AD 86-21-07 or the copy of this AD from the POH/AFM.

(3) The "Normal Category Operations Only" placard.

(e) A Special Flight Permit may be issued in accordance with FAR 21.197 to operate airplanes to a base in order to comply with the requirements of paragraph (b) thru (d) and this AD.

(f) An equivlent method of compliance with this AD may be used when approved by the Manager, Wichita Aircraft Certification Office, Federal Aviation Administration, Central Region, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Beech Aircraft Corporation, Commercial Service, Department 52, P. O. Box 85, Wichita, Kansas 67201-0085 or may examine the document(s) referred to herein at FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This action supersedes AD 86-21-07, Amendment 39-5474.

Issued in Kansas City, Missouri, on June 10, 1987

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87-14118 Filed 6-19-87; 8:45 am]

BILLING CODE 4910-13-W

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14 CFR Part 39

[Docket No. 76-SW-41]

Airworthiness Directives; Bell Helicopter Textron, Inc. (BHTI), Model 206A, 206A-1, 206B, 206B-1, 206L, 206L-1, and 206L-3 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend an existing airworthiness directive (AD), which currently requires retirement of tension-torsion (T-T) straps on BHTI Model 206A, 206A-1, 206B, 206B-1, 206L, 206L-1, and 206L-3 helicopters as a function of flight time with no calendar time restriction. Subsequent to the publishing of the original AD, testing was accomplished which indicates the need for a 2-year calendar life restriction in addition to the existing flight time restriction on the T-T straps. This proposed amendment would establish a 2-year calendar life in addition to the existing flight time restriction on the T-T straps and add an additional T-T Strap part number which was not in existence when the original AD was published. The proposed amendment is needed to prevent T-T strap failure which could result in main rotor (M/R) blades departing the helicopter and subsequent loss of the helicopter.

DATE: Comments must be received on or before August 10, 1987.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: Office of the Regional Counsel, Department of Transportation, Federal Aviation Administration, Fort Worth, Texas 76193-0007, or delivered in duplicate to: Office of the Regional Counsel, FAA, Southwest Region, Room 158, Building 3B, 4400 Blue Mound Road, Fort Worth, Texas. Comments delivered must be marked: Docket No. 76-SW-41. Comments may be inspected in Room 158, Building 3B, Office of the Regional Counsel, Southwest Region, between 8 a.m. and 4 p.m., weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Gary Roach, Helicopter Certification Branch, Department of Transportation, Federal Aviation Administration, Fort Worth, Texas 76193-0170, telephone (817) 624-5179.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket, Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, Texas, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed amendment, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 76-SW-41." The postcard will be date/time stamped and returned to the commenter.

This proposed amendment would amend Amendment 39-3221, AD No. 78-11-02 (43 FR 22340; May 25, 1987), which currently requires retirement of the T-T straps as a function of flight time with no calendar time restriction. After issuing Amendment 39-3221, extensive testing was accomplished by the manufacturer on T-T straps which had been retired 2 years after installation but had not reached their flight hour life limit. The results showed that the T-T straps should have a 2-year calendar life limit to assure airworthiness of the part.

Since this condition exists on other aircraft of the same type design, the proposed amendment would require a 2-year calendar life restriction on the T-T straps, in addition to the existing flight hour life limit.

The FAA has determined that this proposed regulation would involve 5,000 helicopters for an estimated cost of $3,854 per helicopter every 2 years. Therefore, I certify that this proposed 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) if promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 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.

§ 39.13 [Amended]

2. By amending Amendment 39-3221, AD No. 78-11-02 (43 FR 22340) by revising the applicability paragraph and paragraph (c) to read as follows:

Bell Helicopter Textron, Inc.: Applies to Model 206A, 206A-1, 206B, 206B-1, 206L, 206L-1, and 206L-3 helicopters, certificated in any category (Airworthiness Docket No. 76-ASW-41). Compliance is required within the next 6 calendar months after effective date of this AD, unless already accomplished.

To prevent M/R blades from departing the helicopter, accomplish the following:

* * * * *

(c) The retirement time of the tension-torsion straps, Part Numbers 206-010-105-3, 206-010-105-5, and 206-011-127-1, is reduced from 1,200 to 600 hours' time in service. These straps must be retired from service by January 1, 1979, regardless of time in service. The inboard strap fittings, P/N's 206-010-155-11 and -15, must be removed from service as noted in paragraph (a)(1) of this AD. Replacement tension-torsion straps, P/N's 206-011-147-001, -003, -005, -007, and 206-011-154-101 and -103, have a 1,200-hour time in service life or 2-year calendar life after installation, whichever occurs first.

Issued in Fort Worth, Texas, on May 27, 1987.

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 87-14078 Filed 6-19-87; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 87-NM-64-AD]

Airworthiness Directives; British Aerospace Model 125-800A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD), applicable to certain British Aerospace Model 125-800A series airplanes, that would require inspection and replacement, if necessary, of certain connector socket contacts in the engine fire warning system. This proposal is prompted by reports of inadequate crimping of socket contacts. This condition, if not corrected, could lead to failure of the engine fire warning annunciation in the flight deck.

DATES: Comments must be received no later than August 11, 1987.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-64-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from British Aerospace, Inc., Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information 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.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified

above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attention: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-64-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The United Kingdom Civil Aviation Authority (CAA) has, in accordance with existing provisions of a bilateral airworthiness agreement, notified the FAA of an unsafe condition which may exist in certain connector sockets contacts in the fire warning system on British Aerospace BAe 125-800 airplanes. Cases have been reported of inadequate crimping of the socket contacts in connectors TA7 and TB7. Should any cable become loose, fire warning annunciation may not be available on the flight deck. British Aerospace issued BAe Service Bulletin 26-27, dated May 16, 1986, which describes procedures for inspection and replacement, if necessary, of the connector socket contacts, which will prevent failure of the fire warning annunciation due to loose cables. The CAA has classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require inspection and replacement, if necessary, of certain connector socket contacts in accordance with the service bulletin previously mentioned.

It is estimated that 29 airplanes of U.S. registry would be affected by this AD, that it would take approximately 1 manhour per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $1,160.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($40). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 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.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

British Aerospace: Applies to BAe Model 125-800A series airplanes, certificated in any category. Compliance is required within 60 days after the effective date of this AD, unless previously accomplished.

To prevent failure of the engine fire warning annunciation in the flight deck, accomplish the following:

A. Inspect the socket contacts in connectors TA7 and TB7 for adequate crimping, and replace, if necessary, in accordance with British Aerospace Service Bulletin 26-27, dated May 16, 1986.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, 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 proposal who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, Inc., Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on June 12, 1987.

Robert E. Waiblinger,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-14089 Filed 6-19-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 87-NM-65-AD]

Airworthiness Directives; Gates Learjet Models 23, 24, 24A, 24B, 24B-A, 24C, 24D, 24D-A, 24E, 24F, 24F-A, 25, 25A, 25B, 25C, 25D, 25F, 28, 29, 35, 35A, 36, and 36A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to revise an existing airworthiness directive (AD), applicable to certain Gates Learjet series airplanes, which currently requires relocation of the battery vent inlet to eliminate the potential for a fire and explosion within the battery, caused by fuel leaking and entering the battery inlet vent. This action would expand the applicability of the existing AD to include additional affected airplanes.

DATES: Comments must be received no later than August 11, 1987.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-65-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Gates Learjet Corporation, P.O. Box 7707, Wichita, Kansas 67277. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Robert R. Jackson, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, Central Region, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4419.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of tne Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-65-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

On March 28, 1986, the FAA issued AD 86-05-05, Amendment 39-5248 (51 FR 11709; April 7, 1986), to require relocation of the battery inlet vent on certain Gates Learjet Models 24, 25, 28, 29, 35, and 36 series airplane. That AD was prompted by a report of leaking fuel being drawn into the battery inlet vent. This condition, if not corrected, could lead to a fire or an explosion within the battery. AD 86-05-05 requires that the inlet vent be moved from the bottom to the side of the airplane, so as to prevent the potential for fuel leaking into it.

Since issuance of that AD, the FAA has identified certain Model 23, 24, and 25 series airplanes that were originally manufactured with a battery exhaust vent, but have since been modified to incorporate a "flow through" battery vent system. This type of configuration makes these airplanes subject to the same unsafe condition addressed in AD 86-05-05.

The FAA has reviewed and approved Gates Learjet Service Bulletin 23/24/25-334B, dated February 19, 1987, which describes procedures for relocation of the battery vent on certain Model 23, 24, and 25 series airplanes.

Since this condition is likely to exist on other airplanes of this same type design, an AD is proposed which would expand the applicability of AD 86-05-05 to include additional airplanes, and would require modification of those airplanes in accordance with the service bulletin previously mentioned.

The number of additional airplanes affected by this proposed AD is unknown, since the FAA does not have the means to determine which airplanes have been modified in the field. However, for each affected airplane, it would require approximately 13.5 manhours to accomplish the required actions, and the average labor cost would be $40 per manhour. Existing hardware and components are utilized for vent relocation; therefore, no parts cost is anticipated. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $540 per airplane.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034., February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant impact on a substantial number of small entities because of the minimal cost of compliance per airplane ($540). A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) 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.

§ 39.13 [Amended]

2. By revising AD 86-05-05, Amendment 39-5248 (51 FR 11709; April 7, 1986), as follows:

Gates Learjet Corporation: Applies to the following Gates Learjet models and serial numbers, equipped with a "flow through" battery vent system with the inlet located on the bottom (belly) of the airplane:

Model	Serial Nos.
23 series	003 thru 099.
24, 24A, 24B, 24B-A, 24C, 24D, 24D-A, 24E, 24F, 24F-A.	100 thru 357.
25, 25A, 25B, 25C, 25D, 25F.	003 thru 061; 066 thru 373.
28	001 thru 005.
29	001 thru 004.
35, 35A	001 thru 570; 589 thru 600.
36, 36A	001 thru 053; 055.

Compliance required as indicated, unless previously accomplished.

To eliminate the potential for a fire and explosion within the battery, caused by leaking fuel entering the battery vent, accomplish the following within the next 200 flight hours:

A. Relocate the battery inlet vent in accordance with instructions contained in Gates Learjet Corporation Service Bulletin (SB) 23/24/25-334B, dated February 19, 1987, for Models 23, 24, and 25 series airplanes; SB 28/29-24-5A, dated October 7, 1985, for Models 28 and 29 series airplanes; or SB 35/36-24-10, dated July 18, 1985, for Models 35 and 36 series airplanes; or later FAA-approved revisions.

B. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety may be used when approved by the Manager, Wichita Aircraft Certification Office, FAA, Central Region.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Gates Learjet Corporation, P.O. Box 7707, Wichita, Kansas 67277. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

Issued in Seattle, Washington, on June 12, 1987.

Robert E. Waiblinger,

Acting Director, Northwest Mountain Region.

[FR Doc. 87-14088 Filed 6-19-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 87-ANM-9]

Proposed Establishment of Transition Area, Gooding, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a 700 foot transition area at Gooding, Idaho, to provide controlled airspace for the proposed non-directional beacon (NDB) instrument approach procedure for Runway 25 at the Gooding, Idaho, Municipal Airport.

DATES: Comments must be received on or before August 10, 1987.

ADDRESSES: Send comments on the proposal to: Manager, Airspace & System Management Branch, ANM-530, Federal Aviation Administration, Docket No. 87-ANM-9, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The official docket may be examined in the Office of Regional Counsel at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, ANM-535, Federal Aviation Administration, Docket No. 87-ANM-9, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2535.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-ANM-9". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking any action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace & System Management Branch, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a 700 foot transition area to provide controlled airspace for the Gooding Municipal Airport. This controlled airspace will protect aircraft which will be executing a new standard instrument approach procedure to the Gooding Municipal Airport from aircraft which are not operating under Instrument Flight Rules.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

PART 71—[AMENDED]

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

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Gooding, Idaho, Transition Area (New)

That airspace extending upward from 700 feet above the surface within a 9.5 mile radius of the Gooding, Idaho, Municipal Airport (lat. 42°54'45" W., long. 114°45'50" W.)

Issued in Seattle, Washington, on June 12, 1987.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 87-14074 Filed 6-19-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 87-ANM-13]

Proposed Alteration of Transition Area, Glendive, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Glendive, Montana, transition area by adding 1,200 foot transition airspace to the existing transition area description. There is no other change to the existing 700 foot transition area.

DATES: Comments must be received on or before August 5, 1987.

ADDRESSES: Send comments on the proposal to: Manager, Airspace & System Management Branch, ANM-530, Federal Aviation Administration, Docket No. 87-ANM-13, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The official docket may be examined in the Office of Regional Counsel at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, ANM-535, Federal Aviation Administration, Docket No. 87-ANM-13, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2535.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-ANM-13". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking any action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace & System Management Branch, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to add 1,200 foot transition airspace to the existing 700 foot transition area at Glendive, Montana. This change will permit arrival routings direct to the NDB from both Miles City and Williston VORTAC(s) below 14,500 feet AMSL and allow departures to utilize diverse departure procedures directly to both Williston and Miles City.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

PART 71—[AMENDED]

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

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Glendive, Montana, Transition Area [Amended]

After the words . . . "to 18½ miles northwest of the airport"; add the words, "and that airspace extending upward from 1,200 feet above the surface bounded on the east and southeast by the west edge of V-545 and on the northwest by the east edge of V-465."

Issued in Seattle, Washington, on June 12, 1987.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 87-14073 Filed 6-19-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 87-ANM-12]

Proposed Alteration of Transition Area, Lewistown, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the existing controlled airspace at Lewistown, Montana.

DATES: Comments must be received on or before August 10, 1987.

ADDRESSES: Send comments on the proposal to: Manager, Airspace & System Management Branch, ANM-530, Federal Aviation Administration, Docket No. 87-ANM-12, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The official docket may be examined in the Office of Regional Counsel at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, ANM-535., Federal Aviation Administration, Docket No. 87-ANM-12, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2535.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which

the following statement is made: "Comments to Airspace Docket No. 87-ANM-12". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking any action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace & System Management Branch, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise the existing controlled airspace at Lewistown, Montana, to allow off airway radar vectoring from the west of Lewistown at altitudes below 14,500 feet to position aircraft on the instrument approach procedure to the Lewistown Municipal Airport.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

PART 71—[AMENDED]

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

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Lewistown, Montana, [Revised]

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Lewistown Municipal Airport (lat. 47°02'39" N./long. 109°28'15" W.) and within 4 miles each side of the Lewistown VORTAC 289° radial, extending from the 7-mile radius area to 10.5 miles west of the VORTAC; that airspace extending upward from 1,200 feet above the surface within 16 miles north and 11 miles south of the Lewistown VORTAC 289° radial extending 31 miles west of the VORTAC, and within 5 miles north and 8 miles south of the Lewistown VORTAC 109° radial, extending from the VORTAC to 7 miles east of the VORTAC; and excluding that portion within the Great Falls, Montana, 1,200 foot transition area.

Issued in Seattle, Washington, on June 12, 1987.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 87-14086 Filed 6-19-87; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 87-ANM-7]

Proposed Alteration of Transition Area, Rock Springs, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Rock Springs, Wyoming, transition area to provide for additional controlled airspace east of Rock Springs.

DATES: Comments must be received on or before August 4, 1987.

ADDRESSES: Send comments on the proposal to: Manager, Airspace & System Management Branch, ANM-530, Federal Aviation Administration, Docket No. 87-ANM-7, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

The official docket may be examined in the Office of Regional Counsel at the same address.

An informal docket may also be examined during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, ANM-535, Federal Aviation Administration, Docket No. 87-ANM-7, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, Telephone: (206) 431-2535.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-ANM-7". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking any action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace & System Management Branch, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168. Communications must identify the notice number of this NPRM. Persons interested in being

placed on a mailing list for future NPRM's should also request a copy of Advisory Circular 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to extend controlled airspace east of Rock Springs, Wyoming, to enable air traffic controllers to radar vector aircraft to the ILS/DME Runway 27 approach to the Sweetwater County Airport. Currently, available airspace is insufficient for this purpose.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6C dated January 2, 1987.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

PART 71—[AMENDED]

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

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Rock Springs, Wyoming, Transition Area [Amended]

Change 1,200' transition area to read as follows: . . . to 19 miles east of the VORTAC; and that airspace extending upward from 1,200' above the surface within a 23-mile radius of the Rock Springs VORTAC, including that airspace bounded by 4.5 miles south of the Rock Springs 099° radial between 23 miles and 42.5 miles, and 4.5 miles east of the Cherokee VORTAC 198° radial between the VORTAC and 56.5 miles, and 4.5 miles northwest of the Rock Springs 051° radial between 23 miles and the Cherokee VORTAC, excluding that airspace included in the Rawlins, Wyoming, transition area.

Issued in Seattle, Washington, on June 12, 1987.

Temple H. Johnson, Jr.,

Manager, Air Traffic Division, Northwest Mountain Region.

[FR Doc. 87-14085 Filed 6-19-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[LR-83-86]

Income Taxes; Low-Income Housing Credit

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross reference to temporary regulations.

SUMMARY: In the Rules and Regulations portion of this issue of the **Federal Register**, the Internal Revenue Service is issuing temporary regulations relating to the low-income housing credit under section 42 of the Internal Revenue Code of 1986, as enacted by the Tax Reform Act of 1986 (Pub. L. 99-514). The text of those temporary regulations also serves as the comment document for this notice of proposed rulemaking.

DATES: Written comments and requests for a public hearing must be delivered or mailed by August 21, 1987. In general, the regulations are proposed to be effective after December 31, 1986, for buildings placed in service after December 31, 1986, in taxable years ending after that date.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-83-86), 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Robert Beatson of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attention: CC:LR:T) (202-566-3829, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The Temporary regulations in the Rules and Regulations portion of this issue of the **Federal Register** amend 26 CFR Parts 1 and 602. The temporary regulations add new § 1.42-1T to Part 1 of Title 26 of the Code of Federal Regulations. The final regulations, which this document proposes to be based on those temporary regulations, would amend 26 CFR Parts 1 and 602 and would add new § 1.42-1 to Part 1 of Title 26 of the Code of Federal Regulations. For the text of the temporary regulations, see FR Doc. 87-14093 (T.D. 8144) published in the Rules and Regulations portion of this issue of the **Federal Register**. The preamble to the temporary regulations explains the additions to the Income Tax Regulations.

The proposed regulations provide needed guidance regarding the provisions of section 42, as enacted by section 252 of the Tax Reform Act of 1986.

Non-Applicability of Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required.

Regulatory Flexibility Act

Although this document is a notice of proposed rulemaking that solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, this proposed regulation does not constitute a regulation subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

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

Comments and Requests for a Public Hearing

Before adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue.

Comments are encouraged both with respect to the matters addressed in these proposed regulations and any other issues arising under section 42 with respect to which guidance is needed. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register**. The collection of information requirements contained herein have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on the requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, DC 20503. The Internal Revenue Service requests persons submitting comments to OBM to also send copies of the comments to the Service.

Lawrence B. Gibbs,

Commissioner of Internal Revenue.

[FR Doc. 87-14094 Filed 6-17-87; 3:31 pm]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7 87-19]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Florida

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the City of Deerfield Beach, the Coast Guard is considering a change to the regulations governing the Hillsboro Boulevard (SR 810) bridge at Deerfield Beach by extending the days and hours during which bridge openings are limited. This proposal is being made because of complaints about highway traffic delays. This action should accommodate the needs of vehicular traffic and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before August 6, 1987.

ADDRESSES: Comments should be mailed to Commander (oan), Seventh Coast Guard District, 51 SW. 1st Avenue, Miami, Florida 33130-1608. The comments and other materials referenced in this notice will be available for inspection and copying at 51 SW. 1st Avenue, Room 816, Miami, Florida. Normal office hours are between 7:30 a.m. and 4 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne Lee, Chief, Bridge Section, Seventh Coast Guard District, telephone (305) 536-4103.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this 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.

The Commander, Seventh Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Mr. Brodie Rich, project officer, and Lieutenant Commander S.T. Fuger, Jr., project attorney.

Discussion of Proposed Regulations

The City of Deerfield Beach has asked that the Hillsboro Boulevard (SR 810) bridge open only on the hour and half-hour from 7 a.m. to 7 p.m. daily, year-around. The Coast Guard has carefully evaluated information about highway traffic volumes and drawbridge openings for this bridge. Although regulation changes may be needed to help reduce highway traffic delays, the data do not appear to justify the extensive restrictions requested by Deerfield Beach. The Hillsboro Boulevard bridge presently opens on signal, except that, from November 1 through May 31, from 11 a.m. to 5 p.m. on Saturdays, Sundays, and federal holidays, the draw is required to open only on the hour, quarter-hour, half-hour, and three-quarter hour. Restrictions, including limitations on weekday openings, appear to be needed on a seasonal basis, rather than all year long. Requiring mariners to wait for up to 30 minutes for an opening may not be safe because of hazardous currents and the lack of holding area in the vicinity of this bridge. The proposed 15-minute operating schedule during the busiest boating months should allow accumulated vehicular traffic to disperse between bridge openings with minimal additional delay to vessels.

Economic Assessment and Certification

These proposed regulations are 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. We conclude this because the regulations exempt tugs with tows. 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 Regulations

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; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.261(bb) is revised to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

* * * * *

(bb) *Hillsboro Boulevard (SR 810) bridge, mile 1050.0 at Deerfield Beach.* The draw shall open on signal; except that, from October 1 through May 31, from 7 a.m. to 6 p.m., the draw need open only on the hour, quarter-hour, half-hour, and three-quarter hour.

* * * * *

Dated: June 10, 1987.

M.J. O'Brien,

Captain, U.S. Coast Guard, Acting Commander, Seventh Coast Guard District.

[FR Doc. 87-14108 Filed 6-19-87; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD7-87-21]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Florida

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the City of New Smyrna Beach, the Coast Guard is considering a change to the regulations governing the Coronado Beach and

Harris Saxon drawbridges at New Smyrna Beach, Florida, by changing the times during which bridge openings are limited. This proposal is being made because of complaints about vehicular traffic delays. This action should accommodate the needs of highway traffic and should still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before August 6, 1987.

ADDRESSES: Comments should be mailed to Commander (oan), Seventh Coast Guard District, 51 SW. 1st Avenue, Miami, Florida 33130–1608. The comments and other materials referenced in this notice will be available for inspection and copying at 51 SW. 1st Avenue, Room 816, Miami, Florida. Normal office hours are between 7:30 a.m. and 4 p.m., Monday through Friday, except holidays. Comments also may be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne Lee, Chief, Bridge Section, Seventh Coast Guard District, telephone (305) 536–4103.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this 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.

The Commander, Seventh Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander S.T. Fuger, Jr., project attorney.

Discussion of Proposed Regulations

The City of New Smyrna Beach has asked that the Coronado Beach bridge and the Harris Saxon bridge open only on the hour and half-hour from 7 a.m. to 6 p.m. daily, year-around. The Coast Guard has carefully evaluated information about highway traffic volumes and drawbridge openings for both spans. Although regulation changes may be needed to help reduce highway traffic delays, the data do not appear to justify the extensive restrictions requested by New Smyrna Beach.

The Coronado Beach bridge presently opens on signal except that from March 15 to October 15 from 10 a.m. to 6 p.m. on Saturdays, Sundays, and federal holidays, the draw opens only on the hour, quarter-hour, half-hour and three quarter-hour. This drawbridge provides only 14 feet of vertical clearance for vessels in the closed position, resulting in frequent openings. Highway traffic statistics indicate that operating the bridge on a 15-minute schedule should allow sufficient time for accumulated vehicular traffic to disperse between openings.

The Harris Saxon bridge presently opens on signal, except that from March 15 to October 15 on Saturdays, Sundays and federal holidays, from 3 p.m. to 6 p.m., the draw is required to open only on the hour and half-hour. Weekday restrictions appear to be needed on a seasonal basis, rather than all year long. In addition, adjustments in weekend restrictions appear to be appropriate. The proposed 30-minute operating schedule during the busiest boating months should allow accumulated vehicular traffic to disperse between bridge openings.

Economic Assessment and Certification

These proposed regulations are 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. We conclude this because the regulations exempt tugs with tows. 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 Regulations

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; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.261 (h) and (i) is revised to read as follows:

117.261 Atlantic Intracoastal Waterway from St. Marys River to Key Largo.

* * * * *

(h) *Coronado Beach bridge, mile 845 at New Smyrna Beach.* The draw shall open on signal; except that from 7 a.m. to 6 p.m. daily, the draw need open only on the hour, quarter-hour, half-hour, and three-quarter hour.

(i) *Harris Saxon bridge, mile 846.5 at New Smyrna Beach.* The draw shall open on signal; except that, from October 1 to December 31 and April 1 to May 31 from 9 a.m. to 6 p.m. daily, the draw need open only on the hour and half-hour.

* * * * *

Dated: June 9, 1987.

M.J. O'Brien,

Captain, U.S. Coast Guard, Acting Commander, Seventh Coast Guard District.

[FR Doc. 87–14109 Filed 6–19–87; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 254

Indian Allotments Within National Forests

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Act of June 25, 1910 (25 U.S.C 337), provided Indians occupying, living on, or having improvements on National Forest lands an opportunity to apply for an allotment from the Secretary of the Interior. The Secretary, at his discretion, could make an allotment if the Secretary of Agriculture first determined that the land was more valuable for agricultural or grazing purposes than for the timber found thereon.

This regulation clarifies the eligibility standards for an Indian applying for an allotment under the act; prescribes the process by which an eligible Indian would apply for an allotment; and defines the process by which the Secretary of Agriculture, through the Forest Service, will make the requisite determinations of agricultural, grazing, and timber values. Additionally, this regulation provides that eligible Indians must file notice of intent to make application or must file an application with the Forest Service within a certain time period, in order to obtain free authorization for continued occupancy of National Forest lands until such time as a decision is made on the application. Finally. this regulation provides that no further applications for allotments of National Forest lands will be accepted after the expiration of a specific time

period provided for filing notice or making applications.

DATE: Comments must be received on or before July 22, 1987.

ADDRESS: Comments or questions on the proposed rule may be addressed to: F. Dale Robertson, Chief (5400), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090.

FOR FURTHER INFORMATION CONTACT: Paul H. Haarala, Lands Staff, (703) 235-2161.

SUPPLEMENTARY INFORMATION: The Act of June 25, 1910, known as the Forest Allotment Act, provided a means for Indians, who were then occupying, living on, or having improvements on National Forest lands, to apply for an allotment of land in accordance with the general allotment laws which applied to other areas of the public lands. The policy of granting Indian allotments dates back to the Indian Allotment Act of 1887 (25 U.S.C. 331) which was passed during a time when Federal policy was to encourage establishment of Indian family units on self-sustaining farms rather than on reservations. The 1887 Indian Allotment Act allowed Indians to settle on unappropriated, unreserved public domain lands and to make a claim for an allotment. It was a process for Indians very similar to that provided by the Homestead Act for non-Indians.

After 1891, large areas of the public domain were set aside as Forest reserves (called National Forests since 1907) to be managed for public purposes generally to the exclusion of private entry rights. However, Congress vested discretionary authority in the Secretary of Agriculture to request opening to homestead entry by non-Indians any lands deemed "chiefly valuable for agriculture" under the now repealed Forest Homestead Act of 1906 (34 Stat. 233) as amended. Pursuant to this Act and subsequent language in Forest Service Appropriation Acts beginning in 1912 (37 Stat. 287), the Secretary of Agriculture was directed and required to developed systematic procedures for the selection. classification' and segregation of all lands within the National Forest. Those lands found chiefly valuable for agricultural purposes, not needed for public purposes and which might be occupied for agricultural purposes without injury to the national forest, were listed with the Secretary of the Interior for entry under the homestead laws and if found suitable, patented. The remaining lands were classified and segregated as nonlistable and retained for national forest purposes.

To afford Indians the same rights which non-Indians had under the Forest Homestead Act, the Forest Allotment Act was passed in 1910 authorizing the Secretary of the Interior to make discretionary allotments of land to those Indians then occupying National Forest lands. Allotments were to be made "in conformity with the general allotment laws" upon a deterrination of the Secretary of Agriculture that the lands applied for "are more valuable for agricultural or grazing purposes than for the timber found thereon." 25 U.S.C. 337. The Forest Allotment Act was not a statute providing a perpetual means of settlement upon the National Forests, but rather was intended to provide a means for securing allotments for resident Indians, and their heirs, who had already settled on the public domain prior to establishment of the National Forest or who had, by inadvertence, settled on National Forest lands after establishment of the National Forest and prior to enactment of the Act.

Post-1910 entry into the National Forests by Indian settlers was treated, until 1962, as though it were an application to settle upon land under the Forest Homestead Law. The regulations of the Secretary of Agriculture and Forest Service instructions promulgated thereunder provided for a systematic and orderly process of land classification application, and land examination which led to decisions on the availability of National Forest lands for entry or settlement by both Indians and non-Indians alike. The instructions stated that all land classified as being available for homestead entry must meet the following requirements:

1. The land must be of greater permanent value for agriculture than for timber production or watershed protection, the primary purposes for which the National Forests were created.

2. The use of the land for agriculture must have a sound economic basis. That is, the acreage and soils must be such as to afford the reasonable presumption that, under the controlling growth conditions, crops can be produced sufficient in quantity and quality to justify the cost of the labor, equipment, and implements required for a permanent state of cultivation.

3. The use of the land for farming purpose must not injure the National Forest by unduly increasing the difficulties of resource protection and administration, or put obstacles to proper economic utilization of all the resources of economic importance upon other National Forest lands.

4. The land must not be needed for public purposes such as national monuments, administrative sites, public camping grounds, municipal water supply, reclamation works, or quasi public uses like water and irrigation developments.

Since 1962, no new entries into the National Forests for allotment or other settlement purposes have been authorized. However, the Forest Allotment statute remains for those Indians who have continuously occupied National Forest lands for allotment purposes since 1910, and eligible Indians could still apply for discretionary allotment pursuant to regulations of the Bureau of Land Management (43 CFR Parts 2530 through 2533). These regulations have governed the allotment process, and a long line of administrative decisions by the Department of Interiors' Board of Land Appeals has been issued thereunder upholding the procedures followed in processing applications under those rules. However, a decision dated March 22, 1985, by the Interior Board of Land Appeals in *James R. Hensher, et al.*, 85 IBLA 343, has confused the allotment process.

Reversing a long series of rulings, the Board re-interpreted the Bureau of Land Management allotment regulations by determining that it lacked jurisdiction to hear appeals of Indian allotment cases involving National Forest lands. Instead, the Board concluded that applicants seeking administrative review regarding value determinations by the Forest Service must do so through the administrative appeal procedures of the Secretary of Agriculture. In addition, questions have been raised as to how allotment applications are processed by the Secretary of Agriculture through the Forest Service, and how occupancies under color of such applications are regulated. Accordingly, these regulations are being issued to clarify how Forest Service officials are to process the remaining allotment applications for resident Indians as well as to inform this potential class of allotment applicants of the process by which their claims are examined and decided. Additionally, the proposed rule provides a means by which eligible Indians who have been continuously occupying National Forest lands since 1910 may continue their occupancy without charge, pending a decision on an allotment application.

Finally, this proposed rule provides for an orderly and complete review of all occupancies under the Forest Allotment Act by establishing a time limit for filing a notice of intent to file or for filing an Indian allotment application.

At the end of the time period, the status of all lands under consideration

for allotments will also be clarified. The proposed rules only pertain to occupancy and applications on National Forest lands and subsequent actions by the Forest Service. Except for the value determinations and occupancy authorizations, the Secretary of Interior is responsible for actions and determinations on all applications pursuant to applicable regulations of the Secretary of the Interior (43 CFR Part 2530).

Regulatory Impact

This proposed rule has been reviewed under USDA procedures and Executive Order 12291 and has been determined not to be a major rule. Little or no effect on the economy will result from this regulation. Since the proposed rule provides procedures for the final consideration of remaining Indian allotment applications under this authority, time and costs to the Federal Government and to Indian applicants should be significantly reduced. Furthermore, it would result in clarifying procedures and ultimately reducing time and paperwork. The information collection requirements in this rule are not new and do not impose new burdens on Indian applicants. The Forest Service will continue to rely on the existing Bureau of Land Management regulations for the form and content of the relevant information to be collected from allotment applicants.

The Assistant Secretary of Agriculture for Natural Resources and the Environment has determined that this action will not have a significant economic impact on a substantial number of small entities.

Based on both past experience and environmental analysis, this proposed rule will have no significant effect on the human environment, individually or cumulatively. Therefore, it is categorically excluded from documentation in an environment assessment or an environmental impact statement (40 CFR 1508.4.).

List of Subjects in 36 CFR Part 254

National forests, Community facilities.

Therefore, for the reasons set forth above, it is proposed to amend Part 254 of Chapter II of Title 36 of the Code of Federal Regulations by adding a new Subpart D to read as follows:

PART 254—LANDOWNERSHIP ADJUSTMENTS

* * * * *

Subpart D—Indian Allotments in National Forests

Sec.

254.50 Purpose and scope.
254.51 Lands subject to allotment.
254.52 Conditions of occupancy.
254.53 Application requirements.
254.54 Forest Service report.
254.55 Forest Service determination.
254.56 Termination of occupancy authorization.

Subpart D—Indian Allotments in National Forests

Authority: 25 U.S.C. 337; 16 U.S.C. 551.

§ 254.50 Purpose and scope.

(a) These regulations govern the procedures for the allotment of National Forest lands to eligible Indians pursuant to the Forest Allotment Act of June 25, 1910.

(b) The completion of the adinistrative process set forth in this Subpart shall constitute the final determination of all allotment applications and related occupancy authorizations received pursuant to § 254.52, and, upon conclusion of this process, the Forest Service shall not accept any other applications or occupancy requests pursuant to the Forest Allotment Act of 1910.

§ 254.51 Lands subject to allotment.

National Forest lands subject to allotment under this Subpart are those lands that meet all of the following criteria:

(a) The lands have been continuously occupied since June 25, 1910 by Indians whom the Secretary of the Interior finds eligible to receive allotments;

(b) The lands are determined by the responsible Forest Service official to be more valuable for agriculture or grazing purposes than for the timber found thereon;

(c) The lands are of a character that the Secretary of the Interior determines can be patented pursuant to 43 CFR Part 2530; and

(d) The lands are not withdrawn for a purpose inconsistent with an allotment.

§ 254.52 Conditions of occupancy.

(a) Any Indian who, as of the date of publication of these rules, occupies, lives on, or has improvements on National Forest land subject to allotment, may continue such occupancy without charge only under the following terms and conditions:

(1) The Indian files a written notice of intent to make application for an allotment with the District Ranger or the Forest Supervisor within six months of the publication of these regulations, or within 30 days of being given notice of such requirement, whichever is sooner.

(2) Within one year of filing a notice of intent, the Indian submits a formal application for an allotment in compliance with this section and 43 CFR Part 2530, and thereafter diligently pursues the allotment application.

(3) The Indian does not add any improvements or facilities on National Forest lands to those existing as of the effective date of this regulation.

(4) Insofar as is consistent with the actual occupancy and use of the land in furtherance of the allotment, the Forest Service shall manage the land pursuant to its various management authorities.

(5) The occupancy authorizations do not confer any right, title, or interest in the land and may not be assigned to another individual or party.

(6) The authorized Forest Service official may prescribe other terms of use and occupancy deemed necessary to protect National Forest resources and facilities.

(b) Except as may be authorized under this section, any person who hereafter settles on or occupies National Forest lands with intent to apply for an Indian allotment is subject to prosecution under the provisions of § 261.10 of this title.

§ 254.53 Application requirements.

(a) *Form.* Applicants should use prescribed forms approved under 43 CFR Part 2530, available from the nearest District Ranger or Forest Supervisor's Office.

(b) *Information required.* Applicants must provide the following information:

(1) A certificate of eligibility and other qualifying information as required by the General Allotment regulations at 43 CFR Part 2530.

(2) Evidence of continuous occupancy of the applied for land since June 25, 1910, by the actual settler and/or the settler's heirs as heirs are defined in 43 CFR Part 2530.

(3) Any other pertinent information, particularly evidence that the applied-for land is more valuable for agricultural or grazing purposes than for the timber thereon.

(c) *Submission.* Applicants must submit allotment applications to the District Ranger or the Forest Supervisor

of the National Forest wherein the applied for lands are located.

(d) *Correction of deficiencies.* (1) The authorized Forest Service official shall give an applicant written notice of any deficiencies in the application.

(2) The applicant shall have 30 days from date of receipt of notice to remedy deficiencies in the application. Failure to remedy the deficiencies within the 30 day period or show good cause for extension thereof, shall result in rejection of the application and termination of the allotment authorization (§ 254.56).

§ 254.54 Forest Service report.

After receipt of a complete Indian allotment application, the responsible Forest Service official shall prepare a report addressing the following matters:

(a) *Identification and eligibility of the applicant.* The report shall state the identity and eligibility of the applicant and include a copy of all documents and statements submitted by the applicant.

(b) *Land status.* The report shall state the location and status of the applied-for land as of June 25, 1910 and at present, and identify all withdrawals, claims, or reservations which apply to the lands.

(c) *Occupancy.* The report shall establish the occupancy of the applicant or occupancy as a result of being an heir of an Indian settler from June 25, 1910, to the present, and include all statements and supporting evidence pertaining to such continuous occupancy.

(d) *Land suitability.* The report shall determine whether the land is more valuable for agricultural or grazing uses than for timber purposes and include all relevant supporting documentation.

(1) Generally, the report shall conclude that land is considered more valuable for agriculture or grazing than the timber thereon, if the lands as a whole, or in conjunction with contiguous lands owned by the applicant, can economically support a family, and the acreage and soils on the entire unit are such as to afford a reasonable presumption that crops or grazing are of sufficient quantity and quality to justify the cost of labor, equipment and implements required for a permanent state of cultivation or use.

(2) The report shall conclude that any land that does not meet the criteria set out in paragraph (d)(1) of this section, or which has been classified by the Secretary of Agriculture as non-listable to be retained for national forest purposes, is less veluable for agriculture or grazing than the timber thereon.

§ 254.55 Forest Service determination.

(a) Based on the Forest Service report, the responsible Forest Service official shall make a written determination of whether the land is more or less valuable for agricultural or grazing purposes than for timber. Additionally, the official must include such other factual information as that official deems relevant for the Secretary of the Interior to make a meaningful decision on whether to issue an allotment.

(b) The Forest Service shall forward a copy of the determination to the Indian applicant who shall have 45 days in which to file any administrative appeal of such determination in accordance 36 CFR 211.18. After 45 days have elapsed, or upon completion of any administrative appeal process, the Forest Service shall forward its determination to the Secretary of the Interior for final action.

§ 254.56 Termination of occupancy authorization.

(a) A Forest Service official shall terminate an occupancy authorization upon:

(1) A final decision by the Secretary of the Interior to deny an allotment.

(2) A final decision by the Forest Service that the land for which an allotment has been applied for is not more valuable for agricultural or grazing purposes than for the timber found thereon.

(3) A determination that the application for allotment is based on fraud or a misrepresentation of a material fact.

(4) A failure of the occupant to properly complete the allotment application within 30 days or any extended period of receiving notice of deficiency in an aplication (§ 254.53).

(5) A failure by the occupant to comply with provisions of the occupancy authorization or these regulations.

(b) Upon termination of the occupancy authorization, the occupant shall remove all improvements and personal property from the land within 60 days of the date of the final administrative action on said termination. If the improvements and personal property are not removed within the 60 day period, they shall be deemed abandoned and shall be subject to seizure or removal pursuant to applicable laws and regulations.

Dated: May 26, 1987.

Douglas W. MacCleery,

Deputy Assistant Secretary for Natural Resources and Environment.

[FR Doc. 87-14071 Filed 6-19-87; 8:45 am]

BILLING CODE 3410-11-M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. RM 86-4]

Inquiry on Copyrightability of Digitized Typefaces; Extension of Comment Period

AGENCY: Copyright Office, Library of Congress.

ACTION: Extension of comment period.

NOTICE: On October 10, 1986 the Copyright Office in a Notice of Inquiry (51 FR 36410) invited public comment on the copyrightability of digitized versions of typefaces. Comments were invited through December 9, 1986. The comment period was then extended to February 17, 1987 (52 FR 3146; February 2, 1987).

Since the closing of the extended comment period, the Copyright Office has received four comments including a supplemental comment from one of the parties of record. In the interest of allowing full public comment, the Copyright Office hereby extends the comment period until July 20, 1987. Reply comments may be submitted during the extended comment period. The late comments already received will be made part of the record.

DATE: Comments should be received on or before July 20, 1987.

ADDRESSES: Ten copies of written comments should be addressed, if sent by mail, to: Library of Congress, Department 100, Washington, DC 20540.

If delivered by hand, copies should be brought to: Office of the General Counsel, Copyright Office, James Madison Memorial Building, Room 407, First and Independence Avenue SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dorothy Schrader, General Counsel, U.S. Copyright Office, Library of Congress, Washington, DC 20559, (202) 287-8380.

List of Subjects in 37 CFR Part 202

Copyright registration.

Dated: June 11, 1987.

Ralph Oman,

Register of Copyrights.

Approved by:

Daniel J. Boorstin,

The Librarian of Congress.

[FR Doc. 87-14072 Filed 6-19-87; 8:45 am]

BILLING CODE 1410-07-M

POSTAL SERVICE

39 CFR Part 111

Mail Disputes

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: This proposal deals with the situation in which two or more parties claims delivery of the same mail. Present regulations provide that when the parties cannot agree about who should receive the mail or who should act as a receiver, the postmaster may resolve the dispute based on evidence supplied by the parties. When doubtful, the postmaster may submit the case to the regional counsel for a ruling. The postmaster or the regional counsel resolve most such cases on an informal basis. Some cases, however, require a trial-type hearing to resolve the issues.

The Postal Service now proposes to amend postal regulations to refer disputed cases to the Judicial Officer Department if no informal resolution of a dispute is achieved by the regional counsel within 5 working days. The rules of procedure of the Judicial Officer Department would also reflect these changes.

DATE: Comments must be received on or before July 22, 1987.

ADDRESS: Written comments on the proposal should be mailed or delivered to the Associate General Counsel, Office of Field Legal Services, Law Department, U.S. Postal Service, 475 L'Enfant Plaza West, SW., Washington, DC 20260–1125 Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 6015, at the above address.

FOR FURTHER INFORMATION CONTACT: William P. Bennett, (202) 268-2966.

SUPPLEMENTARY INFORMATION: In 1983 a court criticized the lack of due process in the ruling of a regional counsel on who was entitled to delivery of certain mail items. *Congess of Racial Equality* v. *Boger*, Civil No. 83–0387 (D.D.C., filed March 11, 1983, *modified* by order filed Jan. 24, 1984). Rather than adding procedural rules and contemplating possible time-consuming hearings at the regional counsel level, it is proposed that mail disputes that cannot be resolved informally by the regional counsel within 5 working days would be forwarded to the Judicial Officer Department for decision in accordance with its rules of procedure.

To carry out the above purpose, 153.72 of the Domestic Mail Manual would be amended to provide that the regional counsel would have 5 working days within which to reach an informal resolution of a dispute. If resolution cannot be accomplished, the case would be forwarded to the Judicial Officer Department for decision.

Although exempt by 39 U.S.C 410(a) from the provisions of the Administrative Procedure Act regarding proposed rulemaking, 5 U.S.C. 553(b), (c), the Postal Service invites public comments on the following proposed revisions of Part 153 of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 2301–3219, 3403–3406, 3621, 5001.

PART 153—CONDITIONS OF DELIVERY

2. In 153.7, revise .72 to read as follows:

153.7 Conflicting Orders By Two or More Parties for Delivery of Same Mail.

* * * * *

.72 Reference to Regional Counsel of Judicial Officer Department. Where the disputing parties are unable to select a receiver, they shall furnish the postmaster all available evidence on which they rely to exercise control over the disputed mail. If after receipt of such evidence the postmaster is still in doubt as to who should receive the mail, the postmaster will submit the case to the regional counsel for informal resolution. If after 5 working days no informal resolution is achieved, then regional counsel shall forward the case file to the Judicial Officer Department for decision in accordance with the rules of procedure of that department

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

Fred Eggleston,

Assistant General Counsel Legislative Division.

[FR Doc. 87–14103 Filed 6–19–87; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[EN-FRL-3218-7]

Approaches to Implementing the Recommendations of the Domestic Sewage Study

AGENCY: Environmental Protection Agency (EPA).

ACTION: Response to comments on advance notice of proposed rulemaking.

SUMMARY: On August 22, 1986, EPA published an Advance Notice of Proposed Rulemaking (ANPR) which outlined the Agency's preliminary approaches to fulfilling the recommendations of the Domestic Sewage Study (51 FR 30166). In that notice, the Agency suggested ways to improve the control of hazardous wastes discharged through sewers to publicly owned treatment works (POTWs) and solicited comments and alternative suggestions from the public.

The Domestic Sewage Study (hereafter referred to as "the Study") was submitted to Congress by EPA in response to section 3018(a) of the Resource Conservation and Recovery Act (RCRA). That provision directed the Agency to prepare a report for Congress on wastes discharged through sewer systems to POTWs that are exempt from regulation under RCRA as a result of the Domestic Sewage Exclusion. The Study examined the nature and sources of hazardous wastes discharged to POTWs, measured the effectiveness of EPA's programs in dealing with such discharges, and recommended ways to improve the programs to achieve better control of hazardous wastes entering POTWs.

To implement the recommendations of the Study, section 3018(b) of RCRA directs the Administrator to revise existing regulations and promulgate such additional regulations as are necessary to assure that hazardous wastes discharged to POTWs are adequately controlled to protect human health and the environment. The regulations must be revised or promulgated by August 1987. The ANPR was the first step towards this goal.

EPA received about seventy written comments from POTWs, industry, and environmental groups on the methods discussed in the ANPR for improving the control of hazardous wastes discharged to sewers. In addition, numerous comments were provided at the public meetings held in September 1986. The Agency will soon prepare proposed

changes to the general pretreatment regulations and take other specific steps in response to the recommendations of the Study and the comments received on the ANPR. Today's notice summarizes the principal comments on all of the issues discussed in the ANPR, including those not directly related to the general pretreatment regulations. This notice also discusses the program and research activities which the Agency has under way to carry out the recommendations of the Study.

ADDRESS: Comments may be addressed to Ms. Marilyn Goode, Permits Division, (EN-336), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 475-9534. Although EPA welcomes the views of any member of the public on the issues discussed below, the Agency is not formally soliciting comments in today's notice. EPA will solicit public comments when it proposes regulatory amendments to the general pretreatment regulations and other regulations in response to the recommendations of the Study and the comments already received on the ANPR.

FOR FURTHER INFORMATION CONTACT: Ms. Marilyn Goode, Permits Division, (EN-336), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 475-9534. For copies of the Domestic Sewage Study, contact Ms. Carol Swann, Industrial Technology Division, (WH-552), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 (202) 382-7137.

SUPPLEMENTARY INFORMATION:

I. Background

The Study and the ANPR arose from the Domestic Sewage Exclusion of RCRA. This exclusion, established by Congress in section 1004(27) of RCRA, provides that solid or dissolved material in domestic sewage is not solid waste as defined in RCRA. A corollary is that such material also cannot be considered a hazardous waste for purposes of RCRA.

The regulatory exclusion (see 40 CFR 261.4(a)(1)) applies to domestic sewage as well as mixtures of domestic sewage and other wastes that pass through a sewer system to a POTW. The exclusion thus covers industrial wastes discharged to POTW sewers containing domestic sewage even if the industrial wastes would be considered hazardous if disposed of by other means.

The effect of the exclusion is that industrial facilities which discharge such wastes to sewers containing domestic sewage are not subject to certain RCRA generator and transporter requirements, such as manifesting, for the excluded wastes (although RCRA requirements for other non-excluded hazardous wastes would still apply). In addition, POTWs receiving such wastes mixed with domestic sewage are not deemed to have received hazardous wastes and therefore need not comply with certain RCRA requirements for treating, storing, and disposing of these wastes. However, hazardous wastes delivered to a POTW by truck, rail, or dedicated pipe are not covered by the Domestic Sewage Exclusion. POTWs receiving these wastes are subject to regulation under the RCRA permit-by-rule (see 40 CFR 270.60(c)).

In addition, the Exclusion does not apply to sludge produced by a POTW. While sewage sludge will normally not be a hazardous waste under RCRA, such sludge could be a hazardous waste (and subject to RCRA requirements for generators, transporters, treaters, storers, and disposers) if, for example, it is found to be a RCRA characteristic waste under 40 CFR Part 261 Subpart C, or if it is generated by a POTW which is receiving hazardous waste under 40 CFR Part 261 Subpart D.

The legislative history of RCRA demonstrates that Congress established the Domestic Sewage Exclusion because it assumed that the programs of the Clean Water Act (CWA) can adequately control industrial discharges to sewers. The national pretreatment program, mandated by section 307(b) of the CWA and implemented in 40 CFR Part 403, requires that industrial facilities pretreat pollutants discharged to POTWs to the extent that these pollutants interfere with, pass through, or are otherwise incompatible with the operations of POTWs. The Exclusion avoids the redundancy of subjecting hazardous wastes mixed with domestic sewage to RCRA management requirements when these wastes are already subject to requirements under the CWA, including the pretreatment program.

In 1984, Congress enacted the Hazardous and Solid Waste Amendments to RCRA. The legislative history of these amendments shows that Congress wanted EPA to investigate the effects of the Domestic Sewage Exclusion. To this end, section 3018(a) of the Hazardous and Solid Waste Amendments to RCRA required EPA to prepare:

> * * * a report to Congress concerning those substances identified or listed under section 3001 which are not regulated under this subtitle by reason of the exclusion for mixtures of domestic sewage and other wastes that pass through a sewer system to a publicly owned treatment works. Such report shall include the types, size, and number of generators which dispose of substances in this manner, and the identification of significant generators, wastes, and waste constituents not regulated under existing Federal law or regulated in a manner insufficient to protect human health and the environment.

EPA submitted this report (the Study) to Congress on February 7, 1986 (for a summary of the Study, see 51 FR 30167, August 22, 1986).

Section 3018(b) then requires the Administrator to revise existing regulations and to promulgate such additional regulations as are necessary to ensure that hazardous wastes discharged to POTWs are adequately controlled to protect human health and the environment. These regulations are to be promulgated under RCRA, section 307 of the CWA, or any other appropriate authority possessed by EPA. The regulations must be promulgated by August 1987.

As a first step towards promulgating the regulations called for by section 3018(b), the Agency published an ANPR in the **Federal Register** on August 22, 1986 (51 FR 30166). The ANPR presented ideas intended as starting points for regulatory proposals, which, when implemented, would improve the control of hazardous wastes discharged to POTWs. To obtain wider public participation, the Agency also held three public meetings in Washington, DC, Chicago, and San Francisco to solicit additional comments on the ANPR. In addition, EPA held meetings with several interested groups and organizations to obtain the benefit of their advice and expertise.

The comments received on the ANPR represent a diversity of points of view, and reveal that the public has given serious thought to controlling hazardous wastes entering POTWs. EPA intends to use these suggestions and its own accumulated experience to implement the recommendations of the Study.

Following is a summary of the most important comments received on the ANPR and a discussion of the activities which EPA has begun to fulfill the recommendations of the Study.

II. Issues

A. The Domestic Sewage Exclusion

The commenters expressed almost unanimous support for keeping the Domestic Sewage Exclusion. They generally believed that CWA programs are most appropriate to control hazardous wastes discharged through sewers to POTWs. Most commenters agreed with the conclusion of the Study that regulating these wastes under RCRA would be unnecessary. They believed that treatment by industrial

users and POTWs under the pretreatment and National Pollutant Discharge Elimination System (NPDES) programs was sufficient to protect the environment from the effects of hazardous pollutants discharged to municipal wastewater treatment plants.

However, many commenters also expressed concern about various parts of the pretreatment program which they believed needed to be improved or which they believed had been poorly implemented. Two commenters said that the current state of the pretreatment program did not warrant whole-hearted support of the Domestic Sewage Exclusion. Although these commenters did not specifically advocate repeal of the Exclusion at the present time, they asserted that the Agency must carry out the pretreatment program more effectively before it could continue to recommend keeping the Exclusion. In addition, even those commenters who expressed skepticism about the need for significant changes to the pretreatment program usually had some suggestions for ways to make the program more effective.

EPA agrees that the Domestic Sewage Exclusion should be continued at the present time. The Agency believes that CWA programs, if fully implemented, are adequate to control the effects of hazardous wastes discharged through sewers to the nation's POTWs. However, the conclusions of the Study and the comments received on the ANPR and at the public meetings demonstrate that improving CWA programs is imperative if these programs are expected to continue the burden of justifying the Exclusion. Accordingly, the Agency is prepared to give high priority to those activities which are best calculated to achieve this goal.

A few commenters expressed concern about possible technical and administrative burdens imposed on small POTWs as a result of EPA's follow-up activities.

The Agency is aware that many POTWs are hard pressed for resources to carry out the pretreatment program as effectively as they might wish. EPA intends to consider the impact on smaller municipalities of any regulatory or program changes being evaluated. Many POTWs made suggestions about various ways to accomplish the ends discussed in the Study, and some submitted copies of their own local requirements and ordinances designed to address such problems as spill control, illegal discharges, and trucked-in wastes. The Agency is considering all of these suggestions to determine the maximum degree of flexibility and autonomy that is consistent with a high quality national program.

B. General Pretreatment Program

1. Specific Discharge Prohibitions

As part of its review of the national pretreatment program, the Study recommended modifying the prohibited discharge standards of the general pretreatment regulations to improve control of characteristic hazardous wastes and solvents.

The specific prohibitions forbid discharging certain types of materials which harm POTW collection and treatment systems by creating a fire hazard, causing corrosion or obstruction to flow, or creating heat which inhibits biological activity (see 40 CFR 403.5(b)). The Study and the ANPR discussed expanding these prohibitions to include certain characteristics of hazardous wastes under RCRA (i.e., wastes that are deemed hazardous if they possess certain characteristics). These characteristics of hazardous wastes are ignitability, corrosivity, reactivity, and toxicity measured by the Extraction Procedure (EP) or Toxicity Characteristic Leaching Procedure (TCLP).

The majority of commenters who discussed this issue said that adding the RCRA characteristics as blanket prohibitions to the specific discharge standards would be inappropriate. These commenters stated that materials exhibiting these characteristics often lose their hazardous qualities when they are mixed with domestic sewage in a sewer or treated at a POTW. Whether a particular substance manifested a RCRA characteristic did not indicate the likelihood of pass through or interference, these commenters believed, especially in the case of toxicity (EP or TCLP).

However, some commenters supported adding these characteristics to the specific discharge prohibitions. These commenters often advocated modifying the characteristics to make them more relevant to conditions in POTW collection and treatment systems. A few commenters stated that the characteristics should be measured after discharge into a sewer, rather than at the point of discharge. One commenter, although agreeing that the RCRA toxicity characteristic was not necessarily the most suitable test for pass through or interference, suggested that EPA consider requiring some sort of leaching procedure to test industrial wastewaters because these wastewaters can leak from sewer systems and cause groundwater contamination.

After considering this issue, the Agency has concluded that adding all the RCRA characteristics to the specific discharge prohibitions would not be practical, since these characteristics are often not correlated with the potential for pass through or interference. However, EPA agrees with the commenters who stated that the prohibitions might be improved by modifying these characteristics to take into account such factors as treatment by the POTW. The Agency is accordingly evaluating various adaptations of the RCRA characteristics to make them more relevant to the pretreatment program.

Another recommendation of the Study was that EPA consider amending the specific discharge prohibitions by banning the discharge to sewers of some or all of the RCRA Appendix VIII hazardous constituents. In responding to the discussion of such a ban in the ANPR, the commenters generally disapproved this measure because they believed that POTWs were often the most efficient treaters of such wastes. Several commenters stated that such a ban would inevitably lead to illegal disposal or disposal at already overburdened solid waste disposal sites. In general, the commenters believed that local limits and categorical pretreatment standards were better ways to control these wastes, since these limits or standards may be set whenever pass through or interference is a real concern for a particular constituent. It should be noted, however, that while the commenters did not support a total ban on constituents simply because they were "hazardous", the commenters also did not rule out the possibility of national prohibitions on selected constituents if future available data indicates that these measures are warranted.

One commenter supported prohibiting the discharge of hazardous wastes into sewers because treating them elsewhere might be easier than the other methods suggested by the Study for their control (i.e., conducting research on pollutant fate and effects and developing the appropriate local limits). This commenter also stated that such a ban would be justified to protect worker health and safety.

EPA believes that a national prohibition against discharging some or all Appendix VIII hazardous constituents to sewers would be premature at this time. When more is learned about the fate and effects of these substances in POTW systems and in the environment, the Agency will reconsider the possibility of prohibitions

for selected constituents. Until more data are available, EPA agrees with the majority of commenters who stated that properly developed local limits and categorical standards are at present the most effective way to handle these wastes. The Agency believes that conducting research on pollutant fate and effects and setting appropriate local limits and categorical standards will lead to better control of hazardous wastes.

EPA will solicit comments on all of the possible modifications to the specific discharge prohibitions discussed above when the Agency proposes changes to the general pretreatment regulations to implement the recommendations of the Study.

2. General Discharge Prohibitions

The Study and the ANPR discussed three principal ways to implement the general discharge prohibitions against pass through and interference (40 CFR 403.5(a)). These three ways were: (1) Requiring that water quality-based permit limits for additional constituents of hazardous wastes be incorporated into NPDES permits issued to POTWs; (2) moving aggressively to set toxicity-based limits in NPDES permits issued to POTWs; (3) requiring POTWs to develop local limits for problem pollutants even if no POTW permit violation occurs or is threatened.

The Agency received many comments about the relative virtues and drawbacks of these three ways to control pass through and interference. The most favored method was incorporating more water quality-based limits in permits issued to POTWs. POTWs could then use these permit limits to back-calculate local limits to prevent pass through or interference which could lead to a violation of their own permit limits. Several commenters urged prompt issuance of water quality criteria for organic pollutants, especially RCRA hazardous constituents, so that States could establish water quality standards to use in developing additional NPDES permit limits for POTWs (for a discussion of the Agency's efforts in this area, see Part II–C below).

With respect to the use of toxicity-based limits in NPDES permits issued to POTWs, many commenters also supported increasing the use of such limits. However, some commenters expressed concern about the technical difficulties involved in setting permit limits through such testing.

The most commonly expressed concern was the difficulty of linking the toxicity of a POTW effluent to particular influents from a large and varied group of industrial and domestic contributors. Another concern voiced by some commenters was the desire for a uniform, preferably simple procedure (such as the Microtox Toxicity Testing System) for biomonitoring. Other commenters said that EPA or the States should certify commercial laboratories which perform testing on the effluent from POTWs. A few commenters raised the question of whether toxicity-based limits should be a substitute for, rather than a supplement to, chemically based permit limits, or whether toxicity testing should be conducted on discharges from industrial users.

EPA is currently working to enhance the control of toxics and toxicity in the treatment of municipal wastewater. Improved methods for this control, including suggested toxicity reduction evaluation procedures, will be prepared to help carry out the Agency's "Policy for the Development of Water Quality-Based Permit Limitations" and to carry out section 308 of the new Water Quality Act of 1987 which requires expedited control of toxic pollutants discharged to waters not achieving water quality standards. To help permit writers set limits for toxics, confirmation data on toxics treatability from existing municipal treatment systems will be provided. In addition, EPA will provide case-by-case assistance to Regions, States, and municipalities on identifying and controlling toxics and toxicity in municipal wastewater.

With respect to requiring POTWs to develop local limits in the absence of actual or potential violations of their own NPDES permits, the commenters' reactions were mixed. POTWs must currently develop local limits as needed to prevent pass through and interference. Pass through and interference are defined at 40 CFR 403.3 (i) and (n), recently promulgated on January 14, 1987 (52 FR 5186). Under these definitions, interference occurs when an industrial user (alone or together with other sources) causes a violation of the POTW's NPDES permit or prevents sewage sludge use or disposal by the POTW in accordance with applicable laws. Similarly, pass through occurs when pollutants discharged by an industrial user (alone or together with other sources) pass through the POTW into navigable waters in quantities that, alone or together with other sources, cause a violation of the POTW's NPDES permit.

Several commenters pointed out the disadvantages of the current definitions of these terms. These commenters stated that the definitions would not cover cases where plant efficiency, worker health and safety, or water quality had been impaired even if no violation of the POTW's NPDES permit had taken place. A few commenters urged EPA to revise the definitions of pass through and interference to include concerns based on worker health and safety, air emissions, and groundwater contamination caused by leaking sewers. For example, one commenter urged EPA to clarify that causing or contributing to worker health and safety problems constituted interference with the POTW's operations. The same commenter urged the Agency to consider interpreting air emissions and groundwater contamination as pass through.

However, other commenters said that requiring local limits in the absence of actual or threatened violation of the POTW's NPDES permit was "regulation for regulation's sake" and would lead to local limits that were neither technically sound nor legally defensible.

One commenter suggested that EPA use two sets of criteria for local limits development (one mandatory and one optional). The first (mandatory) set of criteria would consist of NPDES permit limits, water quality standards, and sludge disposal criteria. Since these already exist for conventional pollutants and many metals, the commenter stated that EPA should now develop these criteria for organic priority and non-priority pollutants, so that POTWs could then be required to derive local limits from these criteria. The second (optional) set of criteria would be based on avoiding impairment of treatment plant efficiency. The commenter suggested that EPA develop guidance for implementing the second set of criteria, so that POTWs could develop local limits for these criteria at their discretion.

EPA is aware of the difficulties involved in requiring local limits for pollutants other than those limited in POTWs' NPDES permits. Nevertheless, the Agency is continuing to evaluate whether such limits may be needed in certain circumstances to protect worker health and safety and the quality of surface water, groundwater, or air. EPA will solicit comments on any suggested modifications to the current requirements when it proposes changes to the general pretreatment regulations to implement the recommendations of the Study.

3. Improving Controls on Spills and Batch Discharges, Illegal Discharges, and Discharges by Liquid Waste Haulers

Spills and batch discharges, as well as illegal discharges and discharges by

liquid waste haulers, present special control and operational challenges to POTWs. The Study and the ANPR discussed several ways to strengthen the pretreatment program to handle these problems.

Many commenters strongly supported requiring POTWs and industrial users to have spill prevention and control plans. Several POTWs submitted their own plans for use in developing such requirements. At the same time, POTWs wanted to be allowed maximum flexibility to establish plans for their industrial users, so that conditions peculiar to their localities could be adequately addressed. One commenter urged the Agency to impose control requirements directly on industrial users. Accordingly, the Agency is currently investigating which spill and batch control features (if any) might be suitable for uniform application, including plans for solvent management.

With respect to illegal discharges, several commenters urged the importance of a strong enforcement effort, rather than more regulatory requirements. They stressed the importance of taking vigorous, well-publicized action against the perpetrators of illegal activities and imposing the maximum penalties allowable under the law. It should be noted that since the ANPR was published, the Clean Water Act has been amended to provide heavy civil and criminal penalties for negligent or knowing introduction into a sewer of any substance which could cause personal injury or property damage or (other than in compliance with federal, state, or local requirements or permits) causes the POTW to violate the effluent limitations or conditions of its NPDES permit (see section 312 of the Water Quality Act of 1987).

Concerning trucked-in wastes, the commenters strongly supported the suggestion in the ANPR that such wastes be banned except at discharge points designated by the POTW. Many POTWs stated that they already had such a requirement in their local programs. Some POTWs banned all trucked-in wastes except at designated discharge points, others banned only non-septic wastes. Many commenters also supported monitoring, sampling, and manifesting requirements for trucked-in wastes.

EPA will solicit comments on any modifications to the current requirements on spills and batch discharges and trucked-in wastes when it proposes changes to the general pretreatment regulations to implement the recommendations of the Study.

4. Notification Requirements (RCRA 3018(d))

Notifying POTWs of hazardous waste discharges is essential to the control of such wastes. Without workable notification requirements, any further attempt to regulate hazardous constituents discharged is difficult if not impossible.

Section 3010(a) of RCRA requires that any person who generates or transports a RCRA hazardous waste, or who owns or operates a facility for the treatment, storage, or disposal of such waste, must file a notification with EPA or with a State with an authorized hazardous waste permit program. Section 3018(d) clarifies that wastes mixed with domestic sewage are also subject to this requirement.

The Study recommended, and the ANPR discussed, using CWA authorities to require that industrial users notify POTWs (rather than EPA and the States) of any hazardous wastes discharged to sewers. The commenters expressed very strong support for such notification requirements. Many POTWs stated that such notification was essential to give owners and operators of treatment plants sufficient control of hazardous wastes entering their treatment and collection systems. Some commenters urged notification of State permitting authorities as well. One commenter stated that industrial users should be required to notify EPA of such discharges, because section 3018(d) required it and because such notification would give the Agency more information about the sources and quantities of hazardous wastes entering POTWs and improve EPA oversight of POTWs.

In response to these concerns, EPA is considering proposing an amendment to the general pretreatment regulations to require that industrial users discharging hazardous wastes to sewers notify their POTWs of such discharges. The Agency believes that such notification will give POTWs much needed help in identifying all the substances entering their systems which could be a cause of pass through or interference. The information would also be a useful adjunct to the POTWs' industrial user surveys. EPA will solicit comments on these and other suggested modifications to current notification requirements when it proposes changes to the general pretreatment regulations to implement the recommendations of the Study.

5. Local Limits

The Study recommended that local limits be improved and fully implemented at POTWs to control discharges of organic pollutants and other hazardous wastes. In the ANPR, the Agency stated that it would issue guidance to POTWs to help them set local limits for hazardous constituents, especially organic solvents and other organic constituents.

In responding to this discussion, many commenters strongly indicated the need for such assistance and urged that EPA issue this guidance as soon as possible. These commenters believed that effective and enforceable local limits were the best way to control hazardous discharges to POTWs.

EPA is planning to issue guidance this summer on limit-setting methodologies that emphasize pass through and interference concerns, including sludge quality and worker health and safety. The guidance will also discuss the use of best professional judgment and the use of toxicity testing to help POTWs set priorities for local limits by identifying discharges of particular concern.

One commenter suggested that when preparing local limits guidance, EPA should concentrate on a subset of Appendix VIII constituents specifically aimed at CWA objectives.

In response, the Agency points out that it has developed a preliminary list of various chemicals, including many Appendix VIII constituents, which the Office of Water plans to evaluate over the next several years. Besides issuing water quality criteria or advisories for many of these constituents (see discussion in Part II-C below) EPA is also considering whether any of these constituents would be apppropriate to include in local limits guidance.

Another commenter suggested that EPA develop a list of "priority hazardous chemicals" for wastes that are believed to be toxic but for which little information exists upon which to base a discharge prohibition. The discharge of these chemicals would be temporarily limited, during which time EPA could fund research and prepare recommendations for developing local limits for these chemicals.

The Agency agrees that more research and guidance is needed to help POTWs develop local limits, and has initiated research and begun to prepare guidance accordingly. However, legal constraints may limit EPA's authority to impose temporary or conditional effluent limits before technical bases for such limits are prepared. EPA plans to give high priority to preparing its local limits guidance and amending categorical standards so that limits for additional pollutants can be imposed as soon as is consistent with a sound technical rationale.

Several commenters urged the use of aggregate limits for organic pollutants, instead of individual local limits. These limits would be similar to the Total Toxic Organics (TTO) limits now in effect for the metal finishing industrial category. The commenters believed that such limits would provide more national uniformity and would be easier to develop than individual local limits. EPA is currently evaluating the feasibility of aggregate limits for organics, and will solicit comments on such limits if new requirements are proposed.

One commenter urged prompt reissuance of POTW's NPDES permits as required by 40 CFR 403.8(e) to incorporate the POTW's approved pretreatment program. A violation of local limits, if unenforced, would then also constitute a violation of the POTW's NPDES permit (it was not made clear by the commenter whether the consequence of this unenforced violation should be an enforcement action by EPA against the POTW, or direct federal or State enforcement of local limits).

As another way to carry out local limits more effectively, the Agency also discussed in the ANPR the possibility of requiring POTWs to use a permit system as the basis of their pretreatment programs. Some commenters opposed such a requirement, stating that the quality of local controls for industrial users should be evaluated on a case-by-case basis. Other commenters believed that such a system was essential for consistent and enforceable program requirements. A few industry commenters believed that a permit system would result in better notice of the duties required of industrial users.

Accordingly, the Agency is considering whether to propose amending the general pretreatment regulations to require POTWs to have permit systems as the basis of their pretreatment programs. Although such systems may not be necessary in the case of POTWs with a small number of industrial users, it is possible that better environmental control could be achieved at POTWs through individual agreements with dischargers to ensure that categorical standards, local limits, and monitoring and reporting requirements are uniformly applied and enforced.

As mentioned above, the Agency is also considering whether to modify the general pretreatment regulations to require that local limits be established for hazardous wastes in the absence of NPDES permit limits for these pollutants (for a further discussion of this issue, see Part II-B-2 above). EPA will solicit comments on any suggested modifications when it proposes changes to the general pretreatment regulations to implement recommendations of the Study.

6. Enforcement of Categorical Standards

The Study recommended stringent enforcement of categorical pretreatment standards. Such enforcement would bring about a significant reduction of pollutant loadings to POTWs, particularly of heavy metals. The ANPR discussed several of EPA's initiatives designed to improve local enforcement, including guidance, audits and inspections of approved pretreatment programs, expanded self-monitoring requirements, and enforcement actions against POTWs with unimplemented programs.

The commenters showed general support for these means of improving the enforcement of categorical pretreatment standards. One commenter urged the Agency to be more stringent with POTWs and States which were lax in their enforcement efforts, possibly by withdrawing approval for State or local pretreatment programs or State NPDES programs if this measure seemed justified.

In response to these comments, EPA will continue to emphasize all activities designed to improve POTWs' ability to enforce compliance with the categorical standards. The Agency has already issued (in July 1986) its *Pretreatment Compliance Monitoring and Enforcement Guidance*. This document gives guidelines for setting monitoring requirements for industrial users, sampling and inspecting industrial users, reviewing industrial user reports, determining industrial user compliance status, setting priorities for enforcement actions, and reporting progress to States or EPA. The guidance also establishes a definition of Significant Industrial User (SIU) for use by POTWs or States in targeting primary implementation activities and recommends a definition of Significant Noncompliance (SNC) for evaluating industrial user performance. EPA expects that this guidance will help POTWs and States to translate regulatory requirements into a workable pretreatment program.

The Agency is also emphasizing audits of approved pretreatment programs and compliance inspections at POTWs. Audits of local programs were originally scheduled to take place once every five years, but EPA's increased emphasis upon audits has resulted in a faster rate, about once every three and one-half years. In addition, EPA is considering developing guidance (including enforcement guidance) on what constitutes proper implementation of a local program. To this end, the Agency is also considering a regulatory change to specify that certain types of violations of the local program requirements established in the POTW's NPDES permit must be reported in the Quarterly Noncompliance Reports. In the meantime, however, the Agency intends to complete existing enforcement cases against any POTWs with unapproved local programs and will initiate new enforcement actions against POTWs that fail to implement approved programs.

Certain EPA Regions are also compiling inventories of categorical users in areas where there is no approved local program. When these inventories are completed, EPA will consider which control mechanisms are appropriate for such users and will initiate enforcement actions where necessary.

Concerning the proposed amendments to the general pretreatment regulations which would clarify and expand the self-monitoring requirements applicable to industrial users (see 51 FR 21454, June 12, 1986), EPA is currently evaluating the many comments received in response to these proposals. The Agency extended the public comment period on the proposals to allow sufficent time to consider and respond to questions raised about centralized waste treatment facilities. EPA plans to promulgate a final rule in early 1988.

C. Categorical Pretreatment Standards

One of the primary recommendations of the Study was that the Agency review and amend categorical pretreatment standards to achieve better control of hazardous wastes. The Study recommended that the Agency modify existing standards to improve control of organic priority pollutants and non-priority pollutants, and that EPA promulgate categorical standards for industrial categories not included in the Natural Resources Defense Council consent decree (*NRDC* v. *Train*, 8 ERC 2120, D.C.C. 1976). As part of this task, the Study also recommended that the Agency evaluate sources of solvents listed as hazardous wastes under RCRA that are discharged to POTWs and develop sampling and analytical protocols for non-priority pollutants. In addition, the Study recommended that EPA consider including selected RCRA constituents on the CWA priority pollutant list, or adopting an equivalent means of regulating these constituents.

In response to these recommendations, the ANPR listed twelve regulated and unregulated

industries as potential candidates for amended or new categorical standards, and discussed data collection activities already under way for these industries. The unregulated industries are hazardous waste treaters (including centralized waste treaters now covered by the combined wastestream formula), solvent reclaimers, barrel reclaimers, waste oil reclaimers, equipment manufacturers and rebuilders, paint manufacturers, transportation, industrial laundries, and hospitals. The regulated industries are textiles, timber, and pharmaceuticals.

Many commenters agreed that amended or new categorical standards were needed to better control hazardous wastes, especially organic and non-priority pollutants. EPA has already completed work plans for all of the industries mentioned above, and sampling has been completed at several sites in all these categories except textiles and timber. Eight POTWs have been sampled as well. EPA is analyzing wastewaters and sludges for over 350 organics (solvents, pesticides, dioxins, etc.), metals, and the RCRA characteristics including the TCLP.

When all sampling is completed, the Agency plans to publish decision documents for each industrial category. These documents will include a rationale for the Agency's decision to either continue or discontinue further work to establish categorical standards. They can also be used by permit writers and POTWs to control discharges from these industrial sources. They will contain information on the numbers and types of facilities, their operations, treatment systems employed, and wastewater and sludge characterization. Three decision documents will be published in FY 1987 (for hazardous waste treaters, solvent and barrel reclaimers, and pharmaceuticals). Data from the remaining industries sampled will also be available in summary form at the same time.

One commenter suggested that EPA develop "secondary categorical standards" for certain industries, with less stringent requirements than those imposed under most categorical pretreatment standards.

The Agency agrees that discharges from all the industries mentioned above may not warrant the effluent limitations, monitoring, and reporting requirements imposed under categorical pretreatment standards. For this reason, EPA is conducting an extensive evaluation of each industry and will prepare the above-mentioned decision documents before deciding whether to propose new or amended categorical standards for that industry. If no new or amended standards seem warranted, the Agency may issue guidance in the decision documents to POTWs and permitting authorities to help them control discharges from that industry. EPA believes that this approach is just as effective as promulgating a new "secondary" type of categorical standard.

Another commenter suggested that the Agency promulgate generic rather than categorical standards (i.e., a standard for a particular pollutant applicable to all users). These standards would cover non-categorical users and total pollutant loadings would therefore be reduced.

In response, EPA points out that section 307(a)(5) of the CWA provides that when proposing or promulgating any effluent standard under that section, the Administrator shall designate the *category* or *categories* (emphasis added) of sources to which the effluent standard shall apply. The CWA therefore generally envisions the use of categorical rather than generic standards. Although the Agency could theoretically promulgate a standard and apply it to all users, EPA believes POTWs are better placed to determine which pollutants present sufficient problems for their particular treatment and collection system to justify local limits for these pollutants applicable to all users of the system (at least until further research demonstrates the need for national regulation).

Two industry commenters from the textile and industrial laundry categories stated that categorical standards for their industries were not needed because these industries did not discharge significant amounts of hazardous wastes. Another commenter stated that data presented in the Study justified prompt repeal of Paragraph Eight exemptions for several industries, starting with printing and publishing, industrial and commercial laundries, and equipment manufacturing and assembly.

In response to these comments, EPA emphasizes that the Agency has not yet decided whether to promulgate new or amended standards for any industrial category. As discussed above, the Agency will conduct a thorough sampling and analysis of the wastes discharged from all industries involved before deciding whether such new or amended standards are appropriate. Only after data collection is complete will EPA have the necessary technical basis to make an informed decision about which discharges warrant further national regulation, or whether any Paragraph 8 exemptions should be repealed.

One commenter stated that the best way to control hazardous wastes discharged to sewers was to subject indirect dischargers to the same limitations as direct dischargers, except where it could be shown that the pollutant in question is biodegraded at the POTW.

In response, EPA points out that the Agency has historically applied the CWA section 304(b) factors in developing categorical pretreatment standards, which often result in standards which are equal to best available technology economically achievable (BAT) for toxic pollutants from direct dischargers. The legislative history of the CWA shows that Congress intended categorical standards to be analogous to BAT. In addition, the Agency is presently considering whether to require individual permits of certain industrial users as described in Part II-B-4 above.

Concerning the evaluation of RCRA solvents and the development of sampling and analytical protocols for non-priority pollutants, the ANPR discussed EPA's efforts to develop analytical techniques to evaluate industrial wastewaters for the presence of heretofore unmeasured pollutants, including non-priority pollutants. The commenters expressed broad support for these initiatives and generally indicated that such techniques were much needed to improve the measurement and control of hazardous wastes.

The new analytical methods developed by the Agency are currently being used by EPA laboratories to "measure field samples. The pollutants for which the Agency has analytical methods have been published in a document entitled *The 1986 Industrial Technology Division List of Analytes.* This document covers over 350 organic chemicals (including dioxin, pesticides, solvents) and 75 metals. In addition, EPA is currently engaged in analyzing wastewater sludges using the new TCLP test. The Agency is also developing a computer scan process that will allow samples taken since 1985 to be matched against an existing library of GC/MS standards. EPA will continue to further develop and refine its sampling and analytical programs.

D. Water Quality Issues and Sludge Control

The Study recommended that EPA develop additional water quality criteria for constituents of RCRA hazardous wastes, particularly pollutants that are not listed as priority pollutants under the CWA. The Study further

recommended that the Agency expand the use of biomonitoring techniques and water quality-based permitting to improve protection of receiving waters. The ANPR discussed activities under way or planned by the Agency to publish additional water quality criteria and to improve receiving water quality.

The commenters expressed strong support for the issuance of water quality criteria which could be used in developing State water quality standards. Many commenters urged that such criteria should be issued as soon as possible, so that these standards could be incorporated into NPDES permits issued to POTWS and used to calculate local limits.

The Agency plans to develop criteria documents at the rate of up to ten a year. In addition, EPA will issue water quality advisories at a faster rate: about fifteen such advisories will be issued in the first quarter of FY 1987. Many RCRA constituents and chemicals evaluated in the Study have been included in the list of chemicals which the Agency plans to address each year. During FY 1987, criteria development will concentrate on a number of the section 307(a) priority pollutants. The RCRA constituents will be handled primarily as water quality advisories. Most advisories will deal with chemicals evaluated in the Study.

The chemicals for which criteria or advisories will be issued are selected according to the new screening methodology discussed in the ANPR. This methodology ranks chemicals according to human toxicity, carcinogenicity, toxicity to aquatic organisms, persistence, exposure potential, presence in domestic sewage sludge, and treatability. EPA expects to rank approximately 150 chemicals this year (most of which are not on the priority pollutant list) as well as further refine the screening system.

The Agency is also continuing to encourage the use of toxicity testing, water quality-based permitting, and biomonitoring techniques. Expanded use of these tools in permits issued to POTWs will go far towards carrying out the recommendations of the Study to improve the quality of receiving waters and implement the prohibitions against pass through and interference. In connection with this effort, the Agency is working with the States to develop a list of waters for which technology-based requirements alone are not sufficient to protect water quality standards. EPA's target, in accordance with the 1987 amendments to the CWA (section 308(a) of the Water Quality Act of 1987) is for States to develop the list of waters and control strategies for these waters within two years of the amendments. The strategies must include water quality-based controls which will allow achievement of water quality standards within three years after the strategies are established. The Agency also plans to issue guidance in 1987 for developing water quality-based permit limits for toxic pollutants.

Another primary recommendation of the Study was that EPA issue numeric sludge criteria for RCRA hazardous constituents, as well as criteria for the use and disposal of sewage sludge. In response, the ANPR discussed EPA's planned comprehensive sludge management regulations under section 405 of the CWA. Many commenters urged EPA to promulgate technical sludge criteria as soon as possible, so that POTWs could set local limits to prevent interference with their sludge disposal options.

Recently enacted amendments to section 405 of the CWA (section 406 of the Water Quality Act of 1987) have established tight deadlines for promulgating technical criteria for sludge and require that NPDES permits contain limits for sludge. Under these amendments, EPA must promulgate final regulations which identify toxic pollutants of concern in sewage sludge and which set numerical limits and/or management practices for each pollutant identified. The Agency must also propose regulations which identify other toxic pollutants that may be present in sewage sludge in concentrations that may harm human health or the environment, and must propose numerical limits for these pollutants. The limits must be included in any NPDES permit issued to a POTW or any other treatment works treating sewage sludge, unless the limits have been included in a federal permit program, or under a State permit program approved by the Administrator.

EPA is presently developing regulations for each of the principal methods for using and disposing of sewage sludge, including land application to food chain and non-food chain crops, distribution and marketing, land filling, incineration and ocean disposal. EPA also plans to incorporate certain requirements into these regulations so that they will be consistent with other relevant statutes such as the Clean Air Act, the HSWA amendments to RCRA, and the Marine Protection, Research, and Sanctuaries Act. The requirements will be expressed as either numeric criteria for sludge constituents, reuse and disposal rates, or management practices.

The amendments to the CWA also require that, before promulgating technical criteria, the Administrator must impose conditions in NPDES permits issued to POTWs or take such other measures as deemed appropriate to protect human health and the environment from any adverse effects which may occur from toxic pollutants in sewage sludge. This means that permit limits for sludge must be set on a case-by-case basis until the technical criteria are promulgated. The Agency plans to publish draft guidance on setting case-by-case permit limits for sludge in the fall of 1987. In addition, the Agency will propose regulations for developing State sludge management programs.

These regulations and guidance will give States and municipalities a sound basis for making sludge management decisions that are appropriate and cost-effective. EPA will continue to promote those municipal sludge management practices that provide beneficial uses for sludge while improving environmental quality and protecting human health.

E. Research and Data Collection

In addition to recommending regulatory and program changes to improve control of hazardous constituents, the Study recommended certain research and data collection efforts to fill information gaps on the sources and quantities of hazardous wastes and their fates and effects in POTW systems and the environment. These efforts included research on pollutant fate and effects in POTW collection and treatment systems (including examination of the effect of biological acclimation on POTW removal efficiencies and pollutant fate), research on air emissions at POTWs, and research on the possible sources of groundwater contamination from POTWs (especially exfiltration from sewers). If the recommended research discovered problems, RCRA, the Clean Air Act, and the Comprehensive Response, Compensation, and Liability Act (CERCLA) could be considered along with the CWA to control hazardous discharges to POTWs.

The ANPR discussed several research activities under way at the Agency in response to these recommendations. The commenters supported these activities and generally indicated that more research was needed before the Agency proposed extensive new regulations to control hazardous wastes discharged to sewers.

Two of the research efforts recommended by the Study and discussed in the ANPR (development of sampling and analytical protocols and evaluation of RCRA solvents discharged to POTWs) are part of the development

of new or amended categorical standards as discussed in Part II-B above. With respect to research on pollutant fate and effects in POTW systems and the environment, EPA is currently conducting pilot studies which involve spiking a POTW influent with 25 RCRA compounds to determine their fates in acclimated and unacclimated POTW systems. Partitioning of pollutants to sludge, atmosphere, or effluent through adsorption, volatilization, and biodegradation will be examined under acclimated conditions (in which chemicals are added steadily so that the biological system has time to acclimate) and under unacclimated conditions (in which chemicals are added once a month so that there is no chance for the biological system to acclimate).

The results of these studies will be used to develop predictive models for the probable fate of pollutants. Fate mechanisms for up to forty compounds will be evaluated. At the same time, detailed laboratory studies of biodegradation will be conducted to enable construction of predictive models using biodegradation kinetic rate constants. Preliminary results of these studies should be available around October 1987. In addition, the Agency will use laboratory reactors to study inhibition levels for about twenty compounds under both acclimated and unacclimated conditions (acclimated biomass will be obtained from the pilot studies described above). Concentrations of individual compounds will be gradually increased in the reactor until inhibition is observed. Results will be available about January 1988.

EPA also plans to develop a protocol to assess the bioaccumulation of NPDES effluents. Laboratory procedures will be drafted and tested on selected effluents, and the Agency plans to issue a guidance document on the protocol in September 1987. At approximately the same time, EPA will issue a health effects bioassay methods manual for determining whether receiving streams meet water quality standards. The methods discussed will be used to evaluate and predict genotoxicity, mutagenicity, and carcinogenicity associated with waters receiving complex chemical effluents.

EPA is also evaluating air emissions from POTWs for potentially hazardous air pollutants and volatile organic compounds. The initial emphasis will be on emissions from the organic chemicals, plastics, and synthetic fibers industrial category but the scope could be expanded to cover other industries such as pesticides, pharmaceuticals, and pulp mills. EPA is using data from this assessment to evaluate air emissions formed from the treatment of wastewaters (by such means as air stripping) and on possible emission controls.

The result of this project will be an EPA memorandum in 1987 recommending whether or not to regulate air emissions from industrial wastewater treatment and recommending which additional data are needed to prepare regulations.

In addition, the Agency plans to conduct investigations on the emissions of certain chlorinated compounds from POTWs and chemical plants. The results of this work will lead to a decision on whether further standards are necessary for the control of chlorinated hydrocarbon emissions or acrylonitrile from these sources.

The Agency also plans to conduct research on groundwater contamination caused by exfiltration from sewers. EPA will first develop an empirical model expressing the relationship between infiltration and exfiltration. The model will then be validated with field data so that the actual effect of sewer exfiltration on groundwater quality can be determined (this determination is currently expected in 1988). EPA may then conduct a further modeling study on selected major drinking water aquifers (if this study is conducted, it should be completed in 1989).

III. Summary of Domestic Sewage Study Follow-up Activities

Below is a list of the activities discussed in this notice which the Agency has under way to carry out the recommendations of the Study. For each activity, a lead person is named who may be contacted for further information about that activity.

- Changes to the general pretreatment regulations—Marilyn Goode (202-475-9534), Office of Water Enforcement and Permits (EN-336)
- Proposed changes to general pretreatment regulations on industrial user self-monitoring (PIRT recommendations)—George Young (202-475-9539), Office of Water Enforcement and Permits (EN 336)
- Local limits guidance—Leanne Hammer (202-475-95-28), Office of Water Enforcement and Permits (EN-336)
- Audits of approved pretreatment programs—Tom Laverty (202-475-7054), Office of Water Enforcement and Permits (EN-336)
- Inventories of industrial users not covered by pretreatment programs—Anne Lassiter (202-475-8307), Office of Water Enforcement and Permits (EN-338)
- Changes to categorical pretreatment standards—Tom O'Farrell (202-475-7137), Office of Water Regulations and Standards (WH-552)
- State sludge management programs and guidance—Martha Kirkpatrick (202-475-9517), Office of Water Enforcement and Permits (EN-336)
- Sampling and analytical protocols—Bill Telliard (202-382-7131), Office of Water Regulations and Standards (WH-552)
- Water criteria and advisories—Dave Sabock (202-475-7318), Office of Water Regulations and Standards (WH-585)
- Screening methodology for ranking chemicals—Frank Gostomski (202-475-7321), Office of Water Regulations and Standards (WH-585)
- List of State waters needing water quality controls—Tim Stuart (202-382-7074), Office of Water Regulations and Standards (WH-553)
- Sewage sludge criteria—Alan Rubin (202-475-7311), Office of Water Regulations and Standards (WH-585)
- Pilot studies on fate of pollutants in POTW systems—Dollof Bishop (513-684-7629), Office of Research and Development (WERL—Cincinnati)
- Evaluation of air emissions from wastewater treatment—Vivian Thomson (202-475-7360), Office of Air Policy (ANR-443)
- Research on emissions of hydrochlorinated compounds—Vivian Thomson (202-475-7360), Office of Air Policy (ANR-443)
- Research on groundwater contamination—Walt Gilbert (202-382-7370), Office of Water Regulations and Standards (WH-595)

Dated: June 5, 1987.

Lawrence J. Jensen,

Assistant Administrator for Water.

[FR Doc. 87-13924 Filed 6-19-87; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR PART 52

[A-3-FRL-3220-7]

Approval and Promulgation of Implementation Plans; Approval of a Revision to the Pennsylvania SIP

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This Notice proposes approval of a revision to the Philadelphia portion of the Pennsylvania State Implementation Plan (SIP). Philadelphia, Pennsylvania has revised its regulations to conform to EPA's stack height regulation. EPA promulgated the revised stack height rule on July 8, 1985 (50 FR 27892) and required the states to revise their SIPs by April 8, 1986 to conform to the rule. Pennsylvania submitted this proposed revision on June 20, 1986.

DATES: Comments must be received on or before July 22, 1987.

ADDRESSES: Comments may be mailed to Denis M. Lohman, Acting Chief, PA/WV Section at the EPA, Region III address given below. Copies of the documents relevant to this proposed action are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, 841 Chestnut Building, Philadelphia, PA 19107, Attn: Esther Steinberg (3AM11)

Department of Public Health, Philadelphia Air Management Services, 500 South Broad Street, Philadelphia, PA 19146, Attn: Robert Ostrowski

FOR FURTHER INFORMATION CONTACT: Denis Lohman (3AM11). PA/WV Section at the EPA Region III address given above or telephone (215) 597-8375.

SUPPLEMENTARY INFORMATION:

Background

Section 123 of the Clean Air Act requires EPA to promulgate rules to assure that the degree of emission limitation required for the control of any air pollutant under an applicable SIP is not affected by stack heights exceeding good engineering practice (GEP) height or by any other dispersion technique.

The EPA originally promulgated regulations to implement section 123 requirements on February 8, 1982 (47 FR 5864). Those regulations were challenged by the Sierra Club Legal Defense Fund, Inc., the Natural Resources Defense Council, Inc., and the Commonwealth of Pennsylvania. Subsequently, on October 11, 1983, the U.S. Court of Appeals for the D.C. Circuit remanded portions of the regulations for reconsideration, reversing two portions and upholding certain others [Sierra Club v. EPA, 719 F. 2d 436 (1983)]. The EPA proposed revisions to the stack height rules on November 9, 1984 (49 FR 44878). The EPA promulgated final revisions to the rules on July 8, 1985 (50 FR 27892). The final rules contain changes made in response to comments submitted on the proposal.

Pursuant to section 406(d)(2) of the Clean Air Act, the July 8, 1985 Notice required all states to review and revise, as necessary, their SIP's to include provisions that limit stack height credits and dispersion techniques in conformance with the revised rule. Pennsylvania approved and submitted the proposed revision for Philadelphia on June 2, 1986. Pennsylvania's revision amends Air Management Regulation I, (Section XI. Compliance with Federal Regulations), incorporating by reference Part 51 of Title 40 of the Code of Federal Regulations (40 CFR). The amended section XI adopts 40 CFR, Part 51 in its entirety, and requires the Philadelphia Department of Public Health to implement the provisions contained therein including any future additions and amendments to the referenced Parts of 40 CFR.

These rules apply to all new sources and modifications in Philadelphia, Pennsylvania as required in 40 CFR 51.164 as well as existing sources as required in 40 CFR 51.118. This means that this rule applies to all sources that were constructed, reconstructed, or modified subsequent to December 31, 1970. EPA has reviewed the revisions to the regulation and has determined that they are consistent with EPA's regulation for GEP stack height and dispersion techniques as revised on July 8, 1985.

Proposed Action

EPA proposes to approve the stack height amendment to the Philadelphia regulations as a revision to the Pennsylvania State Implementation Plan. Comments received as a result of this Notice will be considered in determining final action on this rulemaking.

Miscellaneous

Under 5 U.S.C. 605(b). I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities (See 46 CFR 8709).

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

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401-7642.

Dated: March 5, 1987.

Bruce M. Diamond,

Acting Regional Administrator.

[FR Doc. 87-14136 Filed 6-19-87; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 61

[AD-FRL-3220-6]

National Emission Standards for Hazardous Air Pollutants; Coke Oven Emissions From Wet-Coal Charged By-Product Coke Oven Batteries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period.

SUMMARY: On April 23, 1987, EPA proposed national emission standards which would limit coke oven emissions from wet-coal charged by-product coke oven batteries in the iron and steel industry. The proposed standards, which apply to charging, topside, and door leaks, are based on the Administrator's listing of coke oven emissions as a hazardous air pollutant on September 18, 1984 (49 FR 36560). New Method 109, "Determination of Visible Emissions from Coke Oven Batteries," also was proposed. The proposal notice stated that the public comment period ends on July 7, 1987. On May 21, 1987, the American Coke and Coal Chemicals Institute requested a 30-day extension to the public comment period. In response to this request, EPA is extending the comment period by 30 days until August 6, 1987.

DATE: Comments must be received on or before August 6, 1987.

ADDRESSES: Comments should be submitted (in duplicate, if possible to: Central Docket Section (LE-131), Attention: Docket Number A-79-15, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Mr. Doug Bell or Mr. Sam Duletsky, Standards Development Branch, Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5568, or (919) 541-5256.

Dated: June 15, 1987.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 87-14135 Filed 6-19-87; 8:45 a.m.]

BILLING CODE 6560-50-M

40 CFR Part 123

[FRL-3220-5]

Water Pollution Control; Maryland's Application To Administer the NPDES Program to Federal Facilities Located Within the State

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; notice of application, public comment period on program approval.

SUMMARY: On September 5, 1974, the Environmental Protecton Agency (EPA) delegated the authority to administer the National Pollutant Discharge Elimination System (NPDES) under section 402 of the Clean Water Act to the State of Maryland. Maryland has applied to EPA for the authority to administrater the NPDES program to federal facilities located in the State.

The application received from Maryland is complete and available for inspection and copying. EPA requests public comments and will hold a public hearing if sufficient public interest exists.

DATE: EPA must receive comments and requests for a public hearing on or before August 7, 1987.

ADDRESSES: Address comments to Neil R. Swanson, Permits Enforcement Branch (3WM50), U.S. EPA Region III, 841 Chestnut Bldg., Philadelphia, PA 19107 (215/597-9078), Attention Diana Esher.

FOR FURTHER INFORMATION CONTACT: Diana Esher, U.S. EPA Region III, 841 Chestnut Bldg., Philadelphia, PA. 19107, (215/597-7099).

SUPPLEMENTARY INFORMATION: Prior to 1977, EPA precluded States from administering the NPDES program under the Clean Water Act (CWA) to federally owned or operated facilities. In 1977, Congress amended section 313 of the CWA (33 U.S.C. 1251, et. seq.) to authorize states to regulate federal facilities. Since the passage of the 1977 amendments, EPA has been approving extensions of state authority to administer the NPDES Program to federal facilities.

In September, 1986, the State of Maryland requested authority to regulate federal facilities. Maryland's submission contains a letter from the State asking for approval, a statement from the Attorney General, and a copy of the Memorandum of Agreement (MOA). It has been determined that the MOA does not need to be modified to allow Maryland to assume authority over federal facilities.

After the close of the public comment period and after the public hearing, if warranted, the Regional Administrator, with the concurrence of the Assistant Administrator for Water and the Associate General Counsel for Water, will decide whether to approve or disapprove Maryland's request to administer the NPDES program to federal facilities.

The decision to approve or disapprove Maryland's request for extention of its NPDES authority to federal facilities will be based upon the requirements of section 313 and 402 of the Clean Water Act and 40 CFR Part 123. If Maryland's request is approved, the Regional Administrator will notify the State. Notice will be published in the **Federal Register** and, as of the date of approval, EPA will suspend issuance of NPDES permits to federal facilities in Maryland. The State's program will implement Federal law and operate in lieu of the EPA-administered program. However, as with the basis NPDES program, EPA will retain the right, among other things, to object to NDPES permits proposed to be issued by the State to federal facilities, and to take enforcement actions for violations. If the Regional Administrator disapproves Maryland's request for federal facilities authority, he will notify the State of the reasons for disapproval and of any revisions or modifications which are necessary to obtain approval.

The public may review Maryland's application from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays, at the Maryland Department of Health & Mental Hygiene, 201 W. Preston Streets, Baltimore, Maryland, or at the Environmental Protection Agency, Philadelphia, Pennsylvania, at the address appearing earlier in this notice. Copies of the submission may also be obtained (at a cost of 20 cents/page) by appearing in person at either of those offices, or by writing to EPA or the Maryland Department of Health & Mental Hygiene at the addresses listed.

All comments received by EPA, Region III by August 7, 1987, or presented at the public hearing, if one is held, will be considered by EPA before taking final action on Maryland's request for federal facilities authority.

Please bring the foregoing to the attention of persons whom you know will be interested in this matter.

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

Dated: May 1, 1987.

Stanley L. Laskowski,

Acting Regional Administrator, Environmental Protection Agency, Region III.

[FR Doc. 87-14137 Filed 6-19-87; 8:45 am]

BILLING CODE 6560-50-M

Notices

Federal Register
Vol. 52, No. 119
Monday, June 22, 1987

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

ADVISORY COMMITTEE ON FEDERAL PAY

Meeting

The Advisory Committee on Federal Pay announces that public discussions of the adjustment in Federal white-collar employee pay for October 1987 have been scheduled for Wednesday, July 29, in Suite 600, 1730 K Street NW. They will start at 1:30 p.m.

These discussions are intended to give organizations representing Federal employees or any interested government employees an opportunity to express their views regarding the Pay Agent's proposals. Those wishing to discuss the Agent's proposals with the Committee should notify the Committee by July 24. The telephone number is 653-6193. Written comments should also reach the Committee by July 24—Suite 205, 1730 K Street NW., Washington, DC 20006. Both written submissions and requests for an opportunity to discuss the issues should include a telephone number where the organization or official can be reached.

The Advisory Committee on Federal Pay, established as an independent agency by section 5306 of Title 5, United States Code (Pub. L. 91-656, the Federal Pay Comparability Act), is charged with assisting the President in carrying out the policies of section 5301 of Title 5, United States Code. The Committee's fundamental obligation is to present the President with an independent recommendation on Federal Pay for the 1.4 million white-collar workers and other employees whose pay is linked to the General Schedule. Section 5306 of Title 5 requires the Committee to make findings and recommendations to the President on the annual adjustment in Federal pay, after considering the written views of employee organizations, the President's Agent, other officials of the Government of the United States, and such experts as the Committee may consult.

Lucretia Dewey Tanner,
Executive Director.

[FR Doc. 87-14069 Filed 6-19-87; 8:45 am]
BILLING CODE 6820-43-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: International Trade Administration
Title: One-for-One Replacement of Parts in Previously Exported Commodities
Form Number: Agency—EAR's 371.17(e)(4)(ii) and (f)(3)(v), 374.2(a)(4)(iii)(A) and (B); OMB—0625-0068
Type of Request: Revision of a currently approved collection
Needs and Uses: In order to control the export of certain commodities to communist bloc countries and other specified countries, exporters who ship replacement parts for previously exported items must provide a quarterly report. The collection of this information is also used to fulfill an international Coordinating Committee requirement to report export of replacement parts and equipment.
Affected Public: Businesses or other for-profit institutions; small businesses or organizations
Frequency: Quarterly
Respondent's Obligation: Required to obtain or retain a benefit
OMB Desk Officer: John Griffen, 395-7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room 6228, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to John Griffen, OMB Desk Officer, Room 3228, New Executive Office Buiding, Washington, DC 20503.

Dated: June 17, 1987.
Edward Michals,
Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87-14098 Filed 6-19-87; 8:45 am]
BILLING CODE 3510-CW-M

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: 1988 Dress Rehearsal Census—Precensus and Postcensus Local Review Recanvass
Form Number: Agency DX-108A/DX-111; OMB—NA
Type of Request: New collection
Burden: 5,000 respondents; 165 reporting hours
Needs and Uses: The Local Review Canvass is designed to provide localities with an opportunity to review the census counts and inform the Census Bureau of suspected discrepancies. Enumerators recanvass selected census blocks with discrepancies in the counts to detect possible coverage of geographic problems.
Affected Public: State or local governments
Frequency: One time
Respondent's Obligation: Mandatory
OMB Desk Officer: Don Arbuckle

Agency: Bureau of the Census
Title: 1988 Dress Rehearsal Census—Vacant/Delete Check
Form Number: Agency—DX-160; OMB—NA
Type of Request: New collection
Burden: 65,500 respondents; 1,093 reporting hours
Needs and Uses: The purpose of this survey is to verify that housing units enumerated as vacant or deleted during previous census operations were correctly classified. Housing units that become occupied after Census Day are accounted for during this coverage improvement procedure. Results will be evaluated in planning the 1990 operation
Affected Public: Individuals or households
Frequency: One time

Respondent's Obligation: Mandatory
OMB Desk Officer: Don Arbuckle 395-7340
Agency: Bureau of the Census
Title: 1988 Decennial Census Dress Rehearsal
Form Number: Agency—DX-1, 1s, 13, 14, 14s, 2, 2s, 3, 3s, 4, 4s, 20A, 20B, 20AS, 20BS, 21, 25, 25s, 1A, 2A; OMB—NA
Type of Request: New collection
Burden: 475,000 respondents; 158,150 reporting hours
Needs and Uses: The 1988 "Dress Rehearsal" Program is undertaken to implement the 1990 Decennial Census procedures under as near census-like conditions as possible. The Census Bureau will employ the full array of data collection and processing techniques it intends to use in 1990. Respondents will be residents of St. Louis, Missouri, East Central Missouri, and Eastern Washington.
Affected Public: Individuals or households
Frequency: One time
Respondent's Obligation: Mandatory
OMB Desk Officer: Don Arbuckle 395-7340

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collections should be sent to Don Arbuckle, OMB Desk Officer, Room 3228 New Executive Office Building, Washington, DC 20503.

Dated: June 15, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87-14099 Filed 6-19-87; 8:45 am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions or the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration
Title: Logbook Family of Forms (Reef Fish Headboat Log)
Form Number: Agency—N/A; OMB—0648-0016
Type of Request: Revision of a currently approved collection
Burden: 80 new respondents; 320 new burden hours
Needs and Uses: Operators of headboats will be required to record the daily catch of reef fish. The information is to be used by the National Marine Fisheries Service and Regional Council biologists to measure changes in the state of fish populations and to predict the effects of fishery management measures on these stocks.
Affected Public: Businesses or other for-profit institutions; small businesses or organizations
Frequency: By fishing trip
Respondent's Obligation: Mandatory
OMB Desk Officer: John Griffen 395-7340

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room 6228, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to John Griffen, OMB Desk Officer, Room 3228, New Executive Office Building, Washington, DC 20503.

Dated: June 15, 1987.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 87-14100 Filed 6-19-87; 8:45 am]

BILLING CODE 3510-CW-M

National Oceanic and Atmospheric Administration

Permits; Pacific Coast Groundfish Fishery

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

ACTION: Notice of receipt of experimental fishing permit applications and request for comments.

SUMMARY: This notice acknowledges receipt of eighty-five applications for experimental fishing permits to harvest soupfin sharks (*Galeorhinus galeus*) and other shark species with gill nets in the exclusive economic zone north of 38° N. latitude. If granted, these permits would allow the harvest of groundfish species with fishing gear which otherwise would be prohibited by Federal regulations.

DATE: Comments on this application must be received by June 26, 1987.

ADDRESS: Send comments to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115; or E. Charles Fullerton, Director, Southwest Region, 300 South Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, 206-526-6150; or E. Charles Fullerton, (213) 514-6196.

SUPPLEMENTARY INFORMATION: The Pacific Coast Groundfish Fishery Management Plan (FMP) and implementing regulations at 50 CFR Part 663 specify that experimental fishing permits (EFPs) may be issued to authorize fishing that would otherwise be prohibited by the FMP and regulations. The procedures for issuing EFPs are contained in the regulations at 50 CFR 663.10.

Eighty-five EFP applications to harvest soupfin shark using gill nets in the exclusive economic zone (EEZ) north of 38° N. latitude have been received by the NMFS Northwest Regional Office. Current groundfish regulations at 50 CFR 663.26 do not authorize the use of drift gill nets nor set nets (anchored gill nets) north of 38° N. latitude to harvest groundfish. All but one of the applications propose to retain and market soupfin, leopard and spiny dogfish sharks taken incidentally in drift gill nets in a fishery that targets on thresher shark, a species that is not managed under the FMP. One applicant also is requesting an EFP to target on soupfin sharks using set nets (anchored gill nets).

Eighty-four applicants are proposing an experimental fishery to obtain information on the harvest and potential utilization of Federally managed shark species taken incidental to the thresher shark gill net fishery in the EEZ. Such information would be used to evaluate the regulations which have the effect of prohibiting the use of drift gill nets to take soupfin, leopard and spiny dogfish shark. The applicants and their vessels are based in Washington, Oregon, and California. The applicants propose to have each vessel use one drift gill net having a total length of not more than 1,000 fathoms with mesh sizes of sixteen inches or greater. These EFP applicants have obtained state permits for the thresher shark fishery which will limit their experimental fishing to waters west of five nautical miles from shore to alleviate concerns for potential marine mammal or seabird involvement with the nets. The applicants have requested that the EFPs be issued for the period of July 1 to October 31, 1987 in the EEZ off the coast of Washington and Oregon to coincide with the period of validity of the state permits.

One of the applicants also proposes to target on soupfin sharks using a set net (anchored gill net). The purpose of this experimental fishery is to obtain information on re-establishment of a viable soupfin fishery utilizing set nets.

The applicant proposes to use up to four shackles of net, each 100 fathoms in length, with nine to ten inch mesh webbing. The applicant is requesting that the EFP be issued for a period of one year in the Columbia and Eureka management sub-areas in the EEZ off the c oast of Washington, Oregon, and northern California. However, the applicant has indicated that most of his fishing effort would be off the coast of Oregon from March through September.

The Pacific Fishery Management Council, the Directors of the State fishery management agencies and the Coast Guard will be consulted on the issuance of these EFPs during a telephone conference call meeting scheduled for June 22, 1987 at 10:00 a.m. The public can participate in the telephone conference call meeting at one of the following locations:

(1) Pacific Fishery Management Council, Metro Center, Suite 420, 2000 SW. First Avenue, Portland, OR 97201, (503) 221-6352
(2) National Marine Fisheries Service, Northwest Regional Office, 7600 Sand Point Way NE, Bldg. 1, Seattle, WA 98115, (206) 526-6150
(3) National Marine Fisheries Service, Southwest Regional Office, 300 South Ferry Street, Room 2005, Terminal Island, CA 90731, (213) 514-6196.

The applicants have been invited to appear in support of their applications if they so desire, and may arrange to participate in the conference call at any one of the above locations by contacting the Pacific Fishery Management Council. The decision to approve or deny these EFP applications will be based on a number of considerations including recommendations made by the Council, the Coast Guard, the State Directors, and comments received from the applicants and the public. Copies of the applications are available for review at the NMFS, Northwest Regional Office, address above.

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

Dated: June 17, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 87-14142 Filed 6-17-87; 5:03 pm]

BILLING CODE 3510-22-M

[P26IB]

Marine Mammals; Issuance of Permit; Baltimore Aquarium, Inc.

On April 2, 1987, notice was published in the **Federal Register** (50 FR 10604) that an application had been filed by the Baltimore Aquarium, Inc., 501 East Pratt Street, Pier 3, Baltimore, Maryland 21202, for a permit to take and import two (2) Beluga Whales (*Delphinapterus leucas*) for the purpose of public display.

Notice is hereby given that on June 15, 1987, as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407, the National Marine Fisheries Service issued a Permit for the above taking, subject to certain conditions set forth therein.

The Permit is available for review by interested persons in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1825 Connecticut Avenue, NW., Room 805, Washington, DC; and

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: June 15, 1987.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs.

[FR Doc. 87-14018 Filed 6-19-87; 8:45 am]

BILLING CODE 3510-22-M

Gulf of Mexico Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council and its Committees will convene public meetings at the Casa Marina Hotel, Reynold Street on the Ocean, Key West, FL, as follows:

Council—On July 8, 1987, the Council will convene at 8:30 a.m., to discuss committee reports, including actions on Swordfish, Billfish, Shrimp, and Spiny Lobster Fishery Management Plans (FMPs); conduct a scoping hearing; review the reef fish options paper, and recess at 5 p.m.; will reconvene on July 9 at 8 a.m., to continue discussion of the reef fish options paper, and adjourn at noon.

Committees—On July 6 the Budget Committee will convene at 3:30 p.m., and recess at 5 p.m.; on July 7 the Administrative Policy Committee will convene at 8 a.m., followed by meetings of the Habitat and Environmental Protection, Spiny Lobster Management, and Shrimp Management Committees. The Committee meetings will adjourn at 5 p.m. For further information contact Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite, 881, Tampa, FL 33609; telephone: (813) 228-2815.

Dated: June 17, 1987.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 87-14144 Filed 6-19-87; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council and its advisory entities will convene separate public meetings, July 6-10, 1987, at the Clarion Hotel, 401 East Millbrae Avenue, Millbrae, CA, as follows:

Council—On July 7 will convene at 2 p.m., with a closed session (not open to the public) to discuss litigation and other appropriate matters.

On July 8 will reconvene at 8 a.m., to consider administrative matters, anchovy management, and Pacific halibut allocation. After comment from its advisory entities and the public, the Council will adopt a preliminary biomass estimate and quotas for the anchovy fishery; determine a process and schedule for allocating halibut, and appoint a halibut advisory group. There will be a general public comment period at 4 p.m.

On July 9 at 8 a.m., will address numerous groundfish management issues. After input from its advisory entities and the public, the Council will take action on management measures for the third trimester; consider whether to adopt a cutoff date for eligibility to participate in a possible future groundfish fishery management plan (FMP) and regulations, and discuss other matters.

On July 10 will reconvene at 8 a.m., and address any groundfish matters not completed on July 9; hear recommendations from its Habitat Committee, and consider adoption of amendments to the ocean salmon FMP.

Scientific and Statistical Committee—On July 6 will convene at 1 p.m., to consider matters on the Council's agenda, and reconvene July 7 to complete its agenda.

Groundfish Management Team—On July 7 will meet at 8 a.m., to consider groundfish matters on the Council agenda.

Budget Committee—On July 7 at 10 a.m., the Budget Committee and representatives of the Council's advisory entities will meet with National Marine Fisheries Service (NMFS) representatives to discuss future NMFS budgets and plans.

Immediately following the Budget Committee will consider revisions to the Council's calendar year (CY 1987) budget and recommend a budget for CY 1988.

Habitat Committee—On July 7 will meet at 5 p.m., to review a draft habitat section for the groundfish plan and other habitat matters which may be presented to the committee by the advisory entities, agencies, or the public.

Legislative Overview Committee—On July 7 will meet at approximately 7 p.m., to consider amendments to the Magnuson Fishery Conservation and Management Act proposed by other Regional Fishery Management Councils, including the addition of tuna to the Act.

Groundfish Select Group—On July 8 will meet at 8 a.m., to formulate a recommendation to the Council on third trimester management adjustments and other matters.

Groundfish Advisory Subpanel—On July 8 will meet at 9:30 a.m., to address groundfish issues on the Council's agenda.

Foreign Fishing Committee—On July 8 will meet at 7 p.m., to consider a recommendation on release of the Pacific whiting reserve, foreign and joint venture whiting policy, and joint venture company plans to avoid salmon.

Detailed agendas for all of the above meetings will be available to the public on June 19. For further information contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, 2000 SW. First Avenue, Suite 420, Portland OR 97201; telephone: (503) 221-6352.

Dated: June 17, 1987.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 87-14145 Filed 6-19-87; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Amendment of Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Apparel Products Produced or Manufactured in Hong Kong

June 15, 1987.

This notice announces that, during consultations, the Governments of Hong Kong and the United States agreed to amend the Bilateral Textile Agreement of June 23, 1982, as amended and extended on August 4, 1986, to increase the group limits for cotton, wool and man-made fiber textile apparel and silk blend and other vegetable fiber apparel, except sweaters, according to the table listed below. This amendment takes into account the trade in detachable garment accessories that was not separately reported in the figures that were used as a basis for negotiating these limits. This trade is now being reported and charged to quotas as a result of a March 1986 Customs Ruling which determined that shipments of these products must be treated separately from the primary garments.

Period	Group II	Group III
1986	831,314,639 sye	47,511,407 sye [1]
1987	838,284,853 sye	47,867,742 sye
1988	846,667,701 sye	48,346,419 sye
1989	861,484,385 sye	49,192,481 sye
1990	880,867,763 sye	50,299,311 sye
1991	902,889,477 sye	51,556,793 sye

[1] This limit will be prorated for the period August 1, 1986 through December 31, 1986 at 19,796,420 square yards equivalent.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, DC, (202) 377-4212.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-14141 Filed 6-19-87; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF EDUCATION

[CFDA 84.031B]

Invitation of Applications for New Awards Under the Strengthening Historically Black Colleges and Universities (HBCU) Program and Strengthening Historically Black Graduate Institutions Program for Fiscal Year 1987

Purpose: To provide grants to historically black colleges and universities to fulfill the Federal mission of equality of educational opportunity, and to assist black gradute and professional institutions to improve their graduate educational opportunities.

Special Note: With regard to section 324(c) of the Higher Education Act of 1965, governing the Strengthening Historically Black Colleges and Universities (HBCU) Program, and based on data of the Office of the Commissioner of the Bureau of Labor Statistics, it has been determined that Blacks are underrepresented in all disciplines in which graduate and professioanl degree programs are offered.

Deadline for Transmittal of Applications: August 4, 1987.

Deadline for Intergovernmental Review Comments: Not Applicable.

Applications Available: June 26, 1987.

Available Funds: $50.741 Million.

	Strengthening HBCU programs, $46,741 million	Strengthening historically black graduate institutions program, $4.0 million
Estimated Range of Awards	$350,000-$600,000	$250,000-$3,000,000
Estimated Average Size of Awards	$485,000	$800,000
Estimated Number of Awards	96	5
Project Period (months)	60	60

Applicable Regulations: (a) The Strengthening Historically Black Colleges and Universities (HBCU) Program and Strengthening Historically Black Graduate Institutions Program Regulations, 34 CFR Parts 608 and 609, and (b) The Education Department General Administrative Regulations, 34 CFR Part 74, 75, 77, 78, and 79. Applications are being accepted based on the Notice of Proposed Rulemaking which was published in the **Federal Register** on June 10, 1987, 52 FR 22274-22281. If any substantive changes are made in the final regulations for this program, applicants will be given the opportunity to revise or resubmit their applications.

For Application or Information Contact: Dr. Elwood L. Bland, Chief, Special Needs Branch, Division of Institutional Development, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland, Avenue, SW., Room *3042,* Washington, DC 20202. Telephone: (202) 732-3326.

Program Authority: 20 U.S.C. 1060-1069f.

Dated: June 18, 1987.

C. Ronald Kimberling,

Assistant Secretary for Postsecondary Education.

[FR. Doc. 87-14204 File 6-19-87; 8:45 am]

BILLING CODE 4000-01-M

[CDFA No. 84.031A]

Invitation of Applications for New Awards Under the Strengthening Institutions Program for Fiscal Year 1987

Purpose: To provide grants to eligible institutions of higher education to enable them to improve their academic quality, institutional management, and fiscal stability in order to increase their self-sufficiency and strengthen their capacity to make a substantial contribution to the higher education resources of the Nation.

Deadline for Transmittal of Applications: August 7, 1987.

Applications Available: July 1, 1987.

Available Funds: Approximately $30.0 million will be available for new grants in FY 1987 after non-competing continuation grants are funded. Because of the statutory requirement to reserve, at a minimum, a substantial part of this year's appropriation for two-year colleges, it is estimated that about $9.0 million will be available for which four-year institutions may compete with all other applicants.

Expected Range of Awards: $20,000–$25,000 for 12-month planning grants; $125,000–$200,000 for one- to three-year grants; $350,000–$500,000 for four- and five-year development grants.

Estimated Project Period and Average Size of Awards: $23,000 for 12-month planning grants; $185,000 for one- to three-year development grants; $450,000 for four- or five-year development grants.

Estimated Number of Awards: 14 planning grants; 100 development grants.

Special Funding Considerations: In tie-breaking situations described in § 607.23 of the proposed regulations, the Secretary would award additional points under §§ 607.21 and 607.22 to an application from an institution which has an endowment fund of which the current market value, per FTE student, is less than the average, per FTE student, at similar type institutions; or which has library expenditures, per FTE student, which are less than the avarage, per FTE student, at similar type institutions. For the purposes of these funding considerations, an applicant must be able to demonstrate that the current market value of its endowment funds per FTE and/or library expenditure per FTE is *less* than the following national averages for base year 1984–85:

	Average market value of endowment fund per FTE	Average library expenditure per FTE
Two-year Public Institutions	$70.000	$75.00
Two-year non-profit Private Institutions	1,037.00	58.00
Four-year Public Institutions	1,692.00	167.00
Four-year non-profit Private Institutions	15,744.00	208.00

Applicable Regulations: (a) Regulations governing the Strengthening Institutions Program as proposed to be codified in 34 CFR Part 607. Applications are being accepted based on the Notice of Proposed Rulemaking that was published in the **Federal Register** on June 10, 1987, 52 FR 22264–22271. If any substantive changes are made in the final regulations for this program, applicants will be given the opportunity to revise or resubmit their applications; and (b) The Education Department General Administrative Regulations 34 CFR Parts 74, 75, 77 and 78.

For Applications or Information Contact: Dr. Louis J. Venuto, Chief, Strengthening Institutions Program Branch, Division of Institutional Development, U.S. Department of Education, 400 Maryland Avenue SW., Room 3042, ROB–3, Washington, DC 20202, Telephone: (202) 732–3314.

Program Authority: 20 U.S.C. 1057.

Dated: June 18, 1987.

C. Ronald Kimberling,

Assistant Secretary for Postsecondary Education.

[FR Doc. 87–14203 Filed 6–19–87; 8:45 am]

BILLING CODE 4000–01–M

[CDFA Nos. 84.031A and 84.031G]

Invitation of Applications for Designation as an Eligible Institution for Fiscal Year 1987 for the Strengthening Institutions Program and the Endowment Challenge Grant Program

Purpose: Institutions of higher education must meet specific statutory and regulatory requirements to be designated as eligible to receive funds under the Strengthening Institutions Program and the Endowment Challenge Grant Program.

Deadline for Transmittal of Applications: July 31, 1987.

Applications Available: July 1, 1987.

Eligibility information: Under section 312 of the Higher Education Act, an institution may qualify as an eligible institution for the Strengthening Institutions and Endowment Challenge Grant Programs if it has a substantial percentage of grant recipients under Pell Grant Program, and it has low Educational and General expenditures. Under §§ 607.3 and 607.4 of the proposed Strengthening Institution Program regulations, the Secretary annually announces certain thresholds that an applicant must meet to be designated as eligible under the Pell Grant substantial percentage and the Educational and General Expenditures requirements. To satisfy the substantial Pell Grant percentage requirement, an applicant must be able to demonstrate that its percentage of degree students who received Pell Grants in the 1984–85 school year was *more than* the median percentage for comparable institutions as described below. To qualify as an eligible institution under the Edsucational and General Expenditures requirement (E&G), an applicant's avereage E&G expenditure per FTE undergraduate student in the 1984–1985 school year must be *less than* the average E&G expenditure per FTE undergraduate student at comparable institutions as described below. The following national standards, using the 1984–85 school year as the base year for data, serve as points which must be *more than* in the case of the Pell Grant percentage and must be *less than* in the case of the E&G averae.

	Median Pell Grant percentage	Average E&G per FTE student
Two-year Public Institutions	20.51	$3,242.00
Two-year non-profit Private Institutions	31.24	3,234.00
Four-year Public Institutions	23.30	4,527.00
Four-year non-profit Private Institutions	25.52	4,981.00

Waiver Information: Applicants unable to meet either the needy student enrollment or the E&G expenditure requirements may apply to the Secretary for waivers of these requirements under various options as described in §§607.3(b) and 607.4(c) of the proposed regulations. One of the needy student enrollment waiver options, § 607.3(b)(2), would require that the Secretary annually provide additional guidance. Under this waiver option, applicants must demonstrate that at least 30 percent of the students served in school year 1984–85 were students from low-income families. For the purposes of this waiver provision, low-income families are identified according to the following:

Size of family: [1]	Gross annual family income must be less than [2]
1	$8,040
2	10,860
3	13,680
4	16,500
5	19,320
6	22,140
7	24,960
8	27,780

[1] For all families with more than 8 members add $2,820 for each additional member.

[2] The figures in this column represent amounts equal to 150 percent of the family income levels established by the U.S. Bureau of the Census for determining poverty status. These levels were published by the U.S. Department of Health and Human Services in the **Federal Register**, February 11, 1986, Vol. 51, No. 28, pages 5105–5106.

Note.—Add 15 percent for Hawaii and 25 percent for Alaska to the figures in the Family Income Column.

Applicable Regulations: (a) Regulations governing the Strengthening Institutions Program as proposed to be codified in 34 CFR Part 607. Applications are being accepted based on the Notice of Proposed Rulemaking that was published in the **Federal Register** on June 10, 1987, 52 FR 22264–22271. If any substantive changes are made in the final regulations for this program, applicants will be given the opportunity to revise or resubmit their applications; and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, and 78.

For Applications or Information Contact: Dr. Louis J. Venuto, Chief, Strengthening Institutions Program Branch, Division of Institutional Development, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3042, ROB#3, Washington, DC 20202, Telephone: (202) 732–3314.

Program Authority: 20 U.S.C. 1057 and 1065a.

Dated: June 18, 1987.

C. Ronald Kimberling,

Assistant Secretary for Postsecondary Education.

[FR Doc. 87–14205 Filed 6–19–87; 8:45 am]

BILLING CODE 4000-01-M

Office of Elementary and Secondary Education

Intent to Repay to the American Samoa Department of Education Funds Recovered as a Result of a Final Audit Determination

AGENCY: Department of Education.

ACTION: Intent to award grantback funds.

SUMMARY: Under section 456 of the General Education Provisions Act (GEPA), the U.S. Secretary of Education (Secretary) intends to repay to the American Samoa Department of Education, the State educational agency (SEA), an amount equal to 75 percent of the funds recovered by the U.S. Department of Education (Department) as a result of a final audit determination. This notice describes the SEA's plan for the use of the repaid funds and the terms and conditions under which the Secretary intends to make those funds available. The notice invites comments on the proposed grantback.

DATE: All written comments must be received on or before July 22, 1987.

ADDRESS: All written comments should be submitted to Dr. James Spillane, Director, Division of Program Support, Compensatory Education Programs, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 2047, MS–6276), Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Dr. James Spillane. Telephone: (202) 732–4694

SUPPLEMENTARY INFORMATION:

A. Background

In November 1986, the Department recovered $500,000 from the American Samoa Government (ASG) in partial satisfaction of a claim arising from an audit of the American Samoa Department of Education (ASDOE) during fiscal year (FY) 1981. This payment represents the first of three payments that the ASG must make in accordance with a settlement agreement entered into by the Department and the ASG. The remaining two payments of $500,000, plus accrued interest, must be made by November 30, 1987 and November 30, 1988, respectively.

The claim involved the ASDOE's administration of its consolidated grant application under Title V of the Omnibus Territories Act, 48 U.S.C. 1469a. Title V authorizes the Department to consolidate Federal education grants for which an Insular Area, such as American Samoa, is eligible to apply. From the list of consolidated programs, an Insular Area may select one or more of those programs under which to use its consolidated grant funds. In FY 1981, the ASDOE used its consolidated grant funds for activities under Title IV–B (instructional materials and school library resources) and IV–C (improvement in local educational practices) of the Elementary and Secondary Education Act of 1965. However, the auditors found that the ASDOE failed to keep sufficient records, as required by 45 CFR 100b.132 (1980) and section 437(a) of GEPA, to document that its consolidated grant funds were expended properly.

B. Authority for Awarding a Grantback

Section 456(a) of GEPA, 20 U.S.C. 1234e(a), provides that whenever the Secretary has recovered funds following a final audit determination with respect to an applicable program, the Secretary may consider those funds to be additional funds available for the program and may arrange to repay to the SEA affected by that determination an amount not to exceed 75 percent of the recovered funds. The Secretary may enter into this "grantback" arrangement if the Secretary determines that the—

(1) Practices and procedures of the SEA that resulted in the audit determination have been corrected, and the SEA is, in all other respects, in compliance with the requirements of the applicable program;

(2) SEA has submitted to the Secretary a plan for the use of the funds to be awarded under the grantback arrangement which meets the requirements of the program, and, to the extent possible, benefits the population that was affected by the failure to comply or by the misexpenditures that resulted in the audit exception; and

(3) Use of the funds to be awarded under the grantback arrangement in accordance with the SEA's plan would serve to achieve the purposes of the program under which the funds were originally granted.

C. Plan for Use of Funds Awarded Under a Grantback Arrangement

Pursuant to section 456(a)(2) of GEPA, the ASDOE has applied for a grantback of $375,000 and submitted a plan for use of the grantback funds. The plan also covers additional grantback payments that the ASDOE has requested be made when it makes the second and third installment payments to the Department in accordance with the settlement agreement.

Under its plan, the ASDOE would use the grantback funds to meet the special educational needs of educationally deprived children residing in low-income areas under Chapter 1 of the Education Consolidation and Improvement Act of 1981, 20 U.S.C. 3801–3808, 3871–3876, one of the programs under which the ASDOE may use its consolidated grant funds. Specifically, the ASDOE proposes to use the grantback funds between April 1987 and March 1990 for the construction of

32 classrooms in elementary and secondary schools where overcrowded conditions are most serious. According to the ASDOE, there is a serve shortage of classrooms for educationally deprived children in American Samoa because enrollment in grades one through twelve has increased by an average of 200 students per year during the past six years. In addition, a recent hurricane destroyed a number of the existing classrooms.

Construction of school facilities is specifically authorized by section 555(a), (c) of Chapter 1, 20 U.S.C. 3804(a), (c), when needed to provide programs to meet the special educational needs of educationally deprived children. The Department has recognized that widespread poverty exists throughout American Samoa and that the vast majority of elementary and secondary school students are educationally deprived. 44 FR 52888 (Sept. 11, 1979). Without additional classrooms, the ASDOE cannot begin to meet the special educational needs of these children.

D. The Secretary's Determinations

The Secretary has carefully reviewed the plan submitted by the ASDOE and has determined that the conditions under section 456 of GEPA have been met. Moreover, the Secretary believes that in view of the unusual characteristics and circumstances in this case, grantbacks on each of the three payments are warranted. Before awarding the subsequent grantback payments, however, the Department will review the ASDOE's implementation of its plan to ensure compliance with it and all applicable legal requirements. In addition, the ASDOE must notify the Department if circumstances change that would require alterations in the grantback arrangement.

These determinations are based upon the best information available to the Secretary at the present time. If this information is not accurate or complete, the Secretary is not precluded from taking appropriate administrative action.

E. Notice of the Secretary's Intent To Enter Into a Grantback Arrangement

Section 456(d) of GEPA requires that, at least 30 days before entering into an arrangement to award funds under a grantback, the Secretary must publish in the **Federal Register** a notice of intent to do so, and the terms and conditions under which the payment will be made.

In accordance with section 456(d) of GEPA, notice is hereby given that the Secretary intends to make funds available to the ASDOE under a grantback arrangement. The grantback award would be in the amount of $375,000, which is 75 percent of the funds recovered to date by the Department as a result of the audit. Contingent upon proper implementation of its plan and timely repayment of the remaining funds owed by ASDOE, two additional payments of $375,000 each would be made to the ASDOE when it submits the second and third installment payments of $500,000, plus accrued interest, to the Department in accordance with the settlement agreement.

F. Term and Conditions Under Which Payments Under a Grantback Arrangement Would Be Made

The ASDOE agrees to comply with the following terms and conditions under which payments under a grantback arrangement would be made:

(1) The funds awarded under the grantback must be spent in accordance with—

(a) All applicable statutory and regulatory requirements;

(b) The plan that the ASDOE submitted and any amendments to that plan that are approved in advance by the Secretary; and

(c) The budget that was submitted with the plan and any amendments to the budget that are approved in advance by the Secretary.

(2) All funds received under the grantback arrangement must be expended by September 30, 1990, in accordance with section 456(c) of GEPA and the ASDOE's plan.

(3) On or before October 31, 1987, October 31, 1988, and December 31, 1990, the ASDOE will submit a report to the Secretary that—

(a) Indicates that the funds awarded under the grantback are being or have been spent in accordance with the proposed plan and approved budget, and

(b) Describes the results and effectiveness of the projects for which the funds were spent.

(4) Separate accounting records must be maintained documenting the expenditures of funds awarded under the grantback arrangement.

(Catalog of Federal Domestic Assistance Number 84.010, Educationally Deprived Children—Local Educational Agencies)

Dated: June 17, 1987.

William J. Bennett,

Secretary of Education.

[FR Doc. 87-14112 Filed 6-19-87; 8:45 am]

BILLING CODE 4000-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3219-4]

Air Quality; Extension of PSD Permit to Longview Fibre Company

Background

On April 27, 1981, EPA granted the Longview Fibre Company a phased Prevention of Significant Deterioration (PSD) permit to modify the Kraft pulp and paper mill at Longview, Washington. The company has requested that EPA grant an 18 month extension to PSD permit No. PSD-81-10.

Discussion

The company commenced construction within eighteen months after receipt of the PSD permit, however, 18 months have lapsed since the completion of the last phase of construction to the mill. Because on-site construction is discontinued for a period of 18 months, the source must seek an extension for Phase III. The company will conduct a best available control technology review within six months prior to the commencement of construction. Based on construction of phase I and II, the company has demonstrated a good faith effort in continuing with the project and that all permit conditions will be met. Therefore, EPA is tentatively approving the extension for a period not to exceed 18 months.

Public Comment

Comments on this proposed action must be received within 30 days from the date of publication. Written comments can be submitted to EPA Region 10, 1200 Sixth Avenue, AT-092, Seattle, Washington 98101, attention Raymond Nye.

Gary O'Neal,

Director Air & Toxics Division.

[FR Doc. 87-14138 Filed 6-19-87; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL-3222-1]

Financial Assistance Program Eligible for Review Under 40 CFR Part 29 and Subject to Section 204 of the Demonstration Cities and Metropolitan Development Act; Wellhead Protection Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability and review.

SUMMARY: Pursuant to the Safe Drinking Water Act Amendments of 1986, section 1428, Pub. L. 99-339, the Environmental Protection Agency (EPA) is announcing the availability of a new financial assistance program (66.457, "Wellhead Protection Program Grants") to support the development and implementation of State programs to protect wellhead areas within their jurisdictions from contaminants that may have any adverse effect on human health. Funds have been included in the President's proposed budget for FY 1988 subject to Congressional appropriation.

DATE: States choosing to include this program in their intergovernmental review process must notify EPA by July 22, 1987. States should submit completed grant applications no later than January 31, 1988, to be considered for FY 1988 funding.

FOR FURTHER INFORMATION CONTACT: Regional ground-water program offices for technical information and preapplication assistance:

Region I

Robert Mendoza, Office of Ground Water Protection, U.S. EPA, JFK Federal Building, Room WGP-2113, Boston, MA 02203, (617) 565-3600.

Region II

John Malleck, Office of Ground Water Management, U.S. EPA, 26 Federal Plaza, New York, NY 10278, (212) 264-5635.

Region III

Thomas Merski, Ground Water Protection Section, U.S. EPA, 841 Chestnut Building, Philadelphia, PA 19107, (215) 597-2786.

Region IV

James S. Kutzman, Chief, Ground-Water Technology & Management Section, Ground-Water Protection Branch, U.S. EPA, 345 Courtland Street NE., Atlanta, GA 30365.

Region V

Jerri-Anne Garl, Office of Ground Water, U.S. EPA, 230 South Dearborn Street, Chicago, IL 60604, (312) 886-1490.

Region VI

Don Draper, Office of Ground Water (6W-A), U.S. EPA, 4145 Ross Avenue, Dallas, TX 75222-2733, (214) 655-6446.

Region VII

Timothy Amsden, Office of Ground Water Protection, U.S. EPA, 726 Minnesota Avenue, Kansas City, KS 66101, (913) 236-2815.

Region VIII

Richard Long, Ground-Water Coordination Office, U.S. EPA, One Denver Place, 999 18th Street, Suite 500, Denver, CO 80202-2405, (303) 293-1543.

Region IX

Patricia Eklund, Office of Ground Water, U.S. EPA, 215 Fremont Street, San Francisco, CA 94105, (415) 974-0831.

Region X

William Mullen, Office of Ground Water, U.S. EPA, 1200 Sixth Avenue, WD-139, Seattle, WA 98101, (206) 442-1086.

SUPPLEMENTARY INFORMATION: The national Wellhead Protection Program is implemented through EPA Regional Offices. The Office of Ground-Water Protection in EPA Headquarters is the national program manager. EPA is required to issue Guidance on the Delineation of Wellhead Protection Areas, which will be published by June 19, 1987. Program grant guidance should also be available by that date and will provide specific details on where to obtain and how to complete application forms.

Each State Wellhead Protection Program is required to provide comprehensive protection for wellheads within the State's jurisdiction. Each State program must, at a minimum: (1) Specify the duties of State agencies, local governmental entities and public water supply systems with respect to the development and implementation of programs; (2) for each wellhead, determine the wellhead protection area based on all reasonably available hydrogeologic information on ground-water flow, recharge and discharge and other information the State deems necessary to adequately determine the wellhead protection area; (3) identify within each wellhead protection area all potential anthropogenic sources of contaminants that may have any adverse effect on the health of persons; (4) describe a program that contains, as appropriate, technical assistance, financial assistance, implementation of control measures, training and demonstration projects to protect the water supply within wellhead protection areas from such contaminants; (5) include contingency plans for the location and provision of alternate drinking water supplies for each public water system in the event of well or wellfield contamination by such contaminants; and (6) include a requirement that consideration be given to all potential sources of such contaminants within the expected wellhead area of a new water well which serves a public water supply system. Each State also must encourage public participation in the development stages of its Wellhead Protection Program, including (but not limited to): (1) The establishment of technical and citizens' advisory committees; and (2) notice and opportunity for public hearing on the State program before it is submitted to the Region.

The Amendments authorize EPA to provide States with not less than 50 nor more than 90 percent of the costs (as determined by the Administrator) of developing and implementing a State program. The State is expected to support the remainder of costs as its state cost share. EPA will match State funds at 90 percent, the maximum allowable level, for FY 1988, 80 percent for FY 1989, and will decrease the Federal matching level 10 percent during each of the subsequent, authorized funding years. EPA is using a formula containing factors relevant to State dependency on and use of ground water as well as other pertinent variables to arrive at potential funding levels for each State.

Under section 1428 of the Safe Drinking Water Act, 42 U.S.C. 300H-7, EPA will award annual grants to States (including the District of Columbia and Trust Territories) to help them develop and implement comprehensive programs for wellheads within their jurisdiction.

This program is eligible for intergovernmental review under Executive Order (E.O.) 12372 and is subject to the review requirements of section 204 of the Demonstration Cities and Metropolitan Development Act. States must notify the following office in writing within 30 days of this publication whether their State's official E.O. 12372 process will review applications in this program: Grants Policy and Procedures Branch, Grants Administration Division (PM-216), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Applicants must contact their State's Single Point of Contact (SPOC) for intergovernmental review as early as possible to determine if the program is subject to the State's official E.O. 12372 review process and what material must be submitted to the SPOC for review. In addition, applications that include activities to be implemented within a metropolitan area must be sent for review to the areawide/regional/local planning agency designated to perform metropolitan or regional planning for the area.

SPOCs and other reviewers should send their comments on an application to the appropriate EPA Regional Office

no later than sixty days after receiving the application or other required material for review.

Applications will undergo technical and administrative review for adequacy, content, completeness and other criteria set by EPA. The Regional Office will have both award and approval authority.

Dated: June 11, 1987.

Lawrence J. Jensen,

Assistant Administrator for Water.

[FR Doc. 87-14139 Filed 6-19-87; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51674A; FRL-3220-4]

Certain Chemicals Premanufacture Notice; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; Correction.

SUMMARY: This notice corrects the Certain Chemicals Premanufacture Notice that was published in the **Federal Register** on May 20, 1987 (52 FR 18948). The exposure and environmental release information were inadvertently omitted from the entry for premanufacture notice P-87-1030.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW, Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 20, 1987 (52 FR 18948), EPA issued a notice of receipt of one PMN.

In FR Doc. 87-11491 EPA issued a notice of receipt for P-87-1030. The Environmental Release and Exposure information was inadvertently omitted, therefore the PMN is corrected, and set forth in its entirety to read as follows.

P-87-1030

Manufacture: Confidential.

Chemical: (G) *Bacillus subtilis* that has been recombinantly modified to contain a gene for protease from another *Bacillus* species, using a vector form *Staphyloccus aureus.*

Use/Production: (G) The microorganism will be used for the biosynthesis of protease. Production range: Confidential.

Test data: Pathogenicity study by oral instillation in mice showed no infectivity or pathogenicity in mice in a 21 day test. Microbial survival under post-production conditions in water, soil, and river water showed no survival advantage of the recombinant strain over the wild type. In the formulated enzyme product, bacterial cell number decreased; viable remaining cells are spores.

Exposure: Workers in production areas who maintain and process cultures of the microorganism.

Environmental Release/Disposal: Production and processing: Live cells used for biosynthesis are contained in sealed fermentation vessel systems. At the end of the biosynthesis, the cells are deactivated using a validated system. Disposal of cell waste: Confidential.

Dated: June 8, 1987.

Denise Devoe,

Acting Director, Information Management Division.

[FR Doc. 87-14140 Filed 6-19-87; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Applications To Engage de novo in Permissible Nonbanking Activities; Amity Bancorp, Inc., et al.

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 July 10, 1987.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Amity Bancorp, Inc.*, New Haven, Connecticut; to engage *de novo* through its subsidiary, Amity Loans, Inc., Fayetteville, North Carolina, in consumer finance activities pursuant to § 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted in the State of North Carolina. Comments on this application must be received by July 9, 1987.

B. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Bank of Tokyo Ltd.*, Tokyo, Japan; to engage *de novo* through its subsidiary, Nissei Bot Asset Management Corporation, New York, New York, in providing investment or financial advice pursuant to § 225.25(b)(4); and providing investment advice on financial futures and options on futures as a commodities trading advisor pursuant to § 225.25(b)(19) of the Board's Regulation Y. Comments on this application must be received by July 10, 1987.

C. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Rurban Financial Corp.*, Defiance, Ohio; to engage *de novo* through a yet-to-be-named subsidiary, in credit life and credit accident and health insurance activities pursuant to § 225.25(b)(8) of the Board's Regulation Y. These activities will be conducted in Northwestern Ohio.

D. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Central Banking System, Inc.*, San Francisco, California; to expand the activity of its subsidiary, CB Insurance Agency, Inc., Walnut Creek, California, in providing general insurance agency and brokerage activities for the sale of all types of personal and commercial insurance to the general public throughout the United States pursuant to section 4(c)(8)(B) of the Bank Holding Company Act. Comments on this application must be received by July 6, 1987.

2. *Central Banking System, Inc.*, San Francisco, California; to engage *de novo* through its subsidiary, CBS Leasing, Inc., Walnut Creek, California, in making, acquiring and servicing loans and other extensions of credit pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, June 16, 1987.

James McAfee,

Associated Secretary of the Board.

[FR Doc. 87-14067 Filed 6-19-87; 8:45 am]

BILLING CODE 6210-01-M

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Merrimack Bancorp, Inc., et al.

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 or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than July 10, 1987.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Merrimack Bancorp, Inc.*, Lowell, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Lowell Institution for Savings, Lowell, Massachusetts, which engages in Massachusetts Savings Bank Life Insurance activities. Comments on this application must be received by July 13, 1987.

B. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Devon Holding Company, Inc.*, Bala Cynwyd, Pennsylvania; to become a bank holding company by acquiring 99 percent of the voting shares of Dominion Bank, Devon, Pennsylvania, a *de novo* bank. Comments on this application must be received by July 9, 1987.

C. Federal Reserve Bank of Cleveland (John J. Wixted, Jr., Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *First Security Affiliates, Inc.*, Lexington, Kentucky; to merge with State Financial Bancshares, Inc., Richmond, Kentucky. Comments on this application must be received by July 9, 1987.

2. *First Security Corporation of Kentucky*, Lexington, Kentucky; to acquire 100 percent of the voting shares of State Bank & Trust Co. of Richmond, Richmond, Kentucky. Comments on this application must be recieved by First July 9, 1987.

D. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Liberty Bancorp, Inc.*, Washington, D.C.; to become a bank holding company by acquiring 100 percent of the voting shares of First Liberty National Bank, Washington, D.C., a *de novo* bank.

E. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Adairsville Bancshares, Inc.*, Adairsville, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares to Bank of Adairsville, Adairsville, Georgia.

2. *First South Bancshares, Inc.*, Morgan City, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Morgan City Bank & Trust Company, Morgan City, Louisiana. Comments on this application must be received by July 6, 1987.

F. Federal Reserve Bank of Chicago (David S. Epstein, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Blissfield Bank Corp.*, Blissfield, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of The Blissfield State Bank, Blissfield, Michigan. Comments on this application must be received by July 9, 1987.

2. *Wonder Bancorp, Inc.*, Wonder Lake, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Wonder Lake State Bank, Wonder Lake, Illinois. Comments on this application must be received by July 6, 1987.

G. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Boatmen's Bancshares, Inc.*, St. Louis, Missouri; to acquire 100 percent of the voting shares of Boatmen's Bank of Delaware, New Castle, Delaware, a *de novo* bank.

2. *E.B.I. Acquisition Corp.*, Eldorado, Illinois; to become a bank holding company by acquiring 98.8 percent of the voting shares of Bank of Egypt, Marion, Illinois.

3. *Peoples First Corporation*, Paducah, Kentucky; to acquire 100 percent of the voting shares of First National Bank of La Center, La Center, Kentucky.

H. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Groesbeck Bancshares, Inc.*, Groesbeck, Texas; to become a bank holding company by acquiring 99 percent of the voting shares of Farmers State Bank, Groesbeck, Texas. Comments on this application must be received by July 9, 1987.

Board of Governors of the Federal Reserve System, June 16, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-14068 Filed 6-19-87; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect

to these proposed acquisitions during the applicable waiting period:

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 040187 AND 043087

Name of Acquiring Person, Name of Acquired Person, Name of Acquired Entity	PMN No.	Date terminated
(1) Ecolab Inc., ChemLawn Corporation, ChemLawn Corporation	87-1292	04/02/87
(2) Ecolab Inc., ChemLawn Corporation, ChemLawn Corporation	87-1296	04/02/87
(3) Mr. Ezra Harel, Mr. Benson A. Selzer, voting securities of 8 subs	87-1300	04/02/87
(4) E.J. Lavino and Company, Universal Health Services, Inc., Franklin Financial Corp	87-1311	04/02/87
(5) Brierley Investments Limited, Ameron, Inc., Ameron, Inc	87-1245	04/03/87
(6) Equity Group Holdings, Rexcel, Incorporated, Rexcel, Incorporated	87-1304	04/08/87
(7) Borman's Inc., SSI Associates, L.P., Safeway Stores, Incorporated	87-1299	04/09/87
(8) The Kroger Company, SSI Associates, L.P., Safeway Stores, Incorporated	87-1302	04/09/87
(9) Cullum Companies, Inc., SSI Associates, L.P., Safeway Stores, Incorporated	87-1314	04/09/87
(10) Brookshire Grocery Co., SSI Associates, L.P., Safeway Sores Incorpoirated	87-1315	04/09/87
(11) Affiliated Food Stores, Inc., SSI Associates, L.P., Safeway Stores , Incorporated	87-1316	04/09/87
(12) Minyard Food Stores, Inc., SSI Associates, L.P., Safeway Stores, Incorporated	87-1317	04/09/87
(13) Supermarket Development Corporation, SSI Associates, L.P., Safeway Stores, Incorporated	87-1318	04/09/87
(14) Daishowa Paper Mfg. Co., Ltd., Louisiana Pacific Corporation, Fibreboard Corporation	87-1336	04/09/87
(15) Goldome FSB, Plywood Panels, Inc., Plywood Panels, Inc	87-1338	04/09/87
(16) The News Corporation, Harper & Row, Publishers, Inc., Harper & Row, Publishers, Inc	87-1362	04/09/87
(17) The News Corporation Limited, Harper & Row, Publishers, Inc., Harper & Row, Publishers, Inc	87-1363	04/09/87
(18) Affiliated Publications, Inc., Boston Ventures Limited Partnership, HH Acquisition Inc	87-1366	04/09/87
(19) Mr. Arthur R. Lorch, c/o Heathcote, Inc., Ampco-Pittsburgh Corporation, Ampco-Pittsburgh Corporation	87-1369	04/09/87
(20) Hawaiian Electric Industries, Inc., I U International Corporation, Hawaiian Insurance & Guaranty Company,Limited	87-1375	04/09/87
(21) Brierley Investments Limtied, Smith International, Inc., Smith International, Inc	87-1273	04/13/87
(22) The Burmah Oil plc, Thomas Van Straaten, Van Straaten Corporation	87-1298	04/13/87
(23) Henkel KGaA, The Clorox Company, The Clorox Company	87-1323	04/13/87
(24) Atico Financial Corporation, Pan American Mortgage Corporation, Pan American Mortgage Corporation	87-1327	04/13/87
(25) Joseph Weintraub, Atico Finanical Corporation, Atico Financial Corporation	87-1328	04/13/87
(26) Cincinnati Bell Inc., Auxton Computer Enterpriser, Incorporated, Auxton Computer Incorporated	87-1343	04/13/87
(27) World Airways, Inc., Presidential Airways, Inc., Key Airlines, Imcorporated	87-1372	04/13/87
(28) Cincinnati Bell, Inc., Auxton Computer Enterprises, Incorporated, Auxton Computer Enterprises, Incorporated	87-1378	04/13/87
(29) Cincinnati Bell, Inc., Auxton Computer Enterprises, Incorporated, Auxton Computer Enterprises, Incorporated	87-1379	04/13/87
(30) CareerCom Corporation, Jostens, Inc., Jostens Education Systems Inc	87-1303	04/14/87
(31) Jostens, Inc., CarerrCom Corporation, CareerCom Corporation	87-1310	04/14/87
(32) Nippon Life Insurance Company, American Express Company, American Express Company	87-1353	04/14/87
(33) Metropolitan Financial Corporation, H. & Val J. Rothschild, Inc., H. & Val J. Rothschild, Inc	87-1344	04/15/87
(34) American Express Company, The British Petroleum Company, p.l.c., Kennecott Mining Corporation	87-1342	04/16/87
(35) Alan Bond, Freeport-McMoRan, Inc., Freeport Queensland Wickel, Inc	87-1365	04/16/87
(36) Hawley Group Limited, The Biritish Car Auction Group plc, The Biritish Car Auction Group plc	87-1335	04/17/87
(37) Hi-Port Industries, Inc., CPC International Inc., Peterson/Puritan, Inc	87-1345	04/17/87
(38) General Electric Company, Ungermann-Bass, Inc., Industrial Networking, Inc	87-1370	04/17/87
(39) Bruce Hinlein, National Car Rental System, Inc., Lend Lease Cars Inc	87-1374	04/17/87
(40) Jonathan O. Lee, Moore McCormack Resources, Inc., Globe Metallurgical Inc	87-1392	04/17/87
(41) Thomas H. Lee, Moore MCormack Resources, Inc., Globe Metallurgical Inc	87-1393	04/17/87
(42) Welsh, Carson, Anderson & Stowe IV, Comdata Network, Inc., Comdata Network, Inc	87-1408	04/17/87
(43) Equity Holdings, The British Petroleum Company, p.l.c., Kennecott Mining Corporation	87-1320	04/20/87
(44) Tele-Communications, Inc., Diversified Communications, Diversified Communications	87-1325	04/20/87
(45) Reynolds Metals Company, Pechiney, Pechiney Quebec, Inc	87-1334	04/20/87
(46) Ralph Ingersoll II, Community Newspapers Inc., Community Newspapers Inc	87-1357	04/20/87
(47) Warburg Pincus Capital Company, L.P., Community Newspapers Inc., Community Newspapers Inc	87-1358	04/20/87
(48) Ralph M. Ingersoll II, Stanley Henry, Chanry Communications, Ltd	87-1359	04/20/87
(49) Warburg Pincus Capital Company, L.P., Stanley Henry Chanry Communications Ltd	87-1360	04/20/87
(50) Wetterau Incorporated; SSI Associates, L.P., SSI UK Holdings, Inc	87-1364	04/22/87
(51) Nortek, Inc., Bradford-White Corporation, Bradford-White Corporation	87-1394	04/21/87
(52) Bain Capital Fund Limited Partnership, Voting trust for Hallmark Cards, Incorporated, Charles D. Burnes Co., Inc	87-1406	04/21/87
(53) Jones Intercable Investors, L.P., Glenn R. Jones, Jones Intercable, Inc	87-1308	04/22/87
(54) J.C. Penny Company, Inc., Beeba's Creations, Inc., Beeba's Creations, Inc	87-1361	04/23/87
(55) Joy Acquisition Corp., Ecolaire Prime,Inc., Ecolaire Prime, Inc	87-1410	04/23/87
(56) Robert Riordan, American Standard Inc., Web Printing Divisions	87-1414	04/23/87
(57) Alan Gerry, Valley Cable TV, a Calif. limited partnership, Valley Cable TV, a Calif. limited partnership	87-1417	04/23/87
(58) Acme Steel Company, Universal Tool & Stamping Company, Inc., Universal Tool & Stamping Company, Inc	87-1419	04/23/87
(59) William Davidson (UPE); Continental Mortgage Corp., William Davidson (UPE); Guardian Industries, Guardian Photo, Inc	87-1427	04/23/87
(60) Masco Industries, Inc., Tom McGuane Industries, Inc., Tom McGuane Industries, Inc	87-1429	04/23/87
(61) Gulf & Western, Inc., Fruehauf Corporation, FFC Holdings, Inc	87-1432	04/23/87
(62) Energy Factors, Incorporated, Allied-Signal, Inc., GWF Power Systems and Combustion Power Co., Inc	87-1442	04/23/87
(63) ConAgra, Inc., Monfort of Colorado, Inc., Monfort of Colorado, Inc	87-1290	04/24/87
(64) Sheldon W. Fantle, Sherwin-Williams Co., Gray Drug Fair, Inc	87-1381	04/24/87

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 040187 AND 043087—Continued

Name of Acquiring Person, Name of Acquired Person, Name of Acquired Entity	PMN No.	Date terminated
(65) Barry's Jewelers, Inc., Swarovski International Holding A.G., Zale Corporation	87-1400	04/24/87
(66) Barry's Jewelers, Inc., People Jewelers Limited, Zale Corporation	87-1401	04/24/87
(67) Pergamon Holding Foundation, Advance Voting Trust, Diversified Printing Corporation	87-1405	04/24/87
(68) RMS Limited Partnership, CELA Ltd., CELA Ltd	87-1403	04/27/87
(69) Newhill Partner L.P., Allied-Signal, Inc., Ampex Division	87-1420	04/27/87
(70) Atang Latief, Exit Company Limited Partnership, The Executive Centre Project	87-1440	04/27/87
(71) Merrill Lynch & Co., Gould, Inc., System Protection Division	87-1371	04/28/87
(72) Cilluffo Associates, L.P., Intermedic, Inc., Intermedic, Inc	87-1376	04/29/87
(73) Bessemer Securities Corporation, Intermedics, Inc., Intermedics, Inc	87-1377	04/29/87
(74) P.H. Glatfelter Company, Ecusta Corporation, Ecusta Corporation	87-1386	04/29/87
(75) Hooker Corporation Limited, Sanford J. Zimmerman, E.A. Sanford & Company, Inc	87-1390	04/29/87
(76) Sara Lee Corporation, Bil Mar Foods, Inc., Bil Mar Foods, Inc	87-1391	04/29/87
(77) Kenneth R. Thomson, Elsevier N. V., CDA Investment Technologies, Inc	87-1416	04/29/87
(78) S.K. Johnston, Jr., The Procter & Gamble Company, Coca-Cola Bottling Mideast, Inc	87-1422	04/29/87
(79) Osborn Communications Corporation, John Price, Price Broadcasting Co./Anniston Broadcasting Co., Inc	87-1395	04/30/87
(80) IBS Partners Ltd., E. Trine Starnes, Jr., Faygo Beverages, Inc. and Faygo Sales Company	87-1431	04/30/87
(81) Milpark, W.R. Grace & Co., Drilling Mud, Inc	87-1437	04/30/87
(82) Calvin D. Bamford, Jr., Hepworth Ceramic Holdings PLC, Hepworth Plastics, Inc	87-1447	04/30/87
(83) Milpark, Hughes Drilling Fluids, Hughes Drilling Fluids	87-1452	04/30/87

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Contact Representative, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580, (202) 326-3100.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 87-14060 Filed 6-19-87; 8:45 am]

BILLING CODE 6750-01-M

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The Following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 050187 AND 053187

Name of Acquiring Person, Name of Acquired Person, Name of Acquired Entity	PMN No.	Date terminated
(1) Jonathan E.S. Bekhor, American First Corporation, First Affiliated Securities, Inc	87-1450	05/07/87
(2) Bally Manufacturing Corp., Estate of Ernst F. Lied, Christina M. Hixson, Executrix, the Estate	87-1468	05/07/87
(3) The Travelers Corporation, The Equitable Life Assurance Society of the U.S., Equitable Relocation Management Corporation	87-1473	05/07/87
(4) Ezra Harel, Melamede & Company, Inc., Amos Melamede-UPE, Burruss Company Division	87-1477	05/07/87
(5) LDI, Ltd., Mayflower Group, Inc., Major Video Concepts, Inc	87-1503	05/07/87
(6) RFS Equity Partners, L.P., SSI Associates, L.P., Safeway Houston, Inc	87-1504	05/07/87
(7) British & Commonwealth Holdings PLC, The Bank of New York Company, Inc., RMJ Holdings, Inc	87-1505	05/07/87
(8) Beverly Investment Properties, Inc., Beverly Enterprises, Beverly Enterprises-Texas, Inc	87-1516	05/07/87
(9) Arveron Investments Limited Partnership, International Controls Corporation, International Controls Corporation	87-1471	05/11/87
(10) Macmillan, Inc., Bertelsmann, A.G./R. Mohn/J. Mohn, Laidlaw Division of Doubleday & Company, Inc	87-1515	05/11/87
(11) Babcock International plc, Banner Industries, Inc., Mathews Conveyer Company	87-1421	05/12/87
(12) LPL Investment Group Inc., Allied Signal Inc., Amphenol Corporation	87-1448	05/12/87
(13) Boase Massimi Pollitt plc, Ralph Ammirati, Ammirati & Puris, Inc	87-1498	05/12/87
(14) Boase Massimi Pollitt plc, Martin Puris, Ammirati & Puris, Inc	87-1499	05/12/87
(15) Fireman's Fund Corporation, Permian Basin Royalty Trust, Permian Basin Royalty Trust	87-1449	05/13/87
(16) Fireman's Fund Corporation, San Juan Basin Royalty Trust, San Juan Basin Royalty Trust	87-1453	05/13/87
(17) Pacific Scientific Company, Allied-Signal Inc., Sigma Instruments, Inc	87-1475	05/13/87
(18) Litton Industries, Inc., Gould, Inc., Microwave Products Division	87-1457	05/14/87
(19) The Sisters of Charity of Cincinnati, The Sisters of Saint Francis of Colorado Springs, Franciscan Healthcare Corporation	87-1463	05/14/87
(20) MaceRich California Associates, L.P., MacDonald Group Limited Partnership, Community Shopping Centers	87-1464	05/14/87
(21) Norwest Corporation, Hawkeye Bancorporation, Credit card business and receivables	87-1465	05/14/87

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 050187 AND 053187—Continued

Name of Acquiring Person, Name of Acquired Person, Name of Acquired Entity	PMN No.	Date terminated
(22) Macerich Community Centers Associates, MacDonald Group Limited Partnership, Community Shopping Centers	87-1474	05/14/87
(23) Baker Hughes Incorporated, Develco, Inc., Develco, Inc	87-1482	05/14/87
(24) Macerich California Associates, L.P., Buenaventura Plaza, Buenaventura Plaza	87-1494	05/14/87
(25) Macerich California Associates, L.P., Fresmacian Properties, Fresmacian Properties	87-1495	05/14/87
(26) Macerich California Associates, L.P., Triple "F" Investments, Triple "F" Investments	87-1496	05/14/87
(27) General Cinema Corporation, Carter Hawley Hale Stores, Inc., Carter Hawley Hale Stores, Inc	87-1500	05/14/87
(28) Feltex International Limited, All-Steel Associates, Allsteel Inc	87-1502	05/14/87
(29) Siemens Aktiengesellschaft, HERCULES Institutional Investments Inc., HERCULES Institutional Investments Inc	87-1510	05/14/87
(30) Allied-Lyons PLC, Joseph A. Umbach, Joseph Victori Wines, Inc	87-1525	05/14/87
(31) Avon Products, Inc., Fred J. Hayman, Giorgio, Inc	87-1532	05/14/87
(32) Michael George DeGroote, Thomas Terry, Jr., Monroe Tree and Lawntender, Inc	87-1536	05/14/87
(33) Pantera's Corporation, Pizza Inn, Inc., Pizza Inn, Inc	87-1512	05/15/87
(34) Conseco, Inc., Beneficial Corporation, Western National Life Insurance Company	87-1565	05/15/87
(35) Brierly Investments Limited, Wrather Corp., Wrather Corp	87-1443	05/18/87
(36) Societe Nationale Elf Aquitaine, American Cyanamid Company, Jacqueline Cochran, Inc. and La Prairie, Inc	87-1487	05/18/87
(37) Nashua Corporation, Lin Data Corporation, Lin Data Corporation	87-1441	05/19/87
(38) Federated Department Stores, Inc., Robert Campeau, Block's Inc. and Retail Service, Inc	87-1489	05/19/87
(39) James T. Hudson, Thies Companies, Inc., Thies Companies, Inc.	87-1534	05/19/87
(40) F.H. Tomkins p.l.c., Lear Siegler Holdings Corp., Smith & Wesson Corp	87-1539	05/20/87
(41) Giant Group, Ltd., Clark Equipment Company, Clark Equipment Company	87-1484	05/21/87
(42) Robert R. Russell, Commercial Federal Corporation, Systems Marketing, Inc	87-1531	05/21/87
(43) Jack P. DeBoer, The Residence Inn Company, The Residence Inn Company	87-1544	05/21/87
(44) SCI Systems, Inc., Fortune Systems Corporation, Fortune Systems Corporation	87-1556	05/21/87
(45) Caguas Central Federal Savings Bank of Puerto Rico, Leaseway Transportation Corp., Leaseway of Puerto Rico, Inc	87-1559	05/21/87
(46) Salomon Inc., TVX Broadcast Group Inc., TVX Broadcast Group Inc	87-1564	05/21/87
(47) Blue Cross and Blue Shield of Wyoming, Plan Investment Fund, Inc., Plan Investment Fund, Inc	87-1573	05/21/87
(48) Blue Cross of Northeastern Pennsylvania, Plan Investment Fund, Inc., Plan Investment Fund, Inc	87-1574	05/21/87
(49) Blue Cross of Greater Philadelphia, Plan Investment Fund, Inc., Plan Investment Fund, Inc	87-1575	05/21/87
(50) Memphis Hospital Service and Surgical Association, Inc., Plan Investment Fund, Inc., Plan Investment Fund, Inc	87-1576	05/21/87
(51) South Dakota Medical Service, Inc., Plan Investment Fund, Inc., Plan Investment Fund, Inc	87-1577	05/21/87
(52) Group Health Service of Oklahoma, Inc., Plan Investment Fund, Inc., Plan Investment Fund, Inc	87-1578	05/21/87
(53) Jacor Communications, Inc., A.H. Belo Corporation, Belo Radio, Inc	87-1582	05/21/87
(54) Textron Inc., Household International, Inc., accounts receivable	87-1583	05/21/87
(55) Household International, Inc., Textron Inc., accounts receivable	87-1584	05/21/87
(56) Insilco Corporation, Dual-Lite, Inc., Dual-Lite, Inc	87-1593	05/21/87
(57) The Fluorocarbon Company, Eaton Company, Industrial Polymer Products Division	87-1481	05/22/87
(58) Brierley Investments Limited, Union Special Corporation, Union Special Corporation	87-1526	05/22/87
(59) Southmark Corporation, Primerica Corporation, Berg Ventures; Woodson Ventures; and Metro Ventures, Inc	87-1543	05/22/87
(60) Snyder Oil Partners L.P., Cenergy Corporation, Cenergy Corporation	87-1470	05/26/87
(61) William R. Berkley, Atlanta Dairies Cooperative, Atlanta Dairies Cooperative	87-1483	05/26/87
(62) Rite Aid Corporation, The Sherwin-Williams Company, Gray Drug Fair, Inc	87-1529	05/26/87
(63) Ramada, Inc., Ladbroke Group PLC, Parkmount Hospitality Corporation	87-1549	05/26/87
(64) Marubeni Corporation, Bayer AG, Helena Chemical Company	87-1562	05/26/87
(65) Lomas & Nettleton Financial Corporation, Premier Bancorp, Inc., Louisiana Natl. Bank of Baton Rouge and Guaranty Bank	87-1476	05/27/87
(66) Wickes Companies, Inc., Ronald A. West, Dura Corporation	87-1486	05/27/87
(67) Gechem s.a., Newmont Mining Corporation, Foote Mineral Company	87-1507	05/27/87
(68) Hooker Corporation Limited, Robert Campeau, Bonwit Teller, Inc	87-1538	05/27/87
(69) Alta Bates Corporation, Northern California Health Center, Northern California Health Center	87-1594	05/27/87
(70) Longs Drug Stores Corporation, American Stores Company, OSCO Drug Inc	87-1548	05/28/87
(71) American Stores Company, Longs Drug Stores Corporation, 15 OF Longs drug stores	87-1550	05/28/87
(72) Texas Air Corporation, UAL, Inc., UAL, Inc	87-1585	05/28/87
(73) Racal Electronics, PLC, Enterra Corporation, Nine indirect subsidiaries of Enterra Corporation	87-1633	05/28/87
(74) MDT Corporation, Sybron Corporation, Castle Company	87-1560	05/29/87
(75) Edwards Dunlop and Company Limited, The Meade Corporation, Seaboard Paper Company	87-1488	05/30/87

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Contact Representative, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580, (202) 326-3100.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 87-14061 Filed 6-19-87; 8:45 am]

BILLING CODE 6750-01-M

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers

or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 060187 AND 061087

Name of Acquiring Person, Name of Acquired Person, Name of Acquired Entity	PMN No.	Date terminated
(1) United Newspapers public limited company, Extel Group PLC, Extel Group PLC	87-1591	06/03/87
(2) F L Industries Holdings, Inc., MRC Holdings Corp., MRC Acquisition Corp. No. 5 and No. 21	87-1513	06/04/87
(3) Western Digital Corporation, Faraday Electronics, Inc., Faraday Electronics Inc	87-1533	06/04/87
(4) Barris Industries, Inc., Clark Equipment Company, Clark Equipment Company	87-1545	06/04/87
(5) Pergamon Holding Foundation, Harcourt Brace Jovanovich, Inc., Harcourt Brace Jovanovich, Inc	87-1606	06/04/87
(6) CSR Limited, Monier Limited, Monier Limited	87-1631	06/05/87
(7) Alan Bond, Thomas B. Crowley, Merlin Petroleum Company	87-1656	06/05/87
(8) Dome Mines Limited, Placer Development Limited, Placer Development Limited	87-1658	06/05/87
(9) Control Data Corporation, VTC Incorporated, VTC Incorporated	87-1668	06/05/87
(10) International American Homes, Inc., Mr. Donald G. Dozier, Diversified Shelter Group et al	87-1676	06/05/87
(11) Maxus Energy Corporation, Wheeling-Pittsburgh Steel Corporation, Wheeling Gateway Coal Company	87-1607	06/08/87
(12) Waste Management, Inc., Bruce Leven, Bayside Waste Hauling and Transfer, Inc	87-1621	06/08/87
(13) Marriott Corporation, Jack P. DeBoer, Residence Inn Corp., The Residence Inn Company	87-1659	06/08/87
(14) First Boston, Inc., Harcourt Brace Javonovich, Inc., Harcourt Brace Javonovich, Inc	87-1672	06/08/87
(15) Days Inn Corp., Benjamin H. Selph, Benjamin H. Selph	87-1679	06/08/87
(16) Holland America Line Trust, Taconic Holdings, Inc., Windstar Sail Cruises Limited	87-1708	06/08/87
(17) Federal Enterprises, Inc., George N. Gillett, Jr., WLUC-TV & KTVO-TV	87-1661	06/10/87
(18) Primerica Corporation, Smith Barney Inc., Smith Barney Inc	87-1669	06/10/87

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Contact Representative, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580, (202) 326-3100.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 87-14062 Filed 6-19-87; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

Conformity of Child Support Enforcement Plan of the Commonwealth of Puerto Rico With Federal Requirements; Cancellation of Hearing

Notice of cancellation of a hearing which was published in the **Federal Register** of May 18, 1987 (52 FR 18611) is hearby given as set forth in the following letter to the Commonwealth of Puerto Rico's Department of Social Services.

Mrs. Carmen Sonia Zayas, Secretary, Department of Social Services, P.O. Box 11398, Fernandez Juncos Station, Santurce, Puerto Rico 00910

Dear Mrs. Zayas: This is to advise you that the hearing scheduled for June 24 regarding my intent to disapprove the Commonwealth's State IV-D plan has been cancelled. I have been notified by OCSE's Regional Representative in New York, Ann Schreiber, that the issues set forth in my letter to you of May 8 have been resolved and that the appropriate State plan amendments have been approved.

I am grateful for all of the efforts made by yourself, other Commonwealth officials, and the legislature to bring Puerto Rico's child support enforcement program into compliance with Federal requirements. I am confident that these efforts will translate into meaningful benefits for the children in the Commonwealth who so desperately need enforcement services.

Please note that Ms. Schreiber's letter to you of May 18 lists one further matter, regarding Federal requirements prohibiting retroactive modification of child support arrearages, which must be resolved prior to June 30. I expect that the Commonwealth will take the necessary steps to expeditiously deal with this situation.

Dated: June 10, 1987.

Wayne A. Stanton,

Director, Office of Child Support Enforcement.

[FR Doc. 87-14097 Filed 6-19-87; 8:45 am]

BILLING CODE 4190-11-M

Health Care Financing Administration

[BDM-041-N]

Medicare and Medicaid Programs; ICD-9-CM Coordination and Maintenance Committee Meeting

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of public meeting.

SUMMARY: This notice announces the next meeting of the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM) Coordination and Maintenance Committee. The public is invited to participate in the discussion of the topic areas.

DATE: The meeting will be held on Wednesday, July 22, 1987 and Thursday, July 23, 1987, beginning at 10:00 a.m. to 4:00 p.m. E.D.T.

ADDRESS: The meeting will be held in Room 703A Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Betty See, (301) 594-4885.

SUPPLEMENTARY INFORMATION: The ICD-9-CM is the clinical modification of

the World Health Organization's International Classification of Diseases, Ninth Revision. It is the coding system required for use by hospitals and other health care facilities in reporting both diagnoses and surgical procedures for Medicare, Medicaid, and all other health-related DHHS programs. The work of the ICD-9-CM Coordination and Maintenance Committee will allow this coding system to continue to be an appropriate tool for use in Federal programs. The public is invited to participate in the discussion of the topic areas.

The Committee is composed entirely of representatives from various Federal agencies interested in the International Classification of Diseases (ICD) and its modification, updating, and use for Federal programs. It is co-chaired by the National Center for Health Statistics and the Health Care Financing Administration.

At this meeting, the Committee will discuss the following procedures: Debridement, apheresia, electrophysiologic testing, coronary switch (Jatene) procedure, Wada procedure, biopsy revision, implantation of electromagnetic hearing aid, and shoulder replacements. The following diagnoses will be discussed: 8 week rule for myocardial infarctions, congestive heart failure inclusion in ICD-9-CM diagnosis code 404 (hypertensive heart and renal disease), dementia dialysis, dialysis encephalopathy syndrome, graft versus host disease, polygalactia, psychosexual dysfunction, and other topics.

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program; No. 13.773, Medicare—Hospital Insurance Program; No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: June 16, 1987.

William L. Roper,

Administrator, Health Care Financing Administration.

[FR Doc. 87-14126 Filed 6-19-87; 8:45 am]

BILLING CODE 4120-01-M

Public Health Service

Office of the Assistant Secretary for Health; Statement of Organization, Functions and Delegations of Authority

Part H, Public Service (PHS), Chapter HA, Office of the Assistant Secretary for Health, of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (DHHS) (42 FR 61318, December 2, 1977, as amended most recently at 52 FR 13318, April 22, 1987) is amended to reflect a new title and functional statement for the Office of Program Support, National Center for Health Services Research and Health Care Technology Assessment (NCHSR/HCTA). These changes will describe more accurately the current activities of this Office.

Office of the Assistant Secretary for Health

Under Part H. Chapter HA, Office of the Assistant Secretary for Health, Section HA-20, Functions, National Center for Health Services Research and Health Care Technology Assessment (HAR), after the statement for the Office of the Director (HAR1), delete the title and statement for the *Office of Program Support (HAR13)* and insert the following:

Office of Management (HAR16).

The Office of Management, as part of the Office of the Director, NCHSR/HCTA, advises the Director on and participates in the development and implementation of program and administrative policy and in the overall support of program and administrative activities. The Office:

(1) Plans, coordinates, directs and conducts the management operations of the NCHSR/HCTA; (2) reviews program operations for work planning accountability and resources use; (3) monitors, reviews and comments on legislative and policy proposals that impact on Center authorities and operations; (4) serves as principal advisor in financial management activities and manages a system of budgetary expenditures and employment controls; (5) develops and directs systems for personnel, paperwork management, staff resource utilization and management by objectives; (6) plans, develops and conducts a management information system; (7) develops annual ADP plans and assures the timely issuance of reports; (8) provides support for Center computer system design and programming; (9) provides administrative services in the areas of delegations of authority, reports and records management, and organization and management analysis; (10) conducts organization and operation procedures studies; (11) monitors the performance appraisal system for the Center; and (12) develops and oversees the implementation of methods and procedures for controlling operations of the Center.

Dated: June 12, 1987.

Wilford J. Forbush,

Director, Office of Management.

[FR Doc. 87-14070 Filed 6-19-87; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Agency Information Collection Activities Under OMB Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau Clearance Officer and the Office of Management and Budget, Interior Department Desk Officer, Washington, DC 20503, telephone (202) 395-7340.

Title: Nondiscrimination on the Basis of Age in Federally-Assisted Programs of the Department of the Interior, 43 CFR Part 17 Subpart C.

Abstract: The Department of the Interior's age discrimination regulation provides authority for the Department to require recipients to keep and report civil rights information. The regulation also requires recipients to provide assurances or certification as to their civil rights compliance status. In addition, the regulation provides that the Department of the Interior may require, as part of compliance review, that recipients employing the equivalent of fifteen (15) or more employees, complete a written self-evaluation.

The regulation also provides for written complaints from persons who believe unlawful discrimination has occurred in a Federal financial assistance program of the Department.

Bureau Form Number: None.

Frequency: On occasion.

Description of Respondents: State and local governments receiving Federal financial assistance from the Department of the Interior, and any person who believes unlawful discrimination has occurred in a federally-assisted program of the Department.

Annual Responses: 500

Annual Burden Hours: 10,250

Bureau Clearance Officer: John Strylowski (202) 343-6191.

Dated: June 5, 1987.

Carmen R. Maymi,

Director, Office for Equal Opportunity.

[FR Doc. 87-14092 Filed 6-19-87; 8:45 am]

BILLING CODE 4310-RE-M

Bureau of Land Management

[WY-019-87-4212-24; W-89693]

Realty Action; Leasing of Public Lands in Hot Springs County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Noncompetitive surface Facility Lease on Public Lands in Hot Springs County, Wyoming to Conrad Soderstrom.

SUMMARY: The Bureau of Land Management proposes to lease the surface of approximately 1.25 acres of public land for an existing oil field service related facility under the authority of section 302 of the Federal Land Policy Act of 1976. The existing unauthorized facilities consist of a section of a quonset type building and access to an existing oil field road.

DATE: For a period of 45 days from the date of ths notice, interested parties may submit comments to the Area Manager, Grass Creek Resource Area, P.O. Box 119, Worland, Wyoming 82401. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and will issue a final determination.

FOR FURTHER INFORMATION CONTACT: Leonard Larsen, Grass Creek Resource Area, (307) 347-9871.

SUPPLEMENTARY INFORMATION: The lands have been examined and identified as suitable for lease under section 302 of the Federal Land Policy and Mangement Act of 1976 (90 Stat. 22762; 43 U.S.C. 1732), at not less than the appraised fair market rental. Current fair market rental for the parcel has been determined to be $55.00 annually.

The lease would authorize existing facilities of an oil field service business owned by Mr. Soderstrom which are partially located on the following public lands:

T. 46 N., R. 99 W., 6th P.M. Hot Springs County, Wyoming
Sec. 13: W½S½S½S½SE¼SE¼SE¼, W½E½S½S½S½SE¼SE¼ SE¼;
Sec. 24: Lot 3 (0.3125 acres within Lot 3).
Containing 1.25 acres more or less.

George B. Hollis,

Grass Creek Area Manager.

[FR Doc. 87-14066 Filed 6-19-87; 8:45 am]

BILLING CODE 4310-22-M

[NV-010-07-4322-02]

Elko District Advisory Council; Meeting

In accordance with Pub. L. 92-463, the Federal Advisory Committee Act, and Pub. L. 94-579 the Federal Land Policy and Management Act, notice is hereby given that the BLM Elko District Advisory Council will meet at 9:00 A.M. on July 16, 1987 at the Elko District Office at 3900 East Idaho Street, Elko, Nevada, for a field tour to the Carlin area mining district.

Topics to be discussed and seen include: Hard Rock Mining Operation and Rehabilitation of Mined Areas.

The public may attend, but must provide their own transportation. Anyone wishing to make a statement to the Council may do so, however, they must contact Michele Good, BLM, Elko District, P.O. Box 831, Elko, Nevada 89801, or call 702-738-4071 no later than July 8, 1987, so that arrangements for the time may be made.

Summary minutes of the meeting will be prepared and available for public inspection or reproduction during regular business hours within 30 days following the meeting.

Rodney Harris,

District Manager.

[FR. Doc. 87-14065 Filed 6-19-87; 8:45 am]

BILLING CODE 4310-HC-M

Minerals Management Service

Development Operations Coordination Document; Conoco Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Conoco Inc. has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 6158, Block 134, High Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Cameron and Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on June 12, 1987. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwod Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Flood of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: June 15, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-14121 Filed 6-19-87; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Conoco Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Conoco Inc. has submitted a DOCD describing the activities it proposes to conduct on Leases OCS 0163 and 0184, Blocks 71 and 72, respectively, East Cameron Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from onshore bases located at Cameron and Morgan City, Louisiana.

DATE: The subject DOCD was deemed submitted on June 12, 1987.

ADDRESS: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: June 12, 1987.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 87-14122 Filed 6-19-87; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31052]

Aberdeen, Carolina & Western Railway Co.; Acquisition and Operation Exemption; Certain Lines of Aberdeen & Briar Patch Railway Company

Aberdeen, Carolina & Western Railway Company has filed a notice of exemption to acquire and operate property of Aberdeen & Briar Patch Railway Company between Star, NC, and Aberdeen, NC (milepost AD-22.28 to milepost AD-56.7), a distance of 34.42 miles. Any comments must be filed with the Commission and served on Robert M. Menzies, II, P.O. Box 646, Aberdeen, N.C. 28315.[1]

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: June 12, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87-14016 Filed 6-19-87; 8:45 am]

BILLING CODE 7035-01-M

[1] The Railway Labor Executives' Association (RLEA) filed an unsupported request for labor protection claiming that this transaction is subject to the mandatory labor protection provisions of 49 U.S.C. 11347. Since this transaction involves an exemption from 49 U.S.C. 10901, only a showing of exceptional circumstances will justify the imposition of labor protective conditions. RLEA's request is denied, because the requisite showing has not been made. *See Class Exemption—Acq. & Oper. of R. Lines under 49 U.S.C. 10901*, 1 I.C.C.2d 810 (1985).

OFFICE OF PERSONNEL MANAGEMENT

Agency Information Collection Activities Under OMB Review

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces new information collections from the public. Four new forms to implement certain provisions of the Federal Employees Retirement System (FERS) Act of 1986 are as follows:

Standard Form 3102, Designation of Beneficiary (FERS), allows FERS annuitants to designate specific beneficiaries to receive lump-sum benefits in the event of the annuitants' death. It is estimated that approximately 400 annuitants annually will complete the form in 15 minutes each.

Standard Form 3104, Application for Death Benefits (FERS), allows survivors of Federal employees or annuitants to apply for death benefits. It is estimated that approximately 1,000 survivors annually will complete the form in 30 minutes each.

Standard Form 3105, Application for Disability Retirement Under FERS, allows former Federal employees to apply for disability retirement and for physicians to submit medical data. It is estimated that approximately 1,000 former Federal employees and physicians will annually complete the form for a combined time of 1 hour each.

Form 3106, Application for Refund of Retirement Deductions (FERS), allows former Federal employees to request a refund of their retirement deductions. It is estimated that approximately 10,000 former Federal employees annually will complete the form in 30 minutes each.

These forms enable the Office of Personnel Management to determine eligibility of the applicants and to maintain a record of beneficiaries.

For copies of this proposal call William C. Duffy, Agency Clearance Officer, on (202) 632-7714.

DATE: Comments on this proposal should be received within 20 working days from the date of this publication.

ADDRESSES: Send or deliver comments to—

William C. Duffy, Agency Clearance Officer, Office of Personnel Management, 1900 E Street, NW., Room 6410, Washington, DC 20415

and

Richard Eisinger, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3002, New Executive Office Building, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: James L. Bryson, (202) 632-5472.

U.S. Office of Personnel Management.

James E. Colvard,

Deputy Director.

[FR Doc. 87-14114 Filed 6-19-87; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-15812; 812-6636]

IDS Mutual, Inc., et al.; Application

Dated: June 16, 1987.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: IDS Mutual, Inc., IDS Stock Fund, Inc., IDS Selective Fund, Inc., IDS Equity Plus Fund, Inc., IDS New Dimensions Fund, Inc., IDS Progressive Fund, Inc., IDS Growth Fund, Inc., IDS Bond Fund, Inc., IDS Cash Management Fund, Inc., IDS Tax-Exempt Bond Fund, Inc., IDS High Yield Tax-Exempt Fund, Inc., IDS Tax-Free Money Fund, Inc., IDS Discovery Fund, Inc., IDS Extra Income Fund, Inc., IDS Strategy Fund, Inc., IDS International Fund, Inc., IDS Precious Metals Fund, Inc., IDS Managed Retirement Fund, Inc., IDS Federal Income Fund, Inc., IDS Special Tax-Exempt Series Trust, IDS California Tax-Exempt Trust, IDS Life Capital Resource Fund, Inc., IDS Life Special Income Fund, Inc., IDS Life Moneyshare Fund, Inc., IDS Life Managed Fund, Inc. and all future investment companies which are part of the IDS Mutual Fund Group (the "Funds").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from the provisions of section 32(a)(1) of the Act.

Summary of Application: Applicants seek an order exempting them from the provisions of section 32(a)(1) of the Act to permit them to file financial statements signed or certified by an independent public accountant selected at a board of directors meeting held within ninety days before or after the beginning of the Applicants' fiscal year.

Filing Date: The Application was filed on February 23, 1987 and amended on June 12, 1987.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on July 10, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, IDS Tower—10, Minneapolis, MN 55440.

FOR FURTHER INFORMATION CONTACT: Denis R. Molleur, Staff Attorney (202) 272-2363 or Curtis Hilliard, Special Counsel (202) 272-3026 (Division of Investment Management).

Applicants' Representations

1. Each of the Applicants is an open-end management investment company organized either under the laws of the State of Minnesota as a corporation or under the laws of the State of Massachusetts as a business trust.

2. For a number of years, each Fund has held its annual meeting of stockholders on the same day as all the other Funds, usually in July. At the last annual meeting in June, 1986, each Fund took such action as was necessary so that the Funds need not hold annual meetings. Neither the laws of Minnesota pertaining to corporations nor the laws of Massachusetts applicable to business trusts require the holding of an annual meeting. Therefore, unless stockholder action is required for some other reason, it is the intention of each Fund that an annual meeting will not be held. Accordingly, under the provisions of section 32(a)(1) the Funds now will have to select their independent public accountant within thirty days before or after the beginning of each Fund's fiscal year.

3. The selection of independent public accountants is based on the work of a joint audit committee ("Committee") which is composed of three directors who are not interested persons of the Applicants and who serve on the boards of directors of each of the Applicants. The Committee meets with the independent public accountants at least twice each year, once to discuss the scope of the audits and estimated costs and a second time to review the results of such audits. Based on these meetings, the Committee makes its recommendation to the respective boards of Funds with respect to the selection of the independent public accountants.

4. The boards of directors of all Applicants generally meet jointly. It is the usual practice to consider an issue that affects more than one of the Applicants at the same meeting. In the case of selecting the independent public accountant, it is particularly desirable to follow this practice. Since all the boards of directors of the Applicants meet in joint session, the most convenient way to proceed with the selection of the independent public accontant is to have the matter appear on one agenda during the year instead of on some of the Funds' agenda virtually every meeting throughout the year. In the past, the May meeting has been the usual month for the selection.

5. The same independent public accountant presently serves each Applicant. The accountant's audit programs are designed so that test work is often done for all Funds at the same time. Unless an unforeseen conflict of interest were to arise, it is anticipated that in the future the independent public accountant selected to serve one Applicant also will be selected by each of the other Applicants. The Applicants, however, have staggered the beginning of their fiscal years so that some fiscal years begin in March, some in June and some in each month thereafter until the end of the calendar year. The staggering of the fiscal year-ends was designed to permit economic utilization of resources for both the accounting personnel of the investment manager and the personnel of the independent public accountant. As a result, the decision to continue with the same or to appoint a new accountant really must occur for all Funds at the same point of time each year. Therefore, each Applicant is seeking an order to permit it to file financial statements signed or certified by an independent public accountant which has been selected at a meeting held within ninety days before or after its fiscal year end. By so doing, directors' meetings on a complex-wide basis could be arranged so that the selection of an independent public accountant need be considered only twice each year.

6. Each Applicant submits that it is desirable for it to consider the selection of its independent public accountant at the same time during the year as each of the other Applicants. The Applicants believe that expanding the thirty-day window under section 32(a)(1) of the 1940 Act ("Section 32(a)(1) Window") will permit a regular and structural consideration of the independent public accountant for the IDS Mutual Fund Group complexes at a meaningful interval of time. The Applicants submit that this is preferable to the almost monthly selection which would be required if the thirty-day window is not expanded, and that such a practice is more convenient for the Applicants and is consistent with the policies underlying the Act.

7. By permitting the scheduling of the selection of the independent public accountant twice a year on a complex-wide basis through expanding the section 32(a)(1) window from 30 to 90 days, the Commission will allow a director review procedure to be put in place that will ensure that selection of the Funds' independent public accountant is considered on a systematic basis. The review Procedures will: (1) Provide for detailed review of the services furnished by the independent accountant to the Fund and (2) result in directors' consideration of

all information developed by the Committee. Further, the process will more accurately reflect the reality of doing business in complexes having a substantial number of funds which is different from the time the Act was passed when funds were operated on an individual basis or in small fund groups.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-14129 Filed 6-19-87; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #6532]

Declaration of Disaster Loan Area; New Jersey

The city of Long Branch, New Jersey, constitutes a disaster area because of a fire which occurred at the Long Branch, New Jersey Amusement and Fishing Pier on June 8, 1987. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on March 17, 1988, at the address listed below:

Disaster Area 1 Office, Small Business Administration, 15-01 Broadway, Fair Lawn, New Jersey 07410

or other locally announced locations. The interest rate for eligible small business concerns without credit available elsewhere is 4 percent and 9.5 percent for eligible small agricultural cooperatives without credit available elsewhere.

(Catalog of Federal Domestic Assistance Program No. 59002.)

Dated: June 16, 1987.

James Abdnor,

Administrator.

[FR Doc. 87-14117 Filed 6-19-87; 8:45 am]

BILLING CODE 8025-01-M

[License No. 01/01-0297]

Surrender of License; Hampshire Capital Corp.

Notice is hereby given that Hampshire Capital Corporation, 500 Spaulding Turnpike, Portsmouth, New Hampshire 03801 has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Hampshire Capital Corporation was licensed by the Small Business Administration on September 2, 1980.

Under the authority vested by the Act and pursuant to the Regulations promulgated thereunder, the surrender was accepted on April 16, 1987, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: June 11, 1987.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 87-14116 Filed 6-19-87; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 87-043]

Towing Safety Advisory Committee; Meeting of Subcommittees

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; U.S.C. App. I), notice is hereby given of a meeting of all Subcommittees of the Towing Safety Advisory Committee (TSAC). The subcommittee meetings will be held on 22 July 1987 in Room 3442-44-46 of the Department of Transportation Headquarters (NASSIF) Building, 400 7th Street, SW., Washington, DC. The meetings will begin at 1:30 p.m. and end at 4:00 p.m. The agenda for the meetings consists of the following items:

1. Call to Order.
2. Discussion of the following topics:
(a) Port Facilities and Operations
(b) Tankbarge—Construction, Certification, Operations
(c) Personnel Manning and Licensing
(d) Personnel Safety and Workplace Standards
(e) Existing Regulations Review and Restructure
(f) IMO/MARPOL Initiatives
(g) Working Group:
(1) Air Quality/Vapor Control
3. Presentation of any new items for consideration of the Subcommittees.
4. Adjournment.

Attendance is open to the interested public. Members of the public may present oral or written statements at the meeting. Additional information may be obtained from B.P. Novak, Executive Director (Acting), Towing Safety Advisory Committee, U.S. Coast Guard (G-CMC/21), Washington, DC 20593 or by calling (202) 267-1477.

Dated: June 17, 1987.

B.P Novak,

Acting Executive Director, Towing Safety Advisory Committee.

[FR Doc. 87-14110 Filed 6-19-87; 8:45 am]

BILLING CODE 4910-14-M

[CGD 87-042]

Towing Safety Advisory Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: 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 Towing Safety Advisory Committee (TSAC). The meeting will be held on 23 July 1987 in Room 2415, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC. The meeting is scheduled to begin at 8:00 a.m. and end at 4:00 p.m. The agenda is expected to be as follows:

1. Approval of minutes from April 1987 TSAC meeting.
2. TSAC discussion and/or deliberation concerning the following items:
(a) Mandatory Alcohol and Drug Testing Following Serious Marine Incidents
(b) Operating a Commercial Vessel While Intoxicated
(c) Drug Detection for Merchant Marine Personnel
(d) Licensing of Pilots
(e) Tankerman Requirements
(f) Licensing of Maritime Personnel
(g) Sidelights on Tugs
(h) New ABS Rules for Towing Vessels
(i) Air Quality: Vapor Control/Recovery
(j) IMO Status Report
(k) OSHA's Proposed Benzene Standard
(l) Intervals for Drydocking/Tailshaft Exams
(m) Vessels in Lay-Up Status
(n) Any other matter properly brought before the committee
3. Summary of Action Items.
4. Adjournment.

Attendance is open to the public. With advance notice, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Director of TSAC no later than the day before the meeting.

FOR FURTHER INFORMATION CONTACT: B.P. Novak, Executive Director (Acting), Towing Safety Advisory Committee,

U.S. Coast Guard (G-CMC/21), Washington, DC 20593, (202) 267-1477.

Dated: June 17, 1987.

B.P. Novak,

Acting Executive Director, Towing Safety Advisory Committee.

[FR Doc. 87-14111 Filed 6-19-87; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Advisory Circular; Evaluation of Flight Loads on Small Airplanes With T, V, +, or Y Empennage Configurations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed Advisory Circular (AC) Availability and Request for Comments.

SUMMARY: This AC provides information and guidance concerning compliance with Part 23 of the Federal Aviation Regulations (FAR) applicable to evaluation of empennage design flight loads on configurations where the horizontal tail surfaces are supported by the vertical tail or having appreciable dihedral.

DATE: Commenters must identify File 23-XX-14; Subject: Evaluation of Flight Loads on Small Airplanes with T, V, +, or Y Empennage Configurations, and comments must be received on or before Aug 21, 1987.

ADDRESS: Send all comments on the proposed AC to: Federal Aviation Administration, ATTN: Standards Office (ACE-110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Edward A. Gabriel, Aerospace Engineer, Standards Office (ACE-110), Aircraft Certification Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; commercial telephone (816) 374-6941, or FTS 758-6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this proposed AC by writing to: Federal Aviation Administration, Aircraft Certification Division, Standards Office (ACE-110), 601 East 12th Street, Kansas City, Missouri 64106.

Comments Invited

Interested parties are invited to submit comments on the proposed AC. The proposed AC and comments received may be inspected at the Standards Office (ACE-110), Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, Missouri, between the hours of 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

Background

Section 23.427(c) requires that configurations where the horizontal tail surfaces are supported by the vertical tail, or have appreciable dihedral, must be designed for the combined vertical and horizontal loads resulting from each flight condition (taken separately) prescribed by Part 23 of the FAR. Guidance for the development and verification of acceptable analysis methods is contained in this AC.

Issued in Kansas City, Missouri, June 8, 1987.

Barry D. Clements,

Manager, Aircraft Certification Division.

[FR Doc. 87-14083 Filed 6-19-87; 8:45 am]

BILLING CODE 4910-13-M

High Density Traffic Airport Slots—Allocation by Lottery; Meeting

AGENCY: Federal Aviation Administration (FAA), Department of Transportation, (DOT).

ACTION: Notice of meeting to allocate High Density Traffic Airport slots by lottery.

SUMMARY: In December 1985, the Secretary of Transportation issued a rule establishing procedures for the allocation and transfer of operating slots at the four airports designated as high density traffic airports: Kennedy International, LaGuardia, O'Hare International, and Washington National Airports. The rule provides that unallocated and returned slots will be distributed by lottery. The previous lottery was conducted on December 9, 1986.

This notice announces a meeting to conduct lotteries to allocate air carrier and commuter slots which have become available at any of the four airports since December 9, 1986.

DATES: *Meeting:* The meeting will be held on Wednesday, July 22, 1987. The air carrier slot lotteries will begin at 9:00 a.m. The commuter slot lottery will begin at 10:30 a.m.

Requests to participate: Notice of intent to participate must be received by 5:00 p.m. on the following dates:

Incumbent operators: July 20, 1987

New entrant operators: July 7, 1987

ADDRESSES: The meeting will be held at FAA Headquarters, Third Floor Auditorium, 800 Independence Avenue, SW., Washington, DC.

Requests to participate in the lottery should be submitted to: Office of the Chief Counsel, Slot Administration Office, AGC-200, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: David L. Bennett, Manager, Airspace and Air, Traffic Law Branch, AGC-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, Telephone: (202) 267-3491.

SUPPLEMENTARY INFORMATION:

Availability of Document

Any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Public Affairs, 800 Independence Avenue, SW., Washington, DC 20591; or by calling (202) 267-8058. Communications must identify the notice number of the document.

Background

On December 16, 1985, the Department of Transportation issued Amendment No. 93-49, "High Density Traffic Airports; Slot Allocation and Transfer Methods; Final Rule" (50 FR 52180, December 20, 1985), adding new Subpart S to Part 93 of the Federal Aviation Regulations (FAR), 14 CFR Part 93, Subpart S. The rule established procedures for the allocation and transfer of operating slots at the four airports designated as high density traffic airports under the High Density Rule, 14 CFR Part 93, Subpart K; *Kennedy International; LaGuardia, O'Hare International, and Washington National Airports.* The rule provided that unallocated and returned slots will be distributed by lottery.

On December 9, 1986, a lottery of air carrier and commuter slots at all four high density traffic airports was conducted under the provision of Subpart S. Since that time a few slots have again become available, through operation of the use-or-lose provisions of 14 CFR 93.227 and through the failure of some carriers to use the slots obtained in the December 9 lottery within the required time. The final rule issued in December 1985 states that lotteries will be held when sufficient slots are available for general distribution, but normally not more than twice each year. In consideration of the availability of slots and the fact that no lottery has been held since December 1986, a lottery of air carrier and commuter slots will be held on July 22, 1987.

The list of slots available for distribution by lottery will be determined as of July 21. Slots may not be available in both commuter and air carrier categories at all airports.

On June 10, 1986, the Department issued an amendment to Subpart S which, among other changes, made

certain minor modifications to the Subpart S lottery procedures (51 FR 21708, June 13, 1986). Specifically, the amendment increased the set-aside of slots for new entrants from 15% to 25%; required that operators wishing to participate in the lottery notify the FAA of any common control or ownership with other carriers; prohibited participation by carriers which drew slots in the previous lottery and failed to use them; and provided that unselected slots from the new entrant pool will be distributed to incumbents. These changes were incorporated in the previous December lottery and remain in effect for the current lottery.

General Slot Lotteries Under 14 CFR 93.225

Time:

Air carrier lottery: 9:00 a.m., July 22, 1987

Commuter operator lottery: 10:30 a.m., July 22, 1987.

Requests to Participate:

For each of the high density airports, each air carrier and commuter operator operating at that airport will be included in the appropriate lottery for the airport upon written notification to the FAA by 5:00 p.m. on July 20, 1987, of the operator's desire to participate.

Any air carrier or commuter operator which: (i) Is not operating at the airport and (ii) has not failed to operate slots obtained in the previous lottery, but wishes to initiate service at the airport, shall be included in the lottery if that operator notifies the Office of the Chief Counsel in writing. To be eligible to participate, the operator must hold appropriate economic authority under Title IV of the Federal Aviation Act of 1958, as amended, and must hold or have made substantial progress in obtaining FAA operating authority under Part 135 or Part 121 of Title 14 of the Code of Federal Regulations. "Substantial progress" for this purpose is defined in 14 CFR 93.225(g). The notification must also include a statement as to whether there is any common ownership or control of, by, or with any other carrier as defined in 14 CFR 93.213(c). The notification must be in duplicate and must be received by 5:00 p.m. on July 7, 1987, as additional notification time for new entrants is needed to confirm the certification status of applicants.

All notifications of intent to participate in the lottery must be submitted to the address listed under "ADDRESSES" above.

Lottery Procedures:

A list of the air carrier and commuter slots to be allocated will be prepared by the FAA and will be available by July 21, 1987.

Slots will be allocated in accordance with the lottery procedures set forth in 14 CFR Subpart S, § 93.225. The procedures for the lottery at each airport may be summarized as follows:

1. A random lottery will be held to determine the order of slot selection.

2. During the first selection sequence, 25 percent of the slots available at each airport but no fewer than two slots shall be reserved for selection by new entrant carriers.

3. Each carrier will make its selection in the order determined in the initial sequence lottery, except that only new entrant carriers will be permitted to make selections until the percentage of slots set aside for new entrants is selected. The normal sequence will resume at that time, beginning with the first incumbent carrier passed over during the new entrant selections.

4. An operator may select any two slots available at the airport during each selection sequence, except that new entrant carriers may select four slots, if available, in the first sequence.

5. Each operator must make its selection within 5 minutes after being called or it shall lose its turn. If capacity remains after each operator has had an opportunity to select slots, the allocation sequence will be repeated in the same order.

Public Process

The meeting is open to the public and all interested persons are invited to attend. All lotteries will be held at FAA Headquarters in the Third Floor Auditorium.

Issued in Washington, DC, on June 17, 1987.

Edward P. Faberman,

Deputy Chief Counsel.

[FR Doc. 87-14084 Filed 6-19-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: June 16, 1987.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545-0232
Form Number: 6497
Type of Review: Revision
Title: Information Return of Nontaxable Energy Grants or Subsidized Energy Financing
Description: Used by any governmental agency or its agent that makes nontaxable grants or subsidized financing for energy conservation or production programs. We use the information from the form to ensure that recipients have not claimed tax credits or other benefits with respect to the grant or subsidized financing (no "double dipping").
Respondents: State or local governments, Businesses, Federal agencies or employees
Estimated Burden: 54 hours

OMB Number: 1545-0748
Form Number: 2678
Type of Review: Extension
Title: Employer Appointment of Agent
Description: 26 U.S.C. 3504 authorizes an employer to designate a fiduciary, agent, etc. to perform the same acts as required of employers.
Respondents: Farms, Businesses
Estimated Burden: 1,500 hours
Clearance Officer: Garrick Shear (202) 566-6150, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

U.S. Customs Service

OMB Number: 1515-0054
Form Number: 3173
Type of Review: Extension
Title: Application for Extension of Bond for Temporary Importation
Description: Imported merchandise which is to remain in U.S. Customs territory for one year or less without duty payment is entered as a temporary importation. The importer may apply for an extension of this period on Customs Form 3173.
Respondents: Businesses
Estimated Burden: 2,694 hours

OMB Number: 1515-0093
Form Number: 300
Type of Review: Extension
Title: Bonded Warehouse Proprietor's Submission
Description: The document is prepared by bonded warehouse proprietors and submitted to the U.S. Customs Service annually. The document reflects all

bonded merchandise entering, released, and manipulated in the warehouse, i.e., a complete reconciliation of beginning and ending inventory as well as all receipts/withdrawals and documentation of all breakage by entry number.

Respondents: Businesses
Estimated Burden: 14,228 hours
Clearance Officer: B.J. Simpson (202) 566-7529, U.S. Customs Service, Room 6426, 1301 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Alcohol, Tobacco and Firearms

OMB Number: 1512-0057
Form Number: ATF F 487-B (5170.7)
Type of Review: Revision
Title: Application and Permit to Ship Liquors and Articles of Puerto Rican Manufacture Tax Paid
Description: ATF F 487-B (5170.7) is used to document the shipment of tax paid Puerto Rican liquors and articles of manufacture to the U.S. The form is verified by Puerto Rican and U.S. Treasury officials to certify products are either tax paid or deferred under an appropriate bond and serves as a method of the protection of the revenue.
Respondents: Businesses
Estimated Burden: 93 hours
Clearance Officer: Robert Masarsky (202) 566-7077, Bureau of Alcohol, Tobacco and Firearms, Room 7011, 1200 Pennsylvania Avenue, NW., Washington, DC 20226
OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Lois K. Holland,
Departmental Reports Management Officer.
[FR Doc. 87-14120 Filed 6-19-87; 8:45 am]
BILLING CODE 4810-25-M

Customs Service

[T.D. 87-87]

Reimbursable Service; Excess Cost of Preclearance Operation

May 22, 1987.

Notice is hereby given that pursuant to § 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determination to be as set forth below and will be effective with the pay period beginning June 7, 1987.

Installation	*Biweekly excess cost*
Montreal, Canada	$20,815
Toronto, Canada	33,241
Kindley Field, Bermuda	13,213
Nassau, Bahama Islands	23,414
Vancouver, Canada	15,144
Winnipeg, Canada	3,241
Freeport, Bahama Islands	14,705
Calgary, Canada	8,985
Edmonton, Canada	5,457

Alice M. Rigdon,
Acting Comptroller.
[FR Doc. 87-14095 Filed 6-19-87; 8:45 am]
BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 119
Monday, June 22, 1987

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).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, June 25, 1987.

LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

Methylene Chloride: Final Rule

The staff will brief the Commission on a final rule that, if issued, would declare products which contain methylene chloride to be hazardous substances under section 3(a) of the Federal Hazardous Substances Act.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, 301-492-6800.

Sheldon D. Butts,
Deputy Secretary.
June 18, 1987.

[FR Doc. 87-14206 Filed 6-18-87; 12:34 pm]
BILLING CODE 6355-01-M

FEDERAL ENERGY REGULATORY COMMISSION

June 17, 1987.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552B:

TIME AND DATE: June 24, 1987, 10:00 a.m.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

*Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Public Reference Room.

Consent Power Agenda, 859th Meeting—June 24, 1987, Regular Meeting (10:00 a.m.)

CAP-1.
Project Nos. 8235-003, 7791-003 and 8915-002, Hydroelectric Development, Inc.
CAP-2.
Project No. 4922-002, Arizona Power Authority and Colorado River Commission of Nevada
CAP-3.
Project No. 7163-003, Lynchburg Hydro Associates
CAP-4.
Project No. 5756-011, Mega Hydro, Inc.
CAP-5.
Project No. 10081-001, County of Tuolume and Trulock Irrigation District
Project No. 99-001, Calvey River Hydroelectric Company
CAP-6.
Project No. 3657-003, The City of Nashville, Arkansas and the City of Broken Bow, Oklahoma
CAP-7.
Project No. 9951-001, The Charter Township of Van Buren, Michigan and Adirondack Hydro Development Corporation
CAP-8.
Omitted
CAP-9.
Project Nos. 233-008 and 013, Pacific Gas and Electric Company
CAP-10.
Project No. 1417-001, The Central Nebraska Public Power and Irrigation District
Project No. 1835-000, Nebraska Public Power District
CAP-11.
Project No. 1388-001, Southern California Edison Company
CAP-12.
Project No. 1389-001, Southern California Edison Company
CAP-13.
Project Nos. 1962-000 and 1988-007, Pacific Gas and Electric Company
CAP-14.
Project Nos. 298-000, 1390-001 and 1394-004, Southern California Edison Company
CAP-15.
Docket No. ER87-411-000, The Montana Power Company
CAP-16.
Docket No. ER87-404-000, Kansas Gas & Electirc Company
CAP-17.
Docket Nos. ER82-705-001, ER83-86-003, ER83-230-001 and ER83-297-006, Arkansas Power & Light Company
CAP-18.
Docket No. ER80-574-001, Nanthala Power & Light Company
CAP-19.
Docket Nos. ER82-553-002, 003, ER82-554-002 and 003, Ohio Power Company
CAP-20.
Docket No. ER83-437-006, Commonwealth Edison Company
CAP-21.
Docket No. ER87-310-001, Central Vermont Public Service Corporation
CAP-22.
Docket No. EF85-2011-010, United States Department of Energy—Bonneville Power Administration
CAP-23.
Docket No. ER87-207-001, Green Mountain Power Corporation
CAP-24.
Docket Nos. ER87-150-001 and ER86-76-001, Commonwealth Edison Company
CAP-25.
Docket No. ER85-720-004, Connecticut Light and Power Company
Docket No. ER85-707-003, Western Massachusetts Electric Company
Docket No. ER85-689-003, Holyoke Water Power Company and Holyoke Power & Electric Company
CAP-26.
Docket No. EL85-12-000, The City of Manti, Utah v. Utah Power & Light Company
CAP-27.
Omitted
CAP-28.
Docket No. EL87-13-000, City of Holyoke Gas and Electric Department, City of Westfield Gas and Electric Light Department, Marblehead Municipal Light Department, Middleborough Municipal Gas and Electric Department, North Attleboro Electric Department, Peabody Municipal Light Plant, Shrewsbury Electric Light Department, Templeton Municipal Light Plant, Town of Boylston Municpal Light Department, Town of Hudson Light and Power Department, Town of Littleton Municipal Light and Water Department, West Boylston Municipal Lighting Plant and Town of Wakefield Municipal Light Department v. Boston Edison Company
CAP-29.
Docket No. QF86-545-001, Industrial Cogeneration Corporation
CAP-30.
Docket No. QF86-900-001, Turbo Power Systems
CAP-31.
Docket No. QF86-1025-001, Turbo Power Systems
CAP-32.
Docket No. QF86-1026-001, Turbo Power Systems
CAP-33.
Docket No. QF86-1027-001, Turbo Power Systems
CAP-34.
Docket No. QF86-1028-001, Turbo Power Systems
CAP-35.
Docket No. QF86-1029-001, Turbo Power Systems
CAP-36.

Docket No. QF86-1030-001, Turbo Power Systems
CAP-37.
Docket No. QF86-1031-001, Turbo Power Systems
CAP-38.
Docket No. QF86-1032-001, Turbo Power Systems
CAP-39.
Docket No. QF86-1033-001, Turbo Power Systems
CAP-40.
Docket No. RE80-49-001, United States Department of Energy—Bonneville Power Administration
CAP-41.
Project No. 4114-001, Long Lake Energy Corporation

Consent Miscellaneous Agenda

CAM-1.
Docket Nos. RM86-2-002, 003 and 004, Revision of the Billing Procedures for Annual Charges for Administering Part I of the Federal Power Act and to the Methodology for Assessing Federal Land Use Charges
CAM-2.
Docket No. RM81-34-000, Petition for Rulemaking to Establish a Deliverability Life Standard for Interstate Pipeline Companies
Docket No. RM82-11-000, Petition for Rulemaking to Exempt Utility Geothermal Small Power Producers from Federal Power Act and from Certain State Laws and Regulations
Docket No. RM83-11-000, Revision of Monthly Report of Cost and Quality of Fuel for Electric Plants; Form No. 423
Docket No. RM84-5-000, Petition of Process Gas Consumers Group, *et al.*, for Rulemaking Rejecting Discriminatory Rates and Brokering Programs and Adopting Nondiscriminatory Alternatives
Docket No. RM85-20-000, Petition for Rulemaking by California Sportfishing Protection Alliance For Revision of Regulations on Issuance of New Licenses for Relicensing Existing FERC Licensed Projects
CAM-3.
Docket No. RM79-27-001, Petition for Rulemaking in the Matter of Determinations; Whether Wells Drilled in more than 500-Foot Water Depth Should be Determined to be "High Cost Gas" Under section 107(c)(5) of the Natural Gas Policy Act of 1978
Docket Nos. RM79-76-253 and 254, Petition of Montana-Dakota Utilities Company to Reopen Order No. 99
Docket No. RM80-12-001, New, Onshore Production Wells; Proposed Rulemaking Amending Final Regulations Implementing the Natural Gas Policy Act of 1978
Docket Nos. RM80-38-001 and 002, High-Cost Natural Gas Produced from Wells Drilled in Deep Water
Docket No. RM81-30-001, Petition for Rulemaking to Restrain Prices for Deregulated Gas
Docket No. RM81-35-001, Petition for Rulemaking for Implementation of the Commission's Rulemaking Authority to Require Filing of Contracts Under section 315(c) of the Natural Gas Policy Act
Docket No. RM82-1-001, Petition for Rulemaking to Establish Revised Policies Under the Natural Gas Act Respecting the Purchases and Use of Gas
Docket No. RM82-8-001, High-Cost Natural Gas Produced from Intermediate Deep Drilling
Docket No. RM82-17-001, Petition for Rulemaking to Investigate and Establish Rules Mitigating Market Distortions Under the Natural Gas Policy Act
Docket No. RM82-19-001, Petition to Institute a Proceeding, Pursuant to the Natural Gas Policy Act, sections 104(b) and 106(c), to Increase the Price of Flowing Interstate Natural Gas
Docket No. RM82-20-001, Petition for Rulemaking to Require Filing of Contracts Under section 315(c) of the Natural Gas Policy Act
Docket No. RM82-26-001, Impact of the Natural Gas Policy Act on Current and Projected Natural Gas Markets
Docket Nos. RM82-32-001 and 002, Limitation on Incentive Prices for High-Cost Gas to Commodity Values
Docket Nos. RM82-33-001 and 002, Comments in Opposition to Proposed Rulemaking in the Matter of High-Cost Gas Produced from Tight Formations
Docket No. RM79-76 (Ohio-2)
Docket No. RM83-46-001, Petition for Rulemaking in the Matter of Take-or-Pay Clauses in Producer/Pipeline Contracts
Docket No. RM84-71-001, Impact of Special Markting Programs and Natural Gas Companies and Consumers
Docket No. RM84-13-001, Petition for Rulemaking on the Effect of Price Escalator Clauses
Docket No. RM84-17-001, Petition for Rulemaking in the Matter of Reformation of Take-or-Pay Clauses
CAM-4.
Omitted
CAM-5.
Docket No. GP86-1-001, Petro-Lewis Corporation
CAM-6.
Docket No. SA86-32-001, William Perlman, Ada Cauthorn No. 4-1 Well
CAM-7.
Docket No. RO86-28-000, Metropolitan Petroleum Company, Inc. and Metropolitan Fuel Oil Company

Consent Gas Agenda

CAG-1.
Docket No. RP86-115-008, Trunkline Gas Company
CAG-2.
Docket No. RP87-70-000, East Tennessee Natural Gas Company
CAG-3.
Docket Nos. TA87-3-32-000 and 001, Colorado Interstate Gas Company
CAG-4.
Docket No. RP87-55-001, Columbia Gas Transmission Corporation
CAG-5.
Docket Nos. RP86-35-008 and 009, Great Lakes Gas Transmission Company
CAG-6.
Docket Nos. RP87-52-002 through 007, United Gas Pipe Line Company
CAG-7.
Docket Nos. RP84-53-004 and 005, Ozark Gas Transmission System
CAG-8.
Docket No. RP87-63-001, Western Gas Interstate Company
CAG-9.
Docket Nos. RP86-97-010 through 015, Natural Gas Pipeline Company of America
CAG-10.
Docket No. RP82-80-025, ANR Production Company
CAG-11.
Docket Nos. RP85-150-009, 010, 011 and RP85-200-005, Natural Gas Pipeline Company of America
CAG-12.
Docket Nos. CP86-526-002 through 011 and RP86-158-003 through 009, United Gas Pipe Line Company
CAG-13.
Docket Nos. CP86-582-002, 004 through 013, 015, RP86-162-003 through 012 and 014, Natural Gas Pipeline Company of America
CAG-14.
Docket Nos. CP86-587-002 through 013, Northwest Pipeline Corporation
CAG-15.
Docket No. RP87-7-008, Transcontinental Gas Pipe Line Corporation
CAG-16.
Docket Nos. TA87-1-12-002, TA86-1-12-002 and TA86-2-12-002, Distrigas Corporation and Distrigas of Massachusetts Corporation
CAG-17.
Docket No. RP86-98-000, Michigan Gas Storage Company
CAG-18.
Docket No. TA85-1-29-013, Transcontinental Gas Pipe Line Corporation
CAG-19.
Docket No. RP86-102-000, Equitable Gas Company, a Division of Equitable Resources, Inc.
CAG-20.
Docket Nos. RP86-69-000, TA86-2-15-000, *et al.*, RP82-51-000, *et al.*, RP86-138-000 and GP82-31-000, Mid Louisiana Gas Company
CAG-21.
Docket No. ST87-66-000, Exxon Gas System, Inc.
CAG-22.
Docket Nos. ST87-1336-000, ST87-1438-000, ST87-1488-000, ST87-1489-000, ST87-1490-000 and ST87-1508-000, Producer's Gas Company
CAG-23.
Docket No. CI86-56-002, Citizens Energy Corporation, Citizens Resources Corporation and Citizens Gas Supply Corporation
Docket No. CI86-267-000, Howell Gas Management Company
Docket No. CI86-672-000, Clinton Gas Marketing, Inc.
Docket No. CI87-53-000, Cheney Energy Corporation

Docket No. CI87-254-000, Salmon Resources Ltd.
Docket No. CI87-324-000, Natural Gas Clearinghouse Inc.
Docket No. CI86-413-000, ANR Gathering Company
Docket No. CI86-419-000, ANR Supply Company
Docket No. CI86-421-000, TEXCOL Industrial Sales Company
Docket No. CI86-218-000, Transco Energy Marketing Company
Docket No. CI86-503-000, SNG Trading, Inc.
Docket No. CI87-295-000, Gulf Energy Marketing Corporation
Docket No. CI87-307-000, MidCon Marketing Corporation
Docket No. CI86-168-000, Tenngasco Corporation, *et al.*
Docket No. CI86-377-000, Arkla Energy Marketing Company
Docket No. CI86-378-000, Arkla Energy Marketing Company
Docket No. CI86-641-000, Northwest Marketing Company
Docket No. CI86-425-000, Energy Marketing Exchange, Inc.
Docket No. CI86-255-000, Hadson Gas Systems, Inc.
Docket No. CI87-349-000, Brooklyn Interstate Natural Gas Corporation

CAG-24.
Docket Nos. CI86-510-001 and CI86-513-001, Tennessee Gas Pipeline Company, a Division of Tenneco. Inc.

CAG-25.
Docket No. CI87-531-000, FMP Operating Company, a Limited Partnership
Docket No. CI85-692-003, Cities Service Oil and Gas Corporation, CanadianOxy Offshore Production Company and Oxy Cities Service NGL, Inc.

CAG-26.
Docket Nos. G-2621-001 and CI86-709-000, Phillips Petroleum Company

CAG-27.
Docket No. CI87-341-000, Minel, Inc.

CAG-28.
Docket Nos. RP86-115-005, 006, 007, RP87-15-012, 013, 014, CP86-586-001, 002 and 003, Trunkline Gas Company

CAG-29.
Docket Nos. RP86-116-007, 008, CP86-585-003 and 004, Panhandle Eastern Pipe Line Company

CAG-30.
Docket Nos. CP85-116-007, CP86-345-003, CP86-381-001, CP86-707-002 and CP87-53-001 (Not Consolidated), Northwest Pipeline Corporation

CAG-31.
Docket No. CP86-395-003, Northern Border Pipeline Company
Docket Nos. CP86-720-001, 002 and 003 (Not Consolidated), Trailblazer Pipeline Company

CAG-32.
Docket No. CP86-250-002, Ozark Gas Transmission System

CAG-33.
Docket Nos. CP86-521-002, 003, 004 and RP86-85-003, Texas Gas Transmission Corporation

CAG-34.
Docket Nos. CP86-225-001, CP86-247-001 and 002, Texas Eastern Transmission Corporation

CAG-35.
Docket Nos. CP86-696-001 and 002, Great Lakes Gas Transmission Company

CAG-36.
Docket No. CP87-14-001, Natural Gas Pipeline Company of America

CAG-37.
Docket No. CP85-733-000, Mississippi River Transmission Corporation

CAG-38.
Docket Nos. CP86-480-000, 001, 002 and CP87-264-000, Algonquin Gas Transmission Company

CAG-39.
Docket No. CP87-190-000, Lone Star Gas Company, a Division of ENSEARCH Corporation
Docket No. CP87-210-000, Natural Gas Pipeline Company of America

CAG-40.
Docket No. CP86-748-000, Panhandle Eastern Pipe Line Company

CAG-41.
Docket No. CP86-35-000, Northern Natural Gas Company, Division of Enron Corporation

CAG-42.
Docket Nos. RP86-105-007, RP86-169-004, RP86-105-000 and RP86-169-000, ANR Pipeline Company

I. Licensed Project Matters

P-1.
Project No. 10191-000, Skykomish River Hydro. An application for preliminary permit for a proposed hydroelectric project in the Pacific Northwest opposed by intervenors raising cumulative environmental impact issues.

P-2.
Project No. 2752-000, Northern Lights, Inc. Order on an initial decision that denied an application for license for the Kootenai Falls Project No. 2752.

II. Electric Rate Matters

ER-1.
Docket No. ER87-330-000, Monongahela Power Company, The Potomac Edison Company, West Penn Power Company, Ohio Edison Company and Pennsylvania Power Company. Order addressing whether or not proposed rates are reasonable.

ER-2.
Docket Nos. ER81-749-000 and ER82-325-000 (Phase II), Montaup Electric Company. Order on initial decision determining just and reasonable rates.

ER-3.
Omitted

ER-4.
Docket Nos. ER82-774-000, ER83-209-000 and ER83-227-000, Tapocco, Inc.
Docket Nos. ER82-829-000 and ER83-219-000, Nantahala Power and Light Company
Docket No. EL83-6-000, Lacey H. Thornburg, Attorney General of the State of North Carolina v. Aluminum Company of America, Tapoco, Inc., and Nantahala Power and Light Company
Docket No. EL84-29-000, Town of Highlands, North Carolina, *et al.*, v. Nantahala Power and Light Company. Opinion on initial decision establishing just and reasonable rates.

Miscellaneous Agenda

M-1.
Docket No. RM87-4-000, Rate Changes Relating to Federal Corporate Income Tax Rate for Public Utilities. Final Rule to adopt a voluntary, abbreviated rate filing procedure that will allow electric public utilities to file for certain rate decreases under section 205 of the Federal Power Act.

M-2.
Reserved

M-3.
Reserved

I. Pipeline Rate Matter

RP-1.
(A) Docket No. RP85-112-000, Boundary Gas, Inc. Order on initial decision concerning flow-through of Canadian gas costs.
(B) Docket No. TA87-2-51-003, Great Lakes Transmission Company. Order on rehearing concerning flow-through of Canadian gas costs.
(C) Docket Nos. TA87-4-51-002 and 003, Great Lakes Gas Transmission Company. Order on rehearing concerning flow-through of Canadian gas costs.
(D) Docket No. TA87-5-51-002, Great Lakes Gas Transmission Company. Order on rehearing concerning flow-through of Canadian gas costs.
(E) Docket Nos. TA87-6-51-002 and 003, Great Lakes Gas Transmission Company. Order on rehearing concerning flow-through of Canadian gas costs.
(F) Docket Nos. TA87-1-51-002, 003, 004 and TA86-6-51-004, Great Lakes Gas Transmission Company. Order on rehearing concerning flow-through of Canadian gas costs.
(G) Docket Nos. TA87-1-9-003 and 004, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. Order on rehearing concerning flow-through of Canadian gas costs.
(H) Docket Nos. TA87-2-17-002 and 003, Texas Eastern Transmission Corporation. Order on rehearing concerning flow-through of Canadian gas costs.
(I) Docket Nos. TA87-3-48-002, 003 and 004, ANR Pipeline Company. Order on rehearing concerning flow-through of Canadian gas costs.
(J) Docket Nos. TA87-1-37-005, 006, 007 and 008, Northwest Pipeline Corporation. Order on rehearing concerning flow-through of Canadian gas costs.

III Pipeline Certificate Matters

CP-1.
Docket No. CP81-108-005, Boundary Gas, Inc.
Docket No. CP81-296-008, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
Docket Nos. CP86-677-000 and 001, National Fuel Gas Supply Corporation

Docket Nos. CP81-107-000, 001, 004, 009, 025, CP81-108-000, 001 and 002, Boundary Gas, Inc.
Docket Nos. CP81-298-000, 001, 002, 003, CP81-298-000, 001, DP82-40-000, 001 and CP83-103-000, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
Docket No. CP83-403-002, Consolidated Gas Supply Corporation
Docket Nos. CP82-119-003, 010 and 015, Algonquin Gas Transmission Company
Docket Nos. CP82-420-000, 001, 002 and 003, ANR Storage Company
Docket Nos. CP82-428-000, 001, 002, CP84-540-000 and 001, Great Lakes Gas Transmission Company
Docket Nos. CP82-502-000, 001, 002 and 003, Michigan Consolidated Gas Company
Docket Nos. CP82-326-000, 001, 002, CP82-423-000, 001, 002, CP82-446-000, 001, CP82-426-003 and 006, Texas Eastern Transmission Corporation
Docket Nos. CP82-46-000, 001 and 002, Transcontinental Gas Pipe Line Corporation, Algonquin Gas Transmission Company and Texas Eastern Transmission Corporation
Docket Nos. CP82-385-000, 002, 003, 004, CP82-503-000, 001, 002, 003, CP83-314-000, 001, CP83-308-000 and 001, Transcontinental Gas Pipe Line Corporation
Docket Nos. CP82-125-003, 004 and 006, Trans-Niagara Pipeline
Docket Nos. CP84-14-000, 001 and 002, Washington 28 Gas Storage Company
Docket Nos. CP84-325-000,001 and 002, Natural Gas Pipeline Company of America
Docket Nos. CP84-407-000, 001 and 002, Northern Border Pipeline Company
Docket No. CP84-50-000, Granite State Gas Transmission, Inc. Settlement regarding transportation and sale of gas imported from Canada, and construction of related facilities.

CP-2.
Docket No. CP86-513-000, Canadian Gateway Pipeline System. Request for section 7(c) authorization to construct and operate facilities to transport gas imported from Canada.

CP-3.
Omitted

CP-4.
Omitted

CP-5.
Omitted

CP-6.
Docket No. CP87-305-000, Northern Natural Gas Company, a Division of Enron Corporation. Request for section 7(c) authority for blanket off-system sales and blanket transportation for direct sales off-system.

CP-7.
(A) Docket Nos. CP87-159-000 and RP87-62-000, Pacific Gas Transmission Company
Docket No. CP87-304-000, Hadson Gas Systems, Inc., Complainant, and Pacific Gas Transmission Company, Respondent. Order No. 436 blanket certificate application, and related rate and complaint matters.
(B) Docket Nos. RP87-62-000, RP86-148-000 and CP87-159-000, Pacific Gas Transmission Company. Order concerning tariff filing, in connection with certificate order.

Kenneth F. Plumb,
Secretary.

[FR Doc. 87-14244 Filed 6-18-87; 4:02 pm]
BILLING CODE 6717-01-M

TENNESSEE VALLEY AUTHORITY

Meeting No. 1389.

TIME AND DATE: 10 a.m. (c.d.t.), Wednesday, June 24, 1987.

PLACE: City Hall Courtroom, 408 Depot Street, Union City, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on June 10, 1987.

Discussion Item

1. Concept Plan for Development of Land Between the Lakes.

Action Items

B—Purchase Awards

B1. Invitation AA-08377A—Renovation of the Edney Building in Chattanooga, Tennessee.

B2. Negotiation GA-470945—Boiler Cyclones for Allen Fossil Plant.

B3. Invitation MS-467943—Reclamation and Related Activities at the Morton Ranch Uranium Mining Project in Converse County, Wyoming.

C—Power Items

C1. Renewal Power Contract with City of Pulaski, Tennessee.

D—Personnel Items

D1. Delegation of Authority to Manager of Nuclear Power To Enter into a Contract for the Services of R.L. Gridley To Assume a TVA Office of Nuclear Power Line Management Position, as a Contract Manager, not as a Regular TVA Employee.

D2. Personal Service Contract for Engineering Services at Sequoyah Nuclear Plant, Requested by the Office of Nuclear Power.

D3. Supplement to Personnel Services Contract No. TV-68729A with EQE Incorporated, San Francisco, California, Covering Arrangements for Seismic Evaluations at Browns Ferry and Sequoyah Nuclear Plants, Requested by the Office of Nuclear Power.

E—Real Property Transactions

E1. Acquisition of Surface Rights Required for the Completion of the Reclamation Program at the Fabius Coal Mines Located in Jackson County, Alabama, Involving up to a Maximum of 700 Acres.

E2. Public Auction Sale of Mining Lease of the Coal Creek Seam of Coal and Appurtenant Rights Underlying Approximately 660 Acres of the Koppers Coal Reserve Located in Campbell County, Tennessee—Tract XEKCR-17L.

E3. Public Auction Sale of Mining Lease of the Hazard No. 4 Seam of Coal Underlying Approximately 1,554 Acres of the Red Bird Coal Property Located in Leslie County, Kentucky—Tract XEKCR-18L.

E4. Grant of Permanent Easement to the Tellico Area Services System Affecting Approximately 3.5 Acres of Tellico Reservoir Lands in Monroe County, Tennessee—XTTELR-32E.

E5. Filing of Condemnation Cases.

F—Unclassified

F1. Supplement to Contract No. TV-57648A Between TVA and South Kentucky Industrial Development Association Covering Arrangements for Assistance under TVA's Special Opportunities Counties program.

F2. Contract No. TV-72433A Between TVA and U.S. Department of the Army, Corps of Engineers, Huntington District, Covering Arrangements for Measurement of Tow-induced Physical Effects Related to Navigation Changes at the Marmet Locks, Kanawha River, West Virginia.

F3. Supplement to Interagency Agreement No. TV-61855A with the U.S. Department of Energy Covering Arrangements for Southeastern Regional Biomass Energy Program.

F4. Supplement to Contract No. TV-50942A Between TVA and the Electric Power Research Institute for Once-Through Methanol Process Studies and Preliminary Engineering Design.

F5. Revised TVA Code on Selection of Employees for Appointment, Promotion, Transfer, and Retention.

F6. Changes in Designation of Certifying Officers for Vouchers and Letter-of-Credit Transactions.

CONTACT PERSON FOR MORE INFORMATION: Alan Carmichael, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office, (202) 245-0101.

Dated: June 17, 1987.

W.F. Willis,
General Manager.

[FR Doc. 87-14154 Filed 6-18-87; 10:14 am]
BILLING CODE 8120-01-M

Corrections

Federal Register
Vol. 52, No. 119
Monday, June 22, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

Department of the Navy

Government-Owned Inventions; Availability for Licensing

Correction

In notice document 87-13052 beginning on page 21718 in the issue of Tuesday, June 9, 1987, make the following corrections:

1. On page 21718, in the third column, in the 11th line, "Patent 5,499,584" should read "Patent 4,499,584".

2. On the same page, in the same column, in the sixth line from the bottom, "filed September" should read "filed 21 September".

3. On page 21721, in the first column, in the 11th line from the bottom, "Patent Application 769-099" should read "Patent Application 769,099".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51675; FRL 3205-1]

Certain Chemical Premanufacture Notices

Correction

In notice document 87-11650 beginning on page 19390 in the issue of Friday, May 22, 1987, make the following corrections:

1. On page 19390, in the first column, in the first line, the FRL number should read as set forth above.

2. On page 19391, in the first column, under **P 87-1076**, after the last line, insert "Import range: Confidential.".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 405, 412, 413, and 466

[BERC-400-P]

Medicare Program; Changes to the Inpatient Hospital Prospective Payment System and Fiscal Year 1988 Rates

Correction

In proposed rule document 87-13121 beginning on page 22080 in the issue of Wednesday, June 10, 1987, make the following corrections:

1. On page 22135, in the first column, the heading of table 4a and the entries following the heading were omitted. They should be inserted immediately before "Amarillo, TX" as follows:

TABLE 4A-WAGE INDEX FOR URBAN AREAS

Urban area (constituent counties or county equivalents)	Wage index
Abilene, TX	0.8335
Taylor, TX	
Aguadilla, PR	0.4624
Aguada, PR	
Aguadilla, PR	
Isabella, PR	
Moca, PR	
Akron, OH	1.0023
Portage, OH	
Summit, OH	
Albany, GA	0.7748
Dougherty, GA	
Lee, GA	
Albany-Schenectady-Troy, NY	0.8702
Albany, NY	
Greene, NY	
Montgomery, NY	
Rensselaer, NY	
Saratoga, NY	
Schenectady, NY	
Albuquerque, NM	1.0188
Bernalillo, NM	
Alexandria, LA	0.8182
Rapides, LA	
Allentown-Bethlehem, PA-NJ	0.9858
Warren, NJ	
Carbon, PA	
Lehigh, PA	
Northampton, PA	
Altoona, PA	0.9474
Blair, PA	

2. On page 22138, entries were omitted in the first column. They should be inserted immediately before New York, NY as follows:

Urban area (constituent counties or county equivalents)	Wage index
Muncie, IN	0.9565
Delaware, IN	
Muskegon, MI	0.9620
Muskegon, MI	
Naples, FL	0.9919
Collier, FL	
Nashville, TN	0.8878
Cheatham, TN	
Davidson, TN	
Dickson, TN	
Robertson, TN	
Rutherford, TN	
Sumner, TN	
Williamson, TN	
Wilson, TN	
Nassau-Suffolk, NY	1.2359
Nassau, NY	
Suffolk, NY	
New Bedford-Fall River-Attleboro, MA	0.9352
Bristol, MA	
New Haven-Waterbury-Meriden, CT	1.0693
New Haven, CT	
New London-Norwich, CT	1.0562
New London, CT	
New Orleans, LA	0.9080
Jefferson, LA	
Orleans, LA	
St. Bernard, LA	
St. Charles, LA	
St. John The Baptist, LA	
St. Tammany, LA	

3. On page 22139, in the first column, the entries for "Saginaw-Bay City-Midland, MI" through "Guadalupe, TX" should appear on page 22138, in the third column, immediately before "San Diego, CA".

BILLING CODE 4120-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 32

[CGD 84-073]

Miscellaneous Changes; Tank Vessels, etc.

Correction

In rule document 87-13357 appearing on page 22751 in the issue of Monday, June 15, 1987, make the following correction:

§ 32.40-40 [Corrected]

On page 22751, in the third column, in the last paragraph, in the first line, § 32.40-40(c)(1) should read § 32.40-40(l).

BILLING CODE 1505-01-D

federal register

Monday
June 22, 1987

Part II

Department of Education

Office of Postsecondary Education

Availability of Amendments to the 1986-87 National Defense and Direct Student Loan Programs Directory of Designated Low-Income Schools for Teacher Cancellation Benefits; Notice

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Availability of Amendments to the 1986–87 National Defense and Direct Student Loan Programs Directory of Designated Low-Income Schools for Teacher Cancellation Benefits

AGENCY: Department of Education.

ACTION: Notice of availability of amendments to the 1986–87 Directory of low-income schools for cancellation of loans for teaching service.

SUMMARY: Institutions and borrowers participating in the National Defense and National Direct Student Loan Programs and other interested persons are advised that they may obtain information regarding the amendments to the *1986–87 National Defense and Direct Student Loan Programs Directory of Designated Low-Income Schools for Teacher Cancellation Benefits (Directory).* The amendments identify changes in the schools that qualify for teacher cancellation benefits under each of the loan programs.

DATE: The amendments to the *Directory* are available on or after May 22, 1987.

ADDRESS: Information concerning specific schools listed in the amendments to the *Directory* may be obtained from Ronald W. Allen, Campus-Based Programs Branch, Division of Program Operations, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW., [Room 4651, ROB–3] Washington, DC 20202, Telephone (202) 732–3730.

FOR FURTHER INFORMATION CONTACT: The amendments to the *Directory* are available in (1) each of the participating institutions of higher education, (2) each of the fifty-seven (57) State and Territory Departments of Education, (3) each of the major billing services.

SUPPLEMENTARY INFORMATION: The Secretary of Education published a notice in the **Federal Register** on October 8, 1986 (51 FR 36158) that the *1986–87 National Defense and Direct Student Loan Programs Directory of Designated Low-Income Schools for Teacher Cancellation Benefits* was available. The Secretary has revised the *Directory* due to the openings and closings of schools, name changes, and other corrections. The amendments to the *Directory* make these changes.

The procedures for selecting schools for cancellation benefits are described in the National Defense and Direct Student Loan program regulations (34 CFR 674.53, 674.54). The Secretary has determined that for the 1986–87 academic year full-time teaching in the schools set forth in the amendments to the *Directory* qualifies for cancellation.

The Secretary is providing the amendments to the *Directory* to each institution participating in the National Direct Student Loan Program. Borrowers and other interested parties may check with their lending institutions, the appropriate State Department of Education, regional offices of the Department of Education, or the Office of Student Financial Assistance of the Department of Education concerning the identity of qualifying schools for the 1986–87 academic year.

The Office of Student Financial Assistance will retain, on a permanent basis, copies of past, current, and future amendments and the *Directories.*

(Catalog of Federal Domestic Assistance Number 84.037; National Defense/Direct Student Loan Cancellations.)

Dated: June 16, 1987.

C. Ronald Kimberling,

Assistant Secretary for Postsecondary Education.

[FR Doc. 87–14113 Filed 6–19–87; 8:45 am]

BILLING CODE 4000–01–M

federal register

Monday
June 22, 1987

Part III

Department of Transportation

Maritime Administration

46 CFR Part 276
Construction-Differential Subsidy Repayment; Final Rule

DEPARTMENT OF TRANSPORTATION

Maritime Administration

46 CFR Part 276

[Docket No. R-110]

Construction-Differential Subsidy Repayment

AGENCY: Maritime Administration, Transportation.

ACTION: Final rule.

SUMMARY: This final rule allows four vessels that repaid their construction-differential subsidy (CDS) in exchange for the right to operate in the domestic trade to remain in that trade. Three of those vessels have been operating in the Alaska oil trade after repaying their CDS under a 1985 Department of Transportation rule. A court decision on January 16, 1987 vacated that rule, but delayed the effective date of its order to July 16, 1987. The fourth repaid its CDS pursuant to an administrative decision issued in 1980 under an interim rule that was subsequently vacated by the court. However, the court allowed the vessel to remain in the domestic trade pending agency reconsideration. This final rule allows those four vessels to remain in the domestic trade in furtherance of the purposes and policies of the Merchant Marine Act, 1936, as amended.

EFFECTIVE DATE: June 22, 1987.

FOR FURTHER INFORMATION CONTACT: Lynne Adams-Whitaker, Chief, Division of Regulations, 400 Seventh Street, SW., Washington. DC 20590, Tel. (202) 366-5181.

SUPPLEMENTARY INFORMATION:

Background

The Jones Act (46 U.S.C. 883) generally provides that all cargo transported in the domestic trade between points in the United States must be carried on vessels built in the United States, documented under United States law and owned by United States citizens. However, U.S. vessels operating in the foreign trade must compete with foreign-flag vessels that have lower operating and construction costs. In an effort to compensate for higher U.S. construction costs, Congress passed Title V of the Merchant Marine Act, 1936, as amended ("the Act"), which authorized the payment of construction-differential subsidy (CDS) for the purpose of building ships in U.S. shipyards to be operated in foreign commerce. 46 App. U.S.C. 1151 *et seq.* The Secretary of Transportation, through the Maritime Administration (MARAD), may pay as much as half the construction costs of such vessels. 46 App. U.S.C. 1152. There is no corresponding subsidy program for vessels constructed by U.S. owners for use in the domestic trade.

In addition, Title VI of the Act authorized the payment of an operating-differential subsidy (ODS) for U.S.-flag vessels manned by U.S. citizens and operated in accordance with U.S. safety standards. 46 App. U.S.C. 1171. By a policy decision, ODS was not paid to CDS-built bulk vessels over 100,000 DWT. Because of the large economies of scale of these vessels, labor costs, which are the main subsidized item under the ODS program, are relatively small in terms of the overall operating cost.

CDS-built vessels are subject to certain restrictions. Under section 506 of the Act, vessels constructed with CDS "shall be operated exclusively in foreign trade or on a round-the-world voyage. . . ." 46 App. U.S.C. 1156. Section 506 of the Act allows CDS vessels to be operated in the domestic trade in the following limited circumstances: (1) On a round voyage from the west coast of the United States to European ports which includes intercoastal U.S. ports; (2) on a round voyage from the Atlantic coast of the U.S. to the Orient which includes intercoastal ports of the U.S.; (3) on a foreign voyage including a stop in Hawaii or an island possession or territory of the U.S. In addition, CDS vessels may be operated in the domestic trade with the consent of the Secretary of Transportation for up to six months in any year under authority of section 506 with the requirement that the vessel owner repay the subsidy on a *pro rata* basis. All domestic trading restrictions for each CDS-built vessel lapse at the end of the vessel's statutory life. Section 9 of Pub. L. 86-318 (74 Stat. 216) sets a 20 year economic life for tankers.

The overall objectives of the 1970 amendments to the Act (Pub. L. 91-469, 84 Stat. 1018) were to provide for a long-range shipbuilding program of 300 ships in the next ten years, a general lessening of dependence on ODS for the liner carriers, and the build up of our bulk carrier fleet in the U.S. foreign commerce. The envisioned shipbuilding program of the 1970 amendments with emphasis on building bulk carriers, included tankers.[1]

Prior to the 1970 amendments, the operating subsidy programs and for the most part the construction subsidy program of the Merchant Marine Act had been confined to liner vessels, which operated scheduled services in foreign commerce under the regulatory supervision of the Federal Maritime Commission. The Congress, in extending and initially funding the reach of these programs to the unregulated bulk trades (particularly the dry bulk trade), specifically recognized the need to make these vessels "competitive" with foreign flag ships. *See* H. Rep. No. 1073, 91st Cong., 1st Sess., 38 (1969); Merchant Marine Act, 1936, 603(b), 46 U.S.C. 1173(b).

Unfortunately, the governmental program offered to U.S.-flag very large crude carriers ("VLCCs", i.e., tankers over 160,000 DWT) has not enabled them to be competitive in the foreign trade. In 1970, Congress did not foresee, and perhaps could not have foreseen, the drastic changes that would occur in the world oil market. The decline in export of crude oil from the Middle East, in addition to an oversupply of world tankers built since 1970, has been financially devastating for the world tanker market. As a consequence, the two ultra large crude carriers and nine VLCCs constructed with CDS under the 1970 amendments were left with no significant competitive opportunities in the foreign commerce.

The domestic market, however, has not fared as poorly. With the opening in 1977 of the Trans-Alaska Pipeline System, the demand for U.S.-flag tanker tonnage has increased and that demand has not been completely met by the existing Jones Act (domestic) fleet. To alleviate the shortage of suitable Jones Act tanker vessels, MARAD has allowed CDS-built tankers to enter the trade for up to six month periods after repaying the subsidy *pro rata* under section 506 of the Act and in accordance with 46 CFR Part 250.[2] Since 1977, MARAD has approved 43 such applications for CDS-built tanker service in the Alaska oil trade (of those approvals, 37 were for VLCCs). During 1982 and 1983, approximately six VLCCs per year entered the domestic trade under six month permissions, which was the equivalent of three VLCCs participating in the domestic trade on a full-time basis.

Because of the limited duration and availability of these temporary permissions and the depressed market

[1] Conf. Report No. 91-1555, H.R. 15424, Oct. 2, 1970. In fact, only 34 petroleum tankers were built with CDS authorized by the 1970 amendments.

[2] 46 CFR Part 250 establishes procedures by which MARAD may temporarily waivew (i.e., for no more than six months in any twelve month period) the domestic trade restrictions on CDS-built vessels over 100,000 deadweight tons (DWT) in the Alaska-Panama trade. Applications for such waiver must be accompanied by information showing that suitable vessels (i.e., those over 100,000 DWT) of a competitor could not be available for the prospective voyages.

conditions confronting tankers in the foreign trade, several CDS tanker owners (predominantly those owning VLCCs) applied for permission to enter the domestic market on a permanent basis in exchange for the total repayment of their CDS.

Prior to 1978, requests for permanent repayment were handled *ad hoc*. No hearings were held on these requests and notice of the proposed determinations was not given to the public. However, after MARAD admitted the VLCC STUYVESANT (operated by Seatrain Lines) to the domestic trade, with full CDS repayment, competitors in that trade brought suit challenging MARAD's action. The Supreme Court ultimately held that the Secretary's broad contracting powers and discretion to administer the Act encompass the authority to grant permanent entry into the domestic trade to vessels upon repayment of CDS. *Seatrain Shipbuilding Corp.* v. *Shell Oil Co.*, 444 U.S. 572 (1980).

In 1978, MARAD issued a notice of proposed rulemaking (NPRM) that would have set guidelines for permanent CDS repayment. 43 FR 51045 (November 2, 1978).

Charterers and owners of six CDS-built vessels applied for CDS repayment. On October 15, 1980, MARAD adopted and made immediately effective an interim rule to govern applications for CDS repayment. 45 FR 68393. Under the interim rule, approvals would be granted only for vessels of at least 100,000 DWT, and only in exceptional circumstances, after a determination that no favorable opportunities existed for viable employment of the vessel in foreign trade during a protracted period. MARAD was to consider a number of factors in determining whether exceptional circumstances existed.

On November 13, 1980, through an adjudicative decision, issued under the interim rule, MARAD approved the CDS repayment application for the BAY RIDGE, another Seatrain VLCC. MARAD deferred action on the other pending CDS repayment applications. On November 25, 1980, the Independent U.S. Tanker Owners Committee filed a complaint in the U.S. District Court for review of the interim rule and the BAY RIDGE decision, alleging substantive and procedural defects in connection with both actions. The District Court granted summary judgment for defendants on all counts. An appeal was taken.

On appeal, the D.C. Circuit held that MARAD was not legally obligated to issue regulations limiting its discretion and that the interim rule itself did not constitute an abuse of MARAD's statutory discretion. *Independent Tanker Owners Committee* v. *Lewis*, 690 F.2d 908 (D.C. Cir. 1982) [hereinafter referred to as *ITOC* v. *Lewis*]. Nevertheless, the Court vacated the interim rule on procedural grounds. It concluded that the rule lacked a general statement of basis and purpose, as required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*), to explain MARAD's position on the various issues raised during the rulemaking proceeding. The Court also found that adjudication allowing the BAY RIDGE repayment was procedurally and substantively flawed.

The Court of Appeals remanded the case to the District Court with instructions to vacate the interim rule and to order new rulemaking procedures, and to vacate the approval of the BAY RIDGE application, but to allow the BAY RIDGE to continue in domestic operation pending reconsideration of the BAY RIDGE adjudication. The Court left to MARAD's discretion whether the new BAY RIDGE decision should await publication of a permanent rule regarding CDS repayment. The Court also left to MARAD's discretion whether to adopt a permanent rule similar to the interim rule so long as the justification for the rule adopted was "clearly and thoughtfully presented in a statement published contemporaneously with the rule". *ITOC* v. *Lewis*, 690 F.2d at 920.

Following the transfer of MARAD to the Department of Transportation, the Department published a new NPRM on January 31, 1983, 48 FR 4408. That NPRM, which was issued by the Secretary, proposed to permit all CDS-built U.S. tanker vessels to enter the domestic trade upon repayment of unamortized CDS plus compound interest. The notice reviewed the entire history of this issue since MARAD first accepted total repayment on the VLCC STUYVESANT and reviewed the comments received on earlier MARAD rulemakings pertaining to total repayment in return for domestic trading privileges. It invited further comment on these issues and assessed the economic impact of allowing the owners/operators of these vessels to determine whether to repay their CDS. The rulemaking concluded that the Government was not in a position to assess, on its own, which vessels should, and which should not, be allowed to meet the needs for additional capacity in the domestic trade. For example, it pointed out that only allowing operators in financial jeopardy to repay their CDS was not consistent with the objectives of the 1936 Act. 48 FR at 4412.

The Department concluded that the marketplace decisions of individual operators would best serve the needs of the fully deregulated domestic tanker trade, provided that those operators that repaid were not given an unfair competitive advantage vis-a-vis the existing Jones Act fleet. *Id.* at 4409–4410.

Accordingly, the Department's proposed rule required repayment of an additional amount consisting of compound interest on the unamortized subsidy from the date of its original receipt. According to the Department's analysis, the addition of this amount, which frequently would exceed the unamortized subsidy itself, would duplicate the financial conditions inherent in a private sector decision to commit any comparable asset to the domestic trade, with an allowance only for its age, by allowing the amortization of the subsidy pursuant to its statutory useful life of 20 years. *See* 48 FR 4408–4414. Since the Government does not otherwise regulate entry of new capacity in the domestic trade, duplicating the conditions ordinarily governing such entry was deemed the most appropriate approach by the Department.[3]

Shortly after the close of the comment period on the NPRM, the Congress took action to prevent temporarily the Secretary from promulgating a final rule. The DOT FY 84 Appropriations Act (Pub. L. 96–78, August 15, 1983) prohibited the enforcement of any rule with respect to the repayment of CDS until 60 days following the promulgation of any such rule. Thereafter, the Commerce Department's FY 84 Appropriations Act (Pub. L. 98–166, November 28, 1983) imposed an additional restriction that prohibited DOT from enforcing any CDS repayment rule until after June 15, 1984. In August 1984, the FY 85 Appropriations Act for Commerce, Justice and State, which provides appropriations for MARAD, imposed yet another restriction. The Act prohibited the Department from enforcing any CDS repayment rule until May 15, 1985 (Pub. L. 96–411, August 30, 1984). Thereafter, Congress considered, but did not extend, these prohibitions.

On May 7, 1985, the Department published in the **Federal Register** a final rule which allowed any owner of a

[3] It should be noted that damaged foreign-built vessels may be acquired and reconstructed for use in the domestic trade under the Wrecked Vessels Act without prior government approval, provided a specific amount is expended in the reconstruction (i.e., three times their salvage value). 46 App. U.S.C. 14.

tanker built with CDS to repay its subsidy (with interest) and consequently obtain a permanent removal of domestic trading restrictions. (50 FR 19170). The amount of repayment included the unamortized CDS on the vessels plus compounded interest on that amount. The interest rate, to be used for computational purposes, was to be the rate at which the original Title XI obligation was made or the Title XI long-term bond rate at the vessel's delivery. The final rule included a one-year time limit after the rule's effective date during which total CDS repayment had to be made. *See* 46 CFR 276.3 That time limit was from June 6, 1985 to June 6, 1986. During that period, three VLCCs repaid their CDS: the ARCO INDEPENDENCE (262,400 DWT), ARCO SPIRIT (262,400 DWT), and the BROOKLYN (226,200 DWT). The total amount of CDS repaid by these ships was $105.8 million. Those ships are now operating in the domestic trade.

The final rule was challenged in court. Initially, the District Court upheld the rule. 620 F. Supp. 1289 (D.D.C. 1985). However, on January 16, 1987, the Court of Appeals for the District of Columbia Circuit held that the Secretary of Transportation violated section 553(c) of the Administration Procedure Act by adopting a final rule which did not contain a statement of basis and purpose giving an adequate account of how the rule served the objectives of the Act and why alternatives were rejected in light of them. *Independent U.S. Tanker Owners Committee* v. *Dole*, 809 F.2d 847 (D.C. Cir. 1987) [hereinafter referred to as *ITOC* v. *Dole*]. The court found that the Secretary's failure to provide an adequate statement of basis and purpose was arbitrary and capricious. The court vacated the rule, but withheld issuance of its mandate until July 16, 1987 "to avoid further disruptions in the domestic market and to allow the Secretary to undertake further proceedings to address the problems of the merchant marine trade." *Id* at 855. Under the Court's decision, as of July 16, 1987, the present rule will be vacated and conditions will be returned to the *status quo ante*, before the CDS repayment rule took effect, subject to any further action that the agency may have taken in the interim.

In response to the *ITOC* v. *Dole* decision, MARAD published a notice of proposed rulemaking in the **Federal Register** (52 FR 12199, April 15, 1987) with a closing date of May 15 for comments. That NPRM proposed to reaffirm the allowance of the repayment of CDS, with interest, and rescission of the domestic trading restriction for tankers that applied to and were approved by MARAD pursuant to the 1985 rule between June 6, 1985 and June 6, 1986. The approved applications were for the ARCO INDEPENDENCE, ARCO SPIRIT and BROOKLYN. Further, the NPRM proposed to reaffirm the allowance of the repayment of CDS, with interest, and rescission of the domestic trading restrictions for the BAY RIDGE, which was approved to repay its CDS in November 1980. Since the terms of repayment for the BAY RIDGE were different from the other three VLCCs (i.e., it repaid in accordance with conditions stated at the time of repayment of principal and interest), the NPRM imposed the same conditions on the BAY RIDGE that were imposed in 1980. [4]

The proposed rule differed from the 1985 CDS repayment rule in that it did not authorize all vessels that were built with CDS to repay. Rather, it was limited to those vessels that were already operating in the domestic trade on a full-time basis pursuant to prior approvals that had been invalidated by the courts. The proposed rule imposed the same terms and conditions on the three tankers that repaid during the one-year window as were required in the 1985 CDS repayment rule.

The proposed rule also differed from the 1985 rule in that the proposed rule was issued by order of the Maritime Administrator. By delegation, the Maritime Administrator is authorized to administer and carry out the Act, except for specific authorities delegated to the Maritime Subsidy Board (e.g., certain contractual functions, *see* 49 CFR 1.4(k)(1), 1.67). 49 CFR 1.45(2), 1.66(e). While the Maritime Subsidy Board is responsible for awarding and amending CDS contracts, the Maritime Administrator is responsible for administering CDS contracts. 49 CFR 1.4(j)(2). Inasmuch as only administration of the CDS contracts to the ARCO INDEPENDENCE, ARCO SPIRIT, BROOKLYN and BAY RIDGE are involved, the Maritime Administrator has the authority by delegation from the Secretary to issue this rule.

[4] By letter dated March 10, 1987, counsel for the BAY RIDGE requested that a proceeding on the BAY RIDGE should be conducted independently of proceedings with respect to the three vessels which repaid CDS pursuant to the 1985 repayment rule. The court in *ITOC* v. *Lewis* specifically left to MARAD's discretion whether or not the BAY RIDGE decision should await publication of a permanent rule governing repayment applications. MARAD has decided that it is appropriate to consider the BAY RIDGE in this rulemaking, since it would operate in the same domestic trade as the other three vessels at issue and involves many of the same issues.

This final rule confirms the repayment of CDS, with interest, and rescission of the domestic trading restrictions for the ARCO INDEPENDENCE, ARCO SPIRIT, BROOKLYN and BAY RIDGE.

Summary of the Rationale for this Rulemaking

This rule provides a means to further the purposes and policies of the Merchant Marine Act, 1936, as amended. There is a tremendous overcapacity of VLCCs in the U.S. foreign trades. On the other hand, prior to the 1985 rule, there had been a shortage of VLCCs in the U.S. domestic trades, which has led to frequent approvals of temporary permissions under section 506 of the Act for the ANS-Panama trade. This rule allows four VLCCs that have not been able to find employment in the foreign trade to move permanently from the foreign to the domestic trade, upon the repayment, with interest, of the unamortized portion of the subsidy provided by the U.S. Treasury for their construction. It is recognized that this action may possibly adversely affect, though not to the degree claimed by opponents, vessels and seamen now in the domestic trade. The net possible adverse impact is outweighed by the resulting stronger, more viable merchant marine.

The primary purpose for permitting the four VLCCs to enter the domestic trade is to allow the employment of the most suitable vessels for a more well-balanced U.S. tanker fleet. The 1936 Act requires consideration of the impact of this action on suitability of vessels both for day-to-day commercial operations and military mobilization needs. In the absence of the rule, a significant portion of the domestic trade—the transport of crude oil from Valdez, Alaska to Panama—would face a shortage of vessels that can take advantage of inherent economies that larger ships (resulting from the length of haul) enjoy in the market. The rule furthers day-to-day commercial operations by allowing more suitable ships in the Alaska-Panama trade. As for military mobilization needs, the Navy has certified the suitability for military purposes of each of the four vessels the rule would allow into the domestic trade, and the fleet as a whole will be suitable for military needs.

Allowing the four VLCCs into the domestic trade also results in a better balance of large, medium, and handy-sized tankers in the domestic fleet. Further, it avoids the possible lay-up or scrapping of these generally more modern, more efficient vessels. Instead, a few smaller vessels may possibly be

forced into extended lay-up or scrapped. As a result of the rule significant oil transport cost savings will be effected, which, based on the Regulatory Impact Analysis, could total as much as $386–542 million.

MARAD recognizes that the rule will not increase the participation of U.S.-flag vessels in the foreign trade. However, because of changes in the pattern of world demand for crude oil, and reductions in demand for VLCCs for the foreign trade, it is extremely unlikely that these vessels would be operating in the U.S. foreign trade in any event. Absent the rule it is likely that these vessels would be forced into long-term lay-up and concomitant waste or scrapped.

MARAD also recognizes that this rule possibly will result in the lay-up or scrapping of a few smaller sized crude carriers sooner than would otherwise occur and that additional seamen possibly will become unemployed as a result. Opponents of this action generally overstate these effects. MARAD believes that six Jones Act tankers may possibly be laid up or scrapped as a consequence of this rule versus possible lay-up or scrapping of four CDS VLCCs if the rule is not adopted. MARAD also estimates that possibly between 100 and 225 seafarers may lose employment as a result of the rule. (Approximately 300 seafarers could lose employment because of the possible displacement of six handy-sized tankers, but this must be adjusted to account for losses due to less use of the VLCCs. Since factors other than CDS repayment (including the vessels' size, age, source of power, crew requirements, pollution equipment and market conditions) will have an impact on the prospects for employment of Jones Act tankers, it is not clear that they would be employed in any event. MARAD believes the direct benefits of the rule to the fleet as a whole outweigh these possible adverse effects on other Jones Act tankers and seafarer employment.

Finally, regardless of the outcome of this proceeding, the four VLCCs would be entitled to enter the domestic trade automatically under the Act at the end of their statutory (20 year) useful life, at which time their CDS will have been fully amortized. Thus, the BROOKLYN would be eligible to enter the domestic trade in 1993, the ARCO INDEPENDENCE and ARCO SPIRIT in 1997 and the BAY RIDGE in 1999. Thus, this rule merely serves to accelerate their entry into the domestic fleet, with the recovery of the unamortized subsidy for the Treasury, plus compound interest on that amount. Thus, the vessels are effectively placed on the same footing as they would be at the end of the statutory amortization of their CDS.

The owners or charterers of the four VLCCs must have believed that it was worthwhile to repay CDS in order to participate in the domestic trade. Obviously, those companies concluded that they would make a reasonable return on their investment (i.e., CDS repayment) through their domestic operations, despite the fact that the domestic trade restrictions would be lifted on their tankers in six to twelve years.

By the close of the comment period, MARAD had received over 100 comments in support of or opposition to the issuance of this rule from members of Congress, a Federal agency, operators of both CDS-built and Jones Act vessels, environmental groups, a fishermen's association, a seafarer's union, individual seafarers, a shipbuilders' organization, two shipyards, and the State of Alaska. MARAD also received several comments after the close of the comment period, which were placed in the docket. MARAR now turns to addressing the comments that it has received.

Discussion of the Comments Received

1. Purposes and Policy of the Merchant Marine Act

Several commenters argued that this rule does not further the purposes and policies of the Act. Other commenters agreed with MARAD's assessment that this rule does further the objectives of the Act.

MARAD believes that the rule will further the goals of the Act. The preamble to the Merchant Marine Act, 1936, as amended, states that the intent of the Act is "[to] further the development and maintenance of an adequate and well-balanced American merchant marine, to promote the commerce of the United States, to aid in the national defense. . . ." The specific goals of the Merchant Marine Act, 1936, as amended, as set out in section 101 of the Act, are to foster the development and encourage the maintenance of an American merchant marine that is:

(a) sufficient to carry its domestic water-borne commerce and a substantial portion of the waterborne export and import foreign commerce of the United States and to provide shipping service essential for maintaining the flow of such domestic and foreign water-borne commerce at all times, (b) capable of serving as a naval auxiliary in time of war or national emergency, (c) owned and operated under the United States flag by citizens of the United States, insofar as may be practicable, (d) composed of the best-equipped, safest, and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizen personnel, and (e) supplemented by efficient facilities for shipbuilding and ship repair. 46 App. U.S.C. 1101.

MARAD believes that this final rule, which allows the four CDS-built very large crude carriers ("the four VLCCs") to remain in the domestic trade, will benefit the domestic water-borne commerce by allowing vessels that are the most "suitable" for the Alaska-Panama oil trade to serve that trade, and will result in a more "well-balanced" American merchant marine. The fact that the four VLCCs have been consistently employed in that trade since their repayment of CDS (except for the recent lay-up of the BAY RIDGE) demonstrates their suitability for and benefit to that trade, as does the history of six month permissions issued pursuant to section 506 of the Act. Although originally built to operate in the foreign trade, the four VLCCs are not competitive in that trade. If not allowed to operate in the domestic trades, the four VLCCs would likely be laid up and possibly scrapped.

a. Suitability of the Four VLCCs for the Domestic Trade

(i) Some commenters (predominantly owners of tankers in the Jones Act trade that would have to compete with the four VLCCs either directly or indirectly) contended that the four VLCCs are not suitable for the domestic trade, and that allowing these four VLCCs to remain in the trade will disrupt the domestic tanker fleet. Atlantic Richfield Company (ARCO) and American Petrofina disagreed, arguing that the four VLCCs will benefit the domestic tanker fleet overall.

A key purpose for allowing the four VLCCs to remain in the domestic trade is to have a sufficient U.S. domestic fleet "composed of the best-equipped, safest, and most suitable types of vessels" for that trade. Suitable vessels for the Alaska-Panama trade are defined by MARAD regulation as tank vessels of at least 100,000 DWT engaged in the carriage of Alaskan oil. 46 CFR 250.2(h). Suitability, in the context of the overall goals of the Act, means suitability of particular vessels for the U.S. commerce, and suitability of vessels to serve as naval auxiliaries (for discussion of suitability of the four VLCCs as naval auxiliaries, see section 1.a.(ii) below).[5]

[5] "Suitability" is discussed in section 101 of the Act (46 U.S.C. 1101 (d) in terms of "best-equipped, safest and most suitable types of vessels. . . ." It is also referred to in other sections of the Act in the

Continued

Tanker demand in the ANS trade depends on ANS oil production and the distribution of the oil. As production increases, so does the amount of tonnage needed to carry the oil. However, the increase in demand for tankers may not be proportional to oil production if there is also a change in the distribution of the oil.

Several factors contribute to the suitability of the four VLCCs for the ANS-Panama trade. VLCCs are more suitable for long-haul, high volume trades than smaller tankers, due to economies of scale. That is, tanker operating costs do not rise as fast as cargo volumes. Studies of optimal ship size have shown that optimal ship size is determined by minimizing costs per ton at sea and in port. (In port, costs per ton increase with ship size; at sea, however, costs per ton decline with ship size). J.O. Jansson and D. Shneerson, "The Optimal Ship Size," *Journal of Transport Economic and Policy*, 217, 223 (Sept. 1982). VLCCs are more suitable for the Alaska-Panama leg of the ANS trade because of the length of the voyage (approximately 4,950 miles). The at-sea time is significantly longer than any of the other legs of U.S.-flag oil shipments in the U.S. Another factor contributing to the suitability of the VLCCs for the Panama leg is the deep-draft at the Puerto Armuelles terminal in Panama, which can accommodate those larger tankers. Because of these factors, VLCCs are able to carry oil in that trade more efficiently than smaller tankers under 100,000 DWT.

Historically, VLCCs have carried the majority of oil from Alaska to Panama. During 1986, about half the full-time equivalent tanker employment in the Alaska-Panama trade was for vessels from 200,000 DWT to 265,000 DWT; most of the other half was for VLCCs from 170,000 DWT to 190,000 DWT. A small percentage was carried by tankers from 110,000 DWT–137,000 DWT, while only 0.6 percent in 1986 was carried by vessels under 100,000 DWT. (Historically, the share carried by tankers under 100,000 DWT has been no more than six percent.) Even prior to the 1985 CDS repayment by three of the VLCCs, the Valdez-Panama trade was overwhelmingly dominated by tankers over 100,000 DWT. Many of these were CDS-built VLCCs operating under six month permissions in the domestic trade.

The Regulatory Impact Analysis (RIA) also indicate trends in the distribution of oil by trade and by vessel tonnage pertinent to this issue. It indicates that since the permanent entrance of the three CDS-built VLCCs in the domestic trade (i.e., from 1985–1986), the percentage of full-time equivalent tanker employment for VLCCs over 200,000 DWT in the Alaska-Panama trade has risen considerably, and employment by vessels under that tonnage range has decreased correspondingly.[6] It appears therefore that the trend of large VLCCs carrying the majority of Valdez-Panama ANS trade will continue.

(ii) Several commenters argued that the legislative history of the Act indicates that the term "suitability" in section 101 refers solely to military suitability, and that the four VLCCs are not suitable for military use.

MARAD agrees that usefulness of a vessel for national defense or military purposes is one factor to be considered in determining whether a vessel is "suitable" under section 101. In fact, the four VLCCs at issue have been certified by the Navy as being so useful. Section 501 of the Act establishes requirements for approval of applications by proposed ship purchasers for CDS. One of the requirements for approval in section 501 is that the Secretary of Transportation must determine that the "plans and specifications call for a new vessel which will . . . be suitable for use by the United States for national defense or military purposes in time of war or national emergency . . ." section 501(b) requires the Secretary of Transportation to submit the plans and specification for the proposed vessel to the Navy Department "for examination thereof and suggestions for such change therein . . . in order that such vessel shall be suitable for economical and speedy conversion into a naval or military auxiliary, or otherwise suitable for the use of the United States Government in time of war or national emergency." 46 App. U.S.C. 1151. If the Secretary of the Navy approves the plan, the approval shall be certified to the Secretary of Transportation.

In a letter dated June 22, 1971 to the Assistant Secretary for Maritime Affairs, Department of Commerce, the Navy Department certified the plans and specifications on the same ship design as the BROOKLYN and BAY RIDGE. In that letter, the Navy Department certified "that the proposed ships are suitable for the use of the United States Government in time of war and national emergency." The Navy Department suggested certain features to enhance the suitability of the tankers, which subsequently were included in the plans. On July 3, 1973, the Navy Department approved the plans for the design of the two ARCO VLCCS, and certified that they, too, were suitable for use by the government in time of war or national emergency. The Navy again suggested certain features that were in accordance with Military Sealift Command standards. That letter also noted that the design did not meet basic environmental standards expected to be established for oil transport vessels, and, thus, the Navy requested that the final contract plans and specifications be resubmitted to the Navy for review. Those plans were subsequently resubmitted to Navy, and received their approval. Thus, the CDS-built VLCCs were built with the approval of the Navy as suitable for use by the government pursuant to section 501 of the Act.

Further, the word "suitable" as used in section 101(d) of the Act, (i.e., "(d) composed of the best equipped, safest and most suitable types of vessels, constructed in the United States and manned with a trained and efficient citizen personnel, and . . .") is not limited to suitable vessels for use in time of war or national emergency or for economical and speedy conversion into naval or military auxiliary. The word also addresses the suitability of vessels for commercial trading purposes. Otherwise section 101(a) of the Act loses its meaning and section 101(b) becomes redundant.

MARAD has historically employed the term "suitable" in referring to vessels that meet the requirements set out in section 211(c) of the Act. Thus, the formal findings which are made by the Maritime Administrator in his determination as to whether vessels meet the requirements of section 211(c) employ the word "suitable." As used by the Maritime Administrator in this context "suitable" refers primarily to commercial characteristics as described in section 211(c) which would enable a vessel to operate efficiently in commercial operations.

Further, the legislative history to the Act indicates that "suitable vessels" include those that are "modern" and "mobile," [7] "properly equipped," and "of adequate speed and efficiency" [8] with

context of military usefulness, as in section 501 of the Act. (46 U.S.C. 1151, 1152, *see also* 46 U.S.C. 861, 1125) and 46 CFR Part 250. Participation by Vessels Built with Construction-Differential Subsidy in the Carriage of Oil from Alaska in the Domestic Trade.

[6] It should be noted, however, that in some years, the full-time equivalent of three VLCCs operated in the ANS trade under six month waivers pursuant to 46 CFR Part 250.

[7] House Report No. 1277, *The Merchant Marine Bill* 1935, 74th Cong., 1st Sess. 7 (1935).

[8] House Document No. 118, 74th Cong., 1st Sess. 25 (1935).

"reduced fuel consumption." [9] The legislative history further acknowledges that "larger and faster ships might be more efficient, not only in developing foreign commerce, but also more desirable as naval auxiliaries." [10]

MARAD acknowledges the importance of the national defense objective of the Act, which is clearly an essential feature of the Act.[11] Since the four VLCCs have been certified by the Navy as being useful to the government in times of war or national emergency, MARAD believes that they are "suitable" vessels as defined by the Act and its legislative history.

b. Well-Balanced Fleet

(i) Several commenters also argued that the domestic fleet will not be well-balanced under this rule, but will be top-heavy with VLCCs at expense of 12 handy-sized tankers. Other commenters believed that VLCCs are necessary to provide a combination of types of ships for the varied segments of the domestic oil trade.

The preamble to the Act states that the Act is intended to "further the development and maintenance of an adequate and well-balanced American merchant marine, to promote the commerce of the United States. . . ." MARAD believes that this rule furthers those goals and that to be well-balanced, the U.S. fleet must be composed of a mix of vessels that are suitable for serving particular trades. While VLCCs are more suitable than smaller, handy-sized tankers for the long-haul, high volume crude oil trades, e.g., Valdez-Panama, handy-sized tankers (i.e., approximately 27,500 DWT) are better suited than VLCCs for U.S. coastwise trades.

During 1986, all Jones Act VLCCs were employed in the ANS-Panama and ANS-West Coast crude trades. Such temporary lay ups can be attributed to seasonality of the coastwise product trades. Thus, the current Jones Act tanker fleet, including the repayment VLCCs, appears to have an adequate mix of VLCCs and smaller tankers to serve the long-haul crude oil trades as well as the highly seasonal coastwise trades. In fact, allowing the four VLCCs to remain in the domestic trade makes the domestic fleet better balanced than it would be without these vessels in the trade. Without the four VLCCs being employed full-time in the Alaskan oil trade, it is likely that there would not be sufficient small tanker capacity available to meet peak seasonal demand in the upcoast (U.S. Gulf/East Coast) trade.

Further, only six percent of the domestic tanker deadweight tonnage (a total of twelve tankers of 649,609 DWT) were in long-term lay-up or temporarily idled as of February 19, 1987. Of those, three tankers (totaling 146,600 DWT) are over 20 years old. The remaining nine tankers include the PRINCE WILLIAM SOUND (123,400 DWT) which was in repair, and smaller tankers that could serve in the Alaska-Panama trades, although at much higher cost per ton delivered than the VLCCs currently operating in that trade. As of May 12, 1987, there were 23 inactive U.S.-flag domestic tankers. Of these, seven (312,000 DWT) were laid up, 14 (636,600 DWT) were temporarily idled and two (204,000 DWT) were casualties. The PRINCE WILLIAM SOUND recently was chartered for six months, the ASPEN was repaired and is scheduled for loading in Valdez on June 12, 1987. The Navy has announced it will purchase the SPIRIT OF LIBERTY for the Reserve Fleet. The CHESAPEAKE has been approved for foreign transfer. The remaining tankers could be sufficient to offset the loss of the three latest CDS-repayment VLCCs from the ANS-Panama trade, although at a much higher cost per delivered ton of crude oil. However, if the repayment VLCCs were removed from the Valdez-Panama trade, and replaced by laid-up tonnage, there would be severe shortages of tanker services (at least through 1989) to meet seasonal peak demands in domestic petroleum trades.

Comparing the February lay-up list to the May list shows an addition of 11 ships.[12] Some of this increase can be attributed to the delivery of the 209,000 DWT EXXON LONG BEACH as there has been little change in the employment of the four CDS-repayment VLCCs during this period. Although the BAY RIDGE has recently been laid up, MARAD believes there are still adequate employment opportunities in the Valdez-Panama trade. (See RIA).

(ii) Shell Refinery and Marketing Company commented that the domestic fleet will not be well-balanced with the four VLCCs in the trade. The basis for this contention was Shell's statement that it was given contractual notice of termination of their subcharters for the B.T. ALASKA and B.T. SAN DIEGO, two VLCCs which will be idled as of August 4, 1987. Shell argued that its two proven "most suitable" tankers and other Jones Act vessels will be unemployed and possibly scrapped in order to accommodate and reward those who unwisely invested in CDS vessels.

While some realignment of the tanker fleet has occurred following CDS repayment, that realignment has resulted from shippers seeking to charter suitable, cost-effective tankers (see RIA). That shippers have kept the four VLCCs and the Shell vessels employed since the four VLCCs repaid their CDS indicates that they are suitable for the Alaska-Panama trade. The recent lay-up of the BAY RIDGE and notice of termination of the Shell vessels' charters do not necessarily indicate at this point anything beyond anticipated temporary idle tonnage. It is reasonable to believe that if in fact these vessels are among the most suitable tankers, they will be employed in the future and thus contribute to a well-balanced U.S. flag fleet.

(iii) Several commenters argued that the rule will cause the U.S. fleet to be unbalanced on the basis that the U.S. foreign trade fleet will be less adequate because the four VLCCs will not operate in that trade.

The U.S.-flag tanker fleet engaged in the foreign trade will in all likelihood be unaffected by this rulemaking. The four repayment VLCCs were built for the foreign trades, but because of changes in the geographic pattern of U.S. foreign oil trades and continually depressed market conditions for VLCCs in foreign trades, U.S.-flag VLCCs have been unable to compete effectively in these trades (see RIA and section 1.d.(i) below). If the four VLCCs were removed from the domestic trade, they would probably not be employed in the U.S. foreign trades. They would be laid-up or more likely, eventually scrapped. The agency has not ignored the objective of fostering a fleet capable of carrying a substantial portion of U.S. waterborne export and import foreign commerce, but the reality is that this rulemaking will not discourage or enhance that objective.

c. Impact on Shipyards and Shipbuilding

(i) Several commenters argued that the rule will have a negative effect on U.S. shipyards, in opposition to the goals of the Act. Some commenters stated that CDS repayment has already destabilized the domestic tanker industry and, thus, discouraged shipbuilding. Some commenters also believed that the rule will particularly

[9] *See, e.g.*, Hearings on S. 2582, *Merchant Marine Act*, 1935, Committee on Commerce, United States Senate, 74th Cong., 1st Sess. 120 (1935).

[10] Senate Report No. 1721, 74th Cong., 2d Sess., April 3, 1936.

[11] House Report No. 1950, 75th Cong., 3rd Sess., F-S (1978).

[12] Tankers of less than 6,000 DWT and chemical tankers were not included in calculating these figures. The RIA lists the laid up, idle, and casualty tankers as of May 12, 1987.

discourage the building of militarily useful handy-size tankers. Other commenters believed that domestic construction has and will continue to decline, due to factors other than CDS repayment.

One of the objectives of the Act is to encourage the development of a merchant marine fleet "supplemented by efficient facilities for shipbuilding and ship repair." While this rulemaking will not actively promote this goal, it also will not have a significant advere effect on U.S. commercial shipbuilding. MARAD acknowledges that future shipbuilding prospects with or without this rule do not appear positive. Even without CDS repayment, as discussed elsewhere, the growth prospects for the domestic petroleum trades are not sufficient to require the construction of additional tanker capacity.

No orders for the construction of unsubsidized tankers over 100,000 DWT were placed between April 1976 and August 1984. On August 27, 1984, EXXON placed an order for construction of two 209,000 DWT tankers in the United States for employment in the ANS trade. Two foreign-flag tanker over 100,000 DWT were rebuilt in the United States for the ANS crude oil trade in 1981 and 1983 under the Wrecked Vessel Act (46 U.S.C. 14). Under this Act, foreign-built vessels that are wrecked off the U.S. coast are eligible to enter the U.S. domestic trade provided the vessel is purchased by a U.S. citizen and rebuilt in the United States at a cost that is at least three times the appraised salvage value. The first vessel, the OVERSEAS BOSTON (123,700 DWT), was rebuilt in 1981 and the second vessel, the OGDEN COLUMBIA (136,000 DWT), was rebuilt in 1983.

Full-time operation of the three additional VLCCs in the ANS trade following the 1985 rule did not significantly affect the total capacity available. VLCC capacity in the ANS trade following the three most recent paybacks is virtually the same as it was prior to the 1985 rule, when six VLCCs operated for several years in the ANS trade on six-month waivers. In fact, the 1985 entry stabilized domestic tanker markets because the proportional payback required for waiver did not fully offset capital cost advantages of CDS tankers, and any suitable non-CDS tanker could block the granting of a waiver even if its unemployment was due solely to the insistence on unreasonable rates.

Removal of the repayment VLCCs from the domestic trade would not increase construction of militarily useful, handy-sized tanker in U.S. yards for the following reasons. Because those smaller tankers are not suitable for ANS-Panama trade, shortages of tanker tonnage in that trade (following removal of repayment VLCCs) would probably be met by the granting of six-month waivers for CDS-built VLCCs, and/or by activating laid up tankers. However, it is unlikely that new VLCCs would be built for this trade in any case. In addition to the high cost of construction and the long lead time before delivery, the ANS-Panama trade is expected to decline in the 1990s. It is unrealistic to expect any investment in new tankers for a market in which capital would have to be amortized over a 5–10 year period. Thus, allowing the four CDS-Built VLCCs to remain permanently in the domestic Jones Act fleet will have little effect on the amount of domestic tanker construction.

(ii) The Shipbuilders Council of America asserted that withdrawal of the rule would have a positive impact on West Coast ship repair facilities, because smaller and more numerous tankers presently in lay-up would replace the VLCCs. These smaller tankers would be repaired in domestic yards.

MARAD acknowledges that a few smaller, less efficient tankers might remain fully employed in the ANS trade if the four VLCCs were not allowed to remain in the domestic trade, with some additional repair opportunities for shipyards. However, many of the laid up tankers are nearing the end of their statutory useful life and several are older. Thus, opportunities for ship repair facilities would decline as these older tankers are scrapped.

d. Impact on the Foreign Trade Fleet

(i) A number of commenter argued that removing the four VLCCs from the foreign trade will reduce needed tonnage in that trade. Other commenters insisted that the four VLCCs cannot compete in the foreign trade.

One of the goals of the Act is to encourage the development and maintenance of a merchant marine sufficient to carry "a substantial portion of the waterborne export and import foreign commerce of the United States. . . ." 46 U.S.C. 1101(a). The Court of Appeals criticized the previous CDS repayment rule for its "dubious proposition that the fleet will remain able to carry 'a substantial portion' of foreign commerce . . ." *ITOC* v. *Dole*, 809 F.2d at 853 (D.C. Cir. 1987). However, the Court also noted in a footnote:

> It may be, of course, that present conditions in the world shipping market make it impossible for the Secretary to find a way to meet all of the statutory objectives. If this is a problem, she should discuss it frankly and directly when she considers which measures to adopt in light of the objectives explicitly set out in the Act. *Id.* at 854, n.4.

While this rulemaking will provide a domestic tanker fleet that is: (1) Sufficient to carry the domestic waterborne commerce of the United States and (2) composed of the "best equipped, safest, and most suitable types of vessels," MARAD acknowledges that it would not increase or decrease the U.S.-flag share of the water-borne export and import bulk foreign commerce of the United States.

The U.S.-flag foreign trade tanker fleet currently consists of 26 CDS-built tankers totaling three million deadweight tons, including four VLCCs and two ULCCs. (This excludes the four VLCCs that are the subject of this rulemaking and three CDS-built integrated tub-barges, but includes two CDS-built ore-bulk-oil carriers built with CDS.) This tonnage is insufficient to carry a substantial portion of the U.S. bulk foreign commerce. The four CDS-built VLCCs and two ULCCs (ultra large crude carriers) are currently laid up. Only one of the CDS-built tankers under 100,000 DWT is laid up. Seven of those tankers are employed in the foreign trade, while the remaining 12 tankers are under charter to the Military Sealift Command (6) or are employed in the preference trades (6) carrying Strategic Petroleum Reserve oil.

While the intent of MARAD's CDS and ODS programs was to provide a basis for a U.S.-flag fleet that is sufficient to carry a substantial portion of our bulk import and export trade, the assumptions of those programs were not met for VLCC tankers and most of these tankers built under the 1970 program are not competitive in the international market. Moreover, even with the benefits of CDS, the capital costs of CDS-built VLCCs exceed those of comparable foreign-built tankers. In addition, provision for full ODS, as some suggest, would be exorbitant, whether it included or excluded capital cost differentials. Full subsidy would require approximately $5 million annually per ship. There would be no incentive for efficient operation and the Government would become the guarantor of profitable operation. Moreover, the trade ramifications of such a massive open-ended subsidy could prove totally counterproductive at a time when the United States is seeking to remove other anticompetitive trade measures by our trading partners. The United States is neither required to make such

expenditures nor would it be sound policy.

The United States currently imports approximately 6.0 million barrels per day of crude oil and refined product, of which only three percent is carried on U.S.-flag tankers. Further, a substantial portion of our crude oil imports—approximately 45 percent—is received from nearby sources including Canada, Mexico, Venezuela and the Caribbean region. The CDS-built VLCCs are unsuitable for these nearby import trades. Approximately 32 percent of U.S. crude oil imports are received from the distant Arabian Gulf and North Sea regions for which VLCCs would be suitable. (However, as noted below, U.S. ships cannot compete profitably in that trade.) In contrast, ten years ago U.S. crude oil and refined product imports averaged 8.8 million barrels per day. Only 14 percent of our crude oil imports were received from nearby sources while over 40 percent of our oil imports were received from the Arabian Gulf and North Sea regions.

During the last year, there has been an increase in oil exports from the Arabian Gulf region and a corresponding rise in demand for VLCCs in the international trade. Despite this increase, it is unlikely that the U.S.-flag share of U.S. oil imports would increase, due to an oversupply of tonnage in the world tanker fleet and the higher cost structure for U.S. tankers.

According to the Tanker Review in the May 1987 *Lloyd's Shipping Economist*, "tanker owners' hopes for a more sustained period of improvement have quickly evaporated. Once again they are suffering the consequences of a sharp but transitory upturn in the demand for tankers. This had effectively halted the process of overall fleet contraction during 1986 and actually caused an increase in the size of the active oil carrying fleet during the year, so that the subsequent downturn in oil liftings left the market severely overtonnaged and, by March 1987, charter rates for most vessel categories had fallen back to the distressed levels witnessed during the early 1980s." The International Association of Independent Tanker Owners (Intertanko) warned in its 1986 annual report that the severe imbalance in the world's tanker market could worsen over the next couple of years unless the rate of scrapping accelerates. Intertanko, whose members account for about 70 percent of the world's independent tanker fleet, notes that last year's newbuilding orders at 11.5 million DWT reached the highest level since 1979 and that by the end of 1988, the tonnage surplus is projected to rise to about 30 million DWT if the rate of demolition does not increase.

The amount of idle capacity in the over 200,000 DWT size class represents more than 26 percent of the available tonnage in that class. Therefore, given the relative higher operating costs for U.S.-flag tankers and the amount of idle tonnage over 200,000 DWT in the world fleet, it is very likely that the four VLCCs that are the subject of this rulemaking would be laid up or scrapped if they are required to leave the domestic trade.

In fact, of the nine VLCCs and two ULCCs built with CDS under the 1970 program, none has had any significant employment in the foreign commercial trades, other than occasional shipments of oil to the Strategic Petroleum Reserve, which are reserved to U.S.-flag carriage. The BAY RIDGE, which repaid its CDS in 1980, has been operating actively in the domestic trade since that time, as has the STUYVESANT. The other three VLCCs operated in the domestic trade regularly under six month waivers under Part 250 (a total of 17 times since 1978) and on a full-time basis since they repaid CDS. Thus, the deployment of these four VLCCS to the domestic trade would have no impact on U.S.-flag tanker presence in foreign trades. If anything, by precluding their scrapping, the rule enhances the possibility, concededly remote, that the vessels could be used in the foreign trade if market conditions change.

The D.C. Circuit criticized the statement in the preamble to the 1985 rule that, while the rule would not enhance U.S. participation in the foreign trade, the repaying vessels would be available if opportunities should arise in that trade. The court was of the view that if total U.S. tonnage decreased to the level required by the domestic trade as a result of the rule, there would not be capacity available to carry a "substantial portion" of foreign oil. 809 F.2d at 853. However, it is not CDS repayment that is causing or hastening the "natural tendency" of the fleet to shrink to the level required to serve the domestic demand, it is the dearth of profitable opportunities in the foreign trade due to factors unrelated to CDS repayment.

(ii) Some commenters disagreed with MARAD's assessment that the four VLCCs could not compete in the foreign trade. These commenters argued that there were opportunities for U.S.-flag VLCCs in foreign trade in 1986. The comments of American Trading Transportation Company, Inc., and others contended that the four VLCCs could be competitive in the foreign trade by using the refund of money they used to repay CDS to subsidize their vessels in the foreign trade until international market conditions improved. Further, a commenter stated that ARCO and American Petrofina could use a portion of these funds to re-engine their VLCCs from steam to diesel, which would result in savings in fuel oil consumption and manning costs, thus reducing the operating cost differential between the ARCO and foreign-flag VLCCs.

The breakeven rate for the ARCO VLCCs in the Persian Gulf-U.S. Gulf trade, the predominant market for VLCCs in U.S. foreign trade, is $10.75/long ton or WS 66 fully loaded, excluding capital costs; or $12.65/long ton or WS 78, including capital costs.

The highest publicly reported voyage fixture for 200,000–300,000 long ton shipments in the Persian Gulf-U.S. trade in 1986 was $7.70/long ton or WS 47.5 (Lloyd's Maritime Data Network), well below the breakeven rate excluding capital cost for the ARCO VLCCs in that trade. American Petrofina (which charters the BROOKLYN) in its comments calculated that it would incur annual operating losses of $6–6.7 million per ship to engage in the foreign trade, in addition to $6 million for charter hire which is payable even if the ship is not employed. Since it would cost approximately $8 million to lay up one of its ships, American Petrofina stated that it would not be likely that its ships would enter the foreign trade. Thus, it appears that the repayment VLCCs would have generated substantial operating losses if they had operated in U.S. foreign trades in 1986.

MARAD belives that, even if it refunded the CDS payback money, it could not force those that repaid to use the money to re-engine their VLCCs. In repaying their CDS, the VLCC owners made the business decision that they could operate their tankers more profitably, even in light of the cost of repayment, in the domestic trade than in the foreign trade. Even if the VLCCs were re-engined, their operating and capital costs would be higher than that of comparable foreign-built VLCCs.[13] The oversupply of VLCCs in the world market has resulted in rates that could not possibly compensate the four VLCCs for their costs. (American Petrofina predicted it would incure annual operating losses of $6 to $6.7 million per

[13] If the vessels could have been operated profitably in the foreign trade following reengining, it is reasonable to presume that their owners would have taken that step prior to the 1985 rule, rather than allow the ships to remain idle at least six months each year.

ship to engage the foreign trade.) Further, as American Petrofina noted, not one of the four VLCCs has had a single commercial foreign trade voyage in the last six years.

Hence, MARAD continues to believe that allowing the four VLCCs to remain in the domestic trade is the best option for their continued viable operation. To force the four VLCCs out of that trade would not enhance U.S. participation in the foreign trade and will not further any of the other objectives of the Act.

(iii) A number of commenters believed that the rule will hurt the existing foreign fleet, i.e., those non-repaying CDS VLCCs, by eliminating their main source of employment in the domestic trade (through six-month waivers).

Full-time employment of the repayment VLCCs may have eliminated a source of employment, i.e., six-month waivers, for non-repaying CDS VLCCs. However, under Part 250 employment of the non-repaying CDS VLCCs in the ANS trades may have otherwise been blocked by an "unemployed" non-CDS tanker. Furthermore, under the 1985 CDS repayment rule, all CDS-built tankers were afforded the opportunity to permanently enter the domestic trades in exchange for repayment of CDS plus interest. Those non-repaying tanker owners have no basis to now complain that they are adversely affected by their failure to take that opportunity.

Moreover, as of April 10, 1987, three CDS-built VLCCs originally owned by Seatrain (NEW YORK, MARYLAND, MASSACHUSETTS) were turned over by bankruptcy court order to MARAD following MARAD's honoring of loan guarantees under Title XI of the Act following Seatrain's defaults. Seatrain no longer has any interest in operating those VLCCs. The only other CDS-built VLCC that did not repay is the WILLIAMSBURG operated by American Petrofina, which is not complaining.

e. Impact on the Domestic Fleet

Some commenters argued that CDS repayment has caused overtonnaging in the domestic fleet. Other commenters supported MARAD's assessment that the rule would benefit the domestic fleet overall.

(i) *Forecast of Alaskan Tanker Capacity.* MARAD believes that CDS repayment rule has not caused overtonnaging in the domestic trade, but has stabilized the trade by allowing permanent entry of a limited number of suitable tankers into the ANS trade instead of the uncertainty of six-month waivers for an uncertain number of VLCCs. Prior to the three post-1985 paybacks, six VLCCs for several years operated in the ANS trade on six-month waivers, representing the equivalent of three full-time operating VLCCs. Moreover, the BAY RIDGE has been operating in that trade since 1980.

In fact, despite a sharp decline in the upcoast petroleum products trades from 1984 to 1986, laid up domestic tanker tonnage has declined, in part due to high levels of tanker scrappings in 1984–86 as a result of the Port and Tanker Safety Act (PTSA). The PRINCE WILLIAM SOUND and the ASPEN are laid up as a result of casualties, not because of lack of employment opportunities. Four of the inactive tankers, the NEW YORK (an integrated tug/barge), JACKSONVILLE (integrated tug/barge), FREDERICKSBURG and CHARLESTON are under long term charter to Amerada Hess. The Navy has announced it will purchase the SPIRIT OF LIBERTY for the Reserve Fleet. The CHESAPEAKE has been approved for foreign-flag transfer.

Of the remaining four tankers, all are more than 20 years old. The aggregate capacity of these four tankers (156,000 DWT) would not be sufficient to cover the loss of one VLCC in the event of a casualty. (A more complete discussion of the "bumping" process that could impact the domestic fleet is set out in the RIA at p. 31 and in section 1.F. below.)

Further, as of May 1987, there were 50 U.S.-flag tankers (with domestic trading privileges) over 20 years old. The aggregate capacity of these ships was 1.8 million DWT. This capacity is likely to be subject to greater maintenance requirements, i.e., out of service time, in the future. Some will likely be scrapped. Thus, the capacity of the domestic tanker fleet is expected to fall sharply in the late 1980s.

A further relevant consideration is that the repayment VLCCs have significantly lower cost per ton-mile than smaller tankers in the Valdez-Panama trade. If the repayment VLCCs were removed from the Valdez-Panama trade, the total marine cost of transporting ANS crude oil would rise by approximately $386–$542 million. With resulting higher rates, cargo might be diverted from tankers to pipelines, i.e., All American and Four Corners pipelines, thus reducing tanker employment in the Valdez-Panama trade as well as the Panama-Gulf/East Coast trades.

ii. *Forecast of Alaska Crude Oil Production and Distribution.* The demand for tankers in the ANS trade in 1987 is expected to be 6.1 to 6.2 million DWT of which 2.7 to 2.8 million DWT will be in the Valdez to Panama trade. Production is expected to decline after 1989, thus reducing tanker demand in all segments of the ANS trade (RIA, Appendix VI).

As long as there is sufficient demand in the Alaska-Panama trade, MARAD expects that the VLCCs will continue to be employed in that trade. MARAD does not expect that they will be employed in the West Coast segment of the ANS trade if demand in the Valdez-Panama trade is insufficient to support all four VLCCs, given port constraints and the higher costs of lightering or operating the ships light loaded. (Although MARAD is aware that the BAY RIDGE did make one trip to Los Angeles in May 1987 light loaded at 160,000 tons recently, that was an unusual circumstance.)

While ANS tanker loadings have increased from 629 thousand barrels per day in 1977 to 1,788 thousand barrels per day in 1986, loadings are expected to fall after 1989, due to a decline in ANS production (RIA Table II–1).

The opening of the All American Pipeline in 1988 will likely further dampen the demand for VLCCs in the Valdez-Panama trades. The pipeline will have a capacity to move 300,000 barrels per day of either California or ANS crude oil from Southern California to the Texas Gulf. To the extent that ANs crude oil is shipped through the pipeline or more ANS crude oil is shipped to California to replace California crude, less oil will be shipped from Valdez to Panama.

Another factor which may reduce the demand for U.S.-flag tankers in the ANS trades in the early 1990's is the potential construction of a 105,000 barrel per day (rated capacity) refinery at Valdez by Alaskan Refining, Inc. Products from the refinery may be transported abroad on foreign-flag tankers, thus reducing Valdez loadings for U.S.-flag tankers. The only possible foreseeable offsetting trend is the development of new oil fields, such as in the Arctic Wildlife Reserve. Such development is extremely speculative.

f. Effect on the Naval Auxiliary

Some commenters contended that this rule will cause a displacement of handy-sized tankers, which are useful for the naval auxiliary. Others argued that there was no evidence that *any* tanker will be displaced by the four VLCCs.

One of the objectives of the Act is to foster the development of a merchant marine fleet "capable of serving as a naval and military auxiliary in time of war or national emergency, ..." 46 U.S.C. 1101(b).

MARAD has considered the effect on the naval auxiliary of allowing the four VLCCs to remain in the domestic trade

(see Regulatory Impact Analysis). MARAD believes that up to six handy-sized militarily useful tankers may possibly be displaced as a result of this rule. Market conditions and statutory requirements have contributed to a reduction in the number of U.S.-flag product tankers, including a declining upcoast petroleum trade (the principal market for U.S.-flag product tankers), the opening of the Trans-Panama Pipeline in 1982, and the anti-pollution standards of the PTSA.

As a result of these factors, 41 tankers, of the type considered highly military useful, were scrapped over a three year period from 1984 through 1986 (see RIA, Appendix 1). All had exceeded their statutory life of 20 years (see RIA, Appendix 1). The average age of these tankers was 34 years. Further, the 1978 PTSA set certain anti-pollution requirements for tankers entering United States waters. By January 2, 1986, crude oil tankers between 20,000 and 40,000 DWT were required to have segregated ballast tanks or a crude oil washing system, and product tankers between 20,000 and 40,000 DWT were required to have segregated ballast tanks or dedicated clean ballast tanks. To comply with the PTSA requirements, tanker owners had the option of retrofitting existing systems, reducing load lines (so as to carry less than 20,000 DWT), using port reception facilities under a specific trade exemption, scrapping, or changing the tanker's service. Due to the cost of retrofitting and resulting loss of cargo capacity, and the inherent limitations of reducing load lines or obtaining a specific trade exemption to use port reception facilities, many tanker owners scrapped their older, less efficient vessels. The PTSA served to speed up the natural process of scrapping that occurs when tankers exceed their useful life.

Of those 41 that were scrapped, 25 were scrapped in 1984, nine in 1985, and seven in 1986. The vast majority of those lacked some or all of the anti-pollution features required by the PTSA. Of the seven scrapped in 1986, four lacked PTSA features. The average age of those tankers was 35 years.

These figures indicate that the scrapping that has occurred in the past three years is not attributable to CDS repayment but rather to the age of the vessels, their inability to economically retrofit to satisfy PTSA requirements and poor market conditions. Since the effective date of the PTSA requirements (January 2, 1986), the number of product tankers scrapped has declined. MARAD believes that this decline in scrapping will continue, since the oldest, least efficient tankers have already been scrapped. In addition, since the enactment of the PTSA, a number of new product tankers have been built.

Further, any effect that the four VLCCs would have on the handy-sized tankers would be indirect, unlike the above factors. VLCCs generally do not compete with these smaller tankers in the same trades. As discussed above, VLCCs have historically served the Alaskan-Panama trade, and smaller tankers serve the Panama Gulf/East Coast trades. While a mix of vessels serve the West Coast, the four VLCCs have not entered that trade. The BAY RIDGE made one trip to Los Angeles in May 1987. Thus, any effect the VLCCs may have on the smaller tankers would be through an indirect displacement. That is, the VLCCs, being more cost-effective, may "bump" other large tankers that could serve the Alaska-Panama trade. In turn, these large tankers could operate in the West Coast and Panama/Gulf trade, picking up oil that could have been carried by smaller tankers. A trend in this direction is indicated by Table III–2 in the Regulatory Impact Analysis. However, such "bumping" effects are much more remote than the effects of the PTSA, the Trans-Panama Pipeline, and declining market conditions, over which MARAD has no control.

Moreover, the current goal of the Navy is to increase the number of tankers in the Ready Reserve Force from eight to twenty by the year 1992. This makes it more likely that if militarily useful tankers became commercially unattractive, the Navy will be able to purchase these vessels for military support. In a letter dated June 10, 1987, the Department of the Navy stated its support for the Department of Transportation's position in its rulemaking. That letter has been placed in the docket.

g. Impact on Employment of U.S. Seamen

Many seamen and others commented that from 600–900 jobs will be lost due to CDS repayment. Others argued that no jobs will be lost due to CDS repayment.

MARAD predicted in the draft RIA that 600 seamen's jobs could be lost due to CDS repayment. The lost jobs related to the 12 Jones Act tankers (employing approximately 600 seamen) then laid up. For reasons explained in the final RIA MARAD believes only possibly six tankers might be displaced. (However, this possible loss would be offset by employment of the four VLCCs.) The possible displacement of six tankers would result in the potential loss of 300, with a net loss of approximately 100 jobs if the four VLCCs were laid up (and a net loss of 225 jobs considering possible section 506 waivers to the four VLCCs.) However, MARAD believes that this rule is only one of many factors contributing to the tanker lay ups. MARAD believes that the direct effects of the rule will further other important objectives of the Act, and counterbalance any possible indirect negative effects on employment.

2. Employment Prospects for the Four VLCCs in the Domestic Trade

Several commenters disagreed with MARAD's predictions for domestic employment prospects for the four VLCCs. ARCO argued that employment prospects apeared positive.

Employment prospects for the four VLCCs in the ANS trade appear to be positive at least for the near future. It is with this near future in mind that these vessels repaid their CDS. Domestic trading restrictions for CDS-built vessels are lifted at the end of their statutory life (i.e., 20 years).[14] The ARCO INDEPENDENCE and ARCO SPIRIT were built in 1977, the BROOKLYN in 1973, and the BAY RIDGE in 1979.[15] Since no new tankers are on order, and prospects for newbuildings seem unlikely, these four VLCCs are among the most suitable vessels for the Alaska-Panama trade. If the four VLCCs remain in the domestic trade, there will be an adequate supply of suitable tonnage to carry oil in that trade even if other older tankers are scrapped and if no new tankers are built.

If the four VLCCs were removed from the domestic trade, a shortage of the most suitable tonnage in the Alaska-Panama trade would occur, necessitating the entrance of smaller, less suitable tankers in that trade, and would also likely result in those VLCCs being laid up, since they are unable to compete in the foreign trade.

In conclusion, as far as can reliably be foreseen, the continued employment in the Alaskan oil trade for the four VLCCs that repaid CDS would benefit the U.S. domestic waterborne commerce by providing vessels that are most suitable for the Alaska-Panama oil trade and by providing an employed, well-balanced merchant marine.

[14] *See* Senate Report No. 28 (89th Cong., 1st Sess. July 9, 1965).

[15] Even without the present rulemaking, these vessels would be allowed to enter the domestic trade at the end of their 20 year useful life. Thus, the effects of this rulemaking would expire in the mid to late 1990s.

3. Environmental Impacts

a. Oil Spill Risk

(i) Several commenters stated their concern that the four VLCCs would "bump" safer, smaller vessels that serve the West Coast trade and introduce or allow the increased operation of VLCCs between Alaska and California, resulting in more vessel traffic, reduced fishing vessel safety and increased risk of a large oil spill.

Adoption of the rule is not expected to introduce CDS-built VLCCs to the West Coast trade. The only instance of one of the VLCCs calling at the West Coast is the BAY RIDGE, which called at Los Angeles light-loaded in May 1987. The VLCCs that repaid and that are operating pursuant to that repayment operated regularly, before issuance of the 1985 rule, in the Valdez to Panama trade under the six month waiver process. Tanker routes between Valdez and Panama have not changed since the preparation of the 1985 EA (Environmental Assessment) that accompanied the 1985 CDS rule.[16]

The proposed rule and the draft RIA predicted that smaller vessels in the Valdez to Panama trade would be "bumped" to shorter haul trips to the West Coast. They would not be bumped from West Coast trade or replaced in that trade by CDS-built VLCCs. However, MARAD believes that the distribution of tonnage employed in the domestic trade will not change substantially if the four VLCCs are allowed to remain in the trade.

In addition, the CDS VLCCs are safe as they are equipped with a variety of safety and environmental features which meet or exceed Coast Guard and MARPOL 73/78 safety and oil pollution standards for vessels of this type (see EA).

The CDS-built VLCCs will operate far offshore primarily in the long-haul Valdez to Panama trade with smaller vessels plying the shorter haul Valdez to West Coast trade. The risk of oil spill is greater in port than at sea. The total number of trips and port calls would decrease due to the larger carrying capacity of the VLCCs, thus reducing the overall risk of any accidental oil spill.

(ii) Several commenters argued that despite contrary predictions in the NPRM and the EA that fewer VLCCs would make fewer voyages, there remains the danger of a VLCC collision that would create a larger oil spill than that made by smaller tankers.

If the four VLCCs are removed from the ANS trade, a larger number of smaller tankers will operate making more voyages with more risk of collision than the VLCCs which are fewer in number and make fewer voyages and port calls. While the largest potential spill in the ANS trade would be from the collision of a VLCC transporting crude oil from Valdez, the maximum credible oil spill would result from a rupturing of the vessel's wing tanks containing 10–13 percent of the cargo according to a Coast Guard Final Environmental Impact Statement (U.S. Coast Guard Final Environmental Impact Statement, Texas Offshore Port). Such a maximum credible oil spill would remain the same even if the four VLCCs were not permanently in the domestic trade since foreign-flag VLCCs will continue to operate in the ANS trade (Valdez to Virgin Islands), as would the STUYVESANT and any CDS VLCCs allowed under six-month permissions.

b. Coastal Zone Management Act and Endangered Species Act

Several commenters contended that the consultation requirements of the Coastal Zone Management and Endangered Species Acts have not been complied with by MARAD and that the rule would result in the endangerment of certain species of animals (e.g. sea otters and whales) and "habitat degredation."

As for compliance with the Endangered Species Act (16 U.S.C. 1536(a)(2)), MARAD continues to believe that this regulatory action is not likely to affect any species listed under the Endangered Species Act or result in the destruction or modification of critical habitat. However, MARAD has requested informal consultation with both the National Marine Fisheries Service and the Fish and Wildlife Service on the impact of the rule.

The DOT sent a letter dated June 17, 1987 to the National Marine Fisheries Service (Department of Commerce) again requesting concurrence in its determination that the rule is not likely to affect a species or modify a species habitat under the Endangered Species Act. This letter follows a previous letter dated May 21, 1987 from the MARAD Administrator also requesting concurrence. The Fish and Wildlife Service (Department of Interior) concurred by letter dated June 18, 1987.

The Coastal Zone Management Act (16 U.S.C. 1452 *et seq.*) requires that "when conducting or supporting activities directly affecting the coastal zone," an agency should strive to the "maximum extent practicable," to act in consistency with state coastal management programs. Certain commenters argued that, under this Act, MARAD should consult with the California Coastal Commission. Again, MARAD does not believe, as it stated in the EA, that there will be a direct effect on the coastal zone of any state as the result of promulgation of this rule. The rule will not result in physical alteration of the coastal zone or initiate a chain of events that would lead to alteration of the coastal zone. Hence, MARAD does not believe that any consultation is necessary. The four VLCCs at issue have historically served the Alaska-Panama trade, not the coastal trades and are expected to continue that pattern. The rule is not likely to increase traffic by VLCCs over 200,000 DWT in the coastal zones. Moreover, the rule is likely to result in an overall reduced risk of oil spill.

c. Environmental Impact Statement

Some commenters argued that an Environmental Impact Statement (EIS) should have been prepared rather than an EA.

MARAD did not violate the National Environmental Protection Act (NEPA) by issuing a Finding of No Significant Impact (FONSI) on the basis of the EA rather than preparing an EIS. DOT Order 5610.1C, 45 FR 2244 (1980) (as amended) and the Council on Environmental Quality (CEQ) regulations, 40 CFR 1501.4, provide that an EA may be prepared to determine if an EIS should be prepared or if a FONSI may be made. If the EA demonstrates that a "major" action will have a significant impact on the environment, then an EIS must be prepared. If not, then the agency may issue a FONSI.

The EA for this rule contains a detailed analysis of the potential environmental effects of the rule which addresses all the environmental issues raised by the commenters, e.g., risk of oil spills, air quality, fuel consumption, et cetera. It concludes that the potential impact upon the environment will not be significant. Moreover, the full time participation by these vessels in the ANS-Panama trade is consistent with experience in trade prior to the 1985 rule, in light of the former level of six month permissions. Thus, there will be little if any change in environmental impacts as a result of this rule.

In sum, MARAD's determination to issue a FONSI is reasonable and within its agency's discretion. *Cabinet Mountains Wilderness* v. *Peterson*, 685 F.2d 678, 681 (D.C. Cir. 1982); *Sierra Club*

[16] MARAD is aware that Exxon took delivery of two non-CDS 209,000 DWT tankers in November 1986 and April 1987 and they are designed to call at Los Angeles fully loaded; however, their operations are unrelated to this rule.

v. *Department of Transportation*, 753 F.2d 120, 126–27 (D.C. Cir. 1985).

d. Coast Guard EIS on Puget Sound

Some commenters noted that the EIS that the Coast Guard prepared for its Puget Sound rulemaking predicted increased spills with supertanker use. These commenters see this as contradictory to predictions in the EA. However, the issue for decision in the Puget Sound rulemaking (47 FR 17968; 1982) concerned the admission of 200,000 DWT tankers into an area where the previous maximum was 125,000 DWT. The Coast Guard was concerned that the volume of the maximum credible spill from a 200,000 DWT tanker would potentially be considerably greater than that from a tanker of 125,000 DWT and, therefore, increase the potential damage from a major oil spill. Thus, the rule maintained the 125,000 DWT limit. The four VLCCs, along with all vessels over 125,000 DWT, are precluded from entering the Puget Sound under the Coast Guard rule. This CDS repayment rule will not result in the introduction of tankers larger or in greater numbers that those already in use in any location, so there would be no increase in the size of the maximum credible spill.

e. Oil Spill Clean-Up

Some commenters stated that several factors (dense fogs, rough seas, inadequate and defective equipment) negatively affect the ability of so-called "state of the art" oil spill containment and clean-up equipment to function effectively if there were an oil spill.

As for the commenters' contention that the oil pollution clean-up equipment is inadequate or defective, MARAD reiterates that it does not believe the risk of an oil spill has been increased by this final rule (the computed overall frequency of predicted oil spill is reduced, and the size of the maximum credible spill is the same).

If a spill did occur, the present stock of oil pollution equipment is the only means of spill control and clean-up available. This rule cannot set requirements for efficiency or adequacy for pollution clean-up equipment. Nor would it be appropriate or possible to bar safe vessels from operating in the domestic trade until more effective equipment becomes available.

f. Lightering

Some commenters argued that environmental risks will be increased due to increased lightering.

As noted above, it is possible that small Jones Act VLCCs, between 160,000 and 200,000 DWT, may be bumped from the Alaska-Panama trade as a result of this rule. These vessels have drafts which exceed the port and terminal depth limits of some West Coast ports when fully loaded. Sometimes vessels are light-loaded at Valdez when necessary to meet West Coast draft restrictions. (It should be noted the BAY RIDGE called at Los Angeles light-loaded in May 1987.) Minimal lightering may have been necessary on the West Coast for vessels with drafts exceeding port depths, particularly at San Francisco.

The amount of the increase in lightering on the Gulf Coast does not appear to be significant, as the two 120,000 DWT tankers which are now employed in the Panama-Gulf Coast trade are able to offload at the deep water Louisiana Offshore Oil Port (LOOP).

g. Relative Safety of the VLCCs

A few comments argued that the four VLCCs are not safer than smaller tankers. ARCO argued that its vessels are safer.

Allowing the four VLCCs to remain in the domestic trade will further the goal of section 101 of the Act to encourage the development of a fleet composed of the "safest" vessels. As is shown in the EA prepared for this rule, these VLCCS are equipped with a number of safety and pollution control features. The change in oil spill risk for the ANS fleet is expected to continue to improve as more VLCCs and other large tankers replace, where permitted by navigation channel depths. If the four VLCCs were not allowed to remain in the domestic trade, a tonnage shortfall could cause a greater oil spill risk if additional small vessels such as barges were to be employed to compensate for the shortfall.

4. Transportation Savings

Some commenters disputed the figures in the NPRM regarding transportation savings. Others believed that large transportation savings would result from the rule. The State of Alaska commented it had done an analysis in 1985 which showed that CDS tankers save 45 percent on average shipping costs over non-CDS tankers.

MARAD estimates that the transportation savings resulting from CDS repayment will be approximately $386 to $542 million (present value). Appendix III of the RIA shows the transportation savings for the years 1985 through 1989 by trade. The numbers have been revised from the NPRM to reflect transportation savings only for the short-term charters and do not include proprietary or long-term charter rate changes. Appendix V of the RIA shows the rates used to estimate the transportation savings by trade and vessel size. These rates reflect market rates and also include fuel costs. Appendices II and VI of the RIA show West Coast crude supply/disposition and estimated distribution of ANS crude oil. These numbers reflect the increase in ANS production, a decrease in West Coast production, and a one percent increase in West Coast crude oil demand from the actual 1986 figure, based on comments.

5. Title XI Defaults

Several commenters believed that the Title XI defaults resulting from the impact of CDS repayment would be greater than MARAD predicted in the NPRM and draft RIA. Others believed the defaults would be less than predicted.

The possibility of five Title XI defaults of $88 million has been revised to one of $16 million based upon the May 12, 1987 lay-up list. Nine of those 23 tankers had Title XI outstanding, but four of them have oil company charters, and three have paid down their Title XI loans to such a small amount that it is unlkely that they will default. MARAD estimates that of the two remaining there is a remote chance that one may default before 1989 and has thus revised Tables VI–3 and VI–4 in the RIA.

6. Promotion of Efficiency and Competition

A number of commenters claimed that MARAD's arguments in the preamble of the NPRM regarding efficiency and competition were in opposition to the Court of Appeal's decision vacating the 1985 CDS rule. Other commenters supported MARAD's arguments as being within the clear ambit of the Act and that decision.

The basis for this present rulemaking is section 101 of the Act. As explained above, MARAD believes that this rulemaking will further the purposes and policies of the Act by providing vessels suitable for the domestic trade, and will encourage a well-balanced domestic fleet. MARAD included a discussion of efficiency and competition in its NPRM in order to show that these reasons, while not *the basis* for the present rulemaking, do support it, and are justifiable reasons in light of other provisions of the Act.

While section 101 of the Act establishes the general objectives of the Act, other parts of the Act give more specific guidance on interpretation and implementation of these goals. The Act explicitly and implicitly establishes

other policy goals in furtherance of the maintenance and development of the U.S. merchant marine fleet. Among these goals, mentioned in the prior CDS final rule (50 FR 19170), are efficiency and competition. Each of these goals has been recognized by the courts as valid policies for promoting the U.S. merchant marine fleet.

A. *Efficiency.* The goal of efficiency of the fleet is mentioned throughout the Act. Among the express goals of section 101 is that the merchant marine shall be composed of "suitable" vessels manned by "efficient" crews. Certainly, the idea of "suitable" vessels encompasses efficiency as a principal component.

The goal of efficiency is reflected in the legislation establishing the CDS program, which is designed to produce vessels of "high transport capability and productivity." Merchant Marine Act, 1936, as amended, sec. 501 (46 U.S.C. App. 1151). Other provisions in the Act are intended to promote fleet modernization. Under section 213, the Secretary is required to report to Congress annually on the scrapping of old vessels, and the relative cost of ship construction and reconditioning in U.S. shipyards. The Secretary's authority to acquire obsolete vessels for an allowance of credit under section 510(b) is intended "to promote construction of new, safe, and efficient vessels to carry the domestic and foreign waterborne commerce of the United States. . . ."

In addition, the Department of Transportation authorization statute further declares it to be an overriding purpose that national transportation policies and programs be "conducive to the provision of fast, safe, efficient, and convenient transportation at the lowest cost consistent therewith. . . ." 49 U.S.C. 1101. Any ambiguity in the Merchant Marine Act regarding the goal of promotion of efficiency is resolved in favor of that goal through the purposes and policies established in the Department's statute. *Id.*

In addition to these explicit statutory provisions promoting efficiency of the U.S. merchant marine fleet, several recent court decisions have affirmed that one objective of the Act is to encourage modernization and efficiency. For example, the Supreme Court's decision confirming the Secretary's statutory authority to grant permanent release to vessels under CDS restrictions found that a basic goal of the Act was to encourage the maintenance of an "effective merchant marine" with a "fleet [that] was to be modern and efficient." *Seatrain Shipbuilding Corp.* v. *Shell Oil Co.*, 444 U.S. 572, 584 (1980). Further, the D.C. Circuit recently described the first goal of the Act as promoting "a well-equipped and efficient merchant fleet." *American Trading Transportation Co.* v. *United States*, 791 F.2d 942, 944 (D.C. Cir. 1986); *see also Sea-Land* v. *Dole*, 723 F.2d 975, 976 (D.C. Cir. 1983).

The above statutory provisions and judicial interpretations strongly support the goal of promoting efficiency and modernization of the U.S. merchant marine fleet. These goals will be furthered by this rulemaking, which will allow the four VLCCs, which are among the most efficient U.S. tankers in the fleet, to remain active.

B. *Competition.* While the Act does not explicitly list competition as one of its goals, the promotion of competition in the foreign and domestic trades is implicit in the Act. The Act's ODS and CDS programs are intended to give the U.S. merchant marine fleet certain financial resources to compete with lower-cost foreign fleets while not guaranteeing any profit. In particular, Congress made this objective clear in enacting the Merchant Marine Act of 1970, which extended those programs to the unregulated bulk trades. *See* Merchant Marine Act, 1936, 603(b), 46 U.S.C. 1173(b); H. Rep. No. 1073, 91st Cong., 1st Sess., 38 (1969).

Nor is the Jones Act trade immunized from competition within that trade. That is, the Act restricts competition in the Jones Act trade only to the extent necessary to protect unsubsidized U.S. operators from unfair competition from vessels that receive financial assistance (such as ODS and CDS). In the domestic trade, the Secretary has a duty "to minimize interference with the free market forces normally at work. . . ." *ITOC* v. *Lewis, supra*, 690 F.2d at 917.

In its seminal case on the relation between the foreign and domestic trades, the D.C. Circuit stated that "competition is not 'unfair' within the meaning of the Act when it does not involve diversion of money to unsubsidized domestic operations from subsidized foreign operations, to the disadvantage of an unsubsidized operator. Congress plainly did not intend to prevent that sort of competition." *Pacific Far East Line, Inc.* v. *Federal Maritime Board*, 275 F.2d 184, 186 (D.C. Cir. 1960). Other courts have likewise recognized the overriding public policy in favor of competition in the domestic trade and in national transportation policy. *See e.g., Matson Navigation Co.* v. *Connor*, 258 F. Supp. 144, 158 (N.D.Cal. 1966), *aff'd per curiam*, 394 F.2d 514 (9th Cir. 1968); *Bowman Transportation Inc.* v. *Arkansas-Best Freight System, Inc.*, 419 U.S. 281, 198–99 (1974).

Finally, the Supreme Court made clear its preference for fair competition (as opposed to regulated entry under six month permissions) in its decision confirming the Secretary's authority to accept permanent repayment in *Seatrain Shipbuilding Corp.* v. *Shell Oil Co.* 444 U.S. 572, 589–90 (1980):

> Section 506 . . . permit[s] a vessel that enjoys the benefits of CDS to operate outside the foreign market only in narrow circumstances, generally upon a highly discretionary administrative decision, and no more than six months a year. And we have no doubt that it would be flatly inconsistent with one congressional intent were the Secretary or this court to conclude that a temporary release not meeting these conditions was proper. But a permanent release upon full repayment is quite different. It irrevocably locates the vessel in the unsubsidized fleet and, thus, poses no danger of a supercompetitor skimming the cream from each market. It creates no longer-term instability. And it confers no windfall. On the contrary, at least where repayment of the CDS includes some amount reflecting capital costs which would have been incurred had no subsidy been available, such a transaction merely permits a once subsidized vessel to enter the domestic trade on a footing equal to that of vessels already in that trade. It was not the purpose of the Act to prohibit such entry. . . .

Thus, to the extent that the capacity allowed to enter the domestic trade under CDS repayment would have been allowed to participate in the trade under six month permissions, allowing total CDS repayment would necessarily be consistent with the "purpose of the Act" *Id.*

7. Alternatives to the Final Rule

Some commenters thought MARAD should reconsider its alternatives discussed in the proposed rule. Several proposed a number of alternatives not considered in the NPRM, such as exclusion of the BAY RIDGE from the rulemaking, and then allowing only one or two of the VLCCs to remain in the domestic trade. Others found MARAD's rejection of alternatives convincing, and supported its analysis of the alternatives.

MARAD considered three alternatives in the NPRM. The first is to maintain the *status quo*, i.e., to allow the four VLCCs to remain in the domestic trade. The costs and benefits of this alternative have been discussed at length in this statement, and in the Regulatory Impact Analysis (see RIA, p.30). Further costs, evaluated in the Regulatory Impact Analysis, include the recent Title XI defaults of three VLCCs that previously participated in the domestic trade under six-month waivers, and partial defaults of two other CDS-built VLCCs

(STUYVESANT and BAY RIDGE). These costs were not necessarily attributable to CDS repayment and in any event are irreversibly expended at this time (i.e., removing the four VLCCs from the domestic trade would not recover this money). The total default cost to the government has been $137.5 million.

Another relevant consideration is the effect on the existing Jones Act fleet. As of May 12, 1987, 23 Jones Act tankers were inactive (totaling approximately 1,152,600 DWT). On the other side of the ledger, if CDS repayment is not allowed for the four VLCCs, they are likely to be laid up (approximately 705,000 DWT).

MARAD believes that the suitability of the four VLCCs for the Alaska-Panama trade outweights any possible disadvantages of the rule. The average age of the 23 idle tankers is 20 years old. These smaller tankers could serve in the ANS trade, although at a much higher cost per ton than VLCCs currently operating in that trade (see RIA). For example, the cost of operating a 50,000 DWT tanker in the Valdez-Panama trade is approximately, $25.00 per ton of cargo, compared to $9.19 per ton for a 265,000 DWT VLCC operating in the same trade. Further, as noted above, larger tankers are more suitable than smaller tankers from an environmental standpoint because they make fewer voyages and port calls than smaller tankers to carry the same amount of oil, thus reducing the risk of collisions and oil spills (see Environmental Assessment).

A second alternative considered is for MARAD to do nothing, i.e., to allow the rule to be vacated, as of July 16, 1987, and for the three VLCCs to leave the domestic trade. Under this scenario MARAD assumes that the BAY RIDGE would also leave the domestic trade at the same time. The costs of doing nothing would be a shortage of suitable tonnage for the Valdez-Panama trade and the likely lay-up of the four VLCCs that repaid CDS under the 1985 rule. There would not be enough ships to meet seasonal peak demands in the domestic petroleum trade. Section 506 waivers would be necessary. Other costs of this alternative would be the loss to the government of CDS repayments of $142 million from those four VLCCs, the reduction of Alaska state revenues due to higher transportation costs in later years, and the loss of transportation savings to the shipping public.

The benefits of this alternative could be reduced government loan exposure risk on existing Jones Act tankers and the possibility of some of the laid up domestic tankers operating in the ANS trade. However, due to the age and small size of most of those tankers, they would be unsuitable for the Valdez-Panama trade. Further, only 4.5 percent of the domestic tanker fleet less than 20 years of age was inactive. There is a need for a reasonable reserve for covering temporary losses from the active fleet due to casualties (three in 1986), surveys and repairs, as well as seasonal increases on the upcoast petroleum movements.

Under this second alternative, shipbuilding demand for new crude tankers would still be minimal, if any, due to the high cost of U.S. shipbuilding, the unlikely availability of future CDS funds due to budget constraints, and the predicted future decline in the volume of crude carried in the Alaska-Panama trade.

The third alternative considered would allow an opportunity for other U.S.-flag tanker owners to repay CDS in return for unrestricted domestic trading privileges. Under this approach, those vessel owners with the best prospects for employment would likely choose to repay. Unrestricted repayment would reduce the need for federal issuance of temporary permissions to enter the ANS trade. Fiscal benefits could also be the greatest under this alternative. However, it is unlikely that any more vessels would repay under this alternative, since only three repaid when the window was open for one year and two EXXON 209,000 DWT Jones Act tankers have recently been delivered. This alternative would cause the most disruption to the Jones Act trade as there would be uncertainty in the market. Shipyard demand for new crude tankers would remain at a minimal or non-existent level.

In response to the comments, MARAD has considered a fourth alternative to the rule, i.e., allowing only two of the four VLCCs to remain in the domestic trade. This option assumes that one 265,000 DWT and one 225,000 DWT vessel remain in the trade with a total CDS repayment of $63 million. The costs and benefits of this alternative are analyzed in the RIA.

However, MARAD belives it would be difficult to choose which of the four VLCCs should remain in the trade. Such a decision likewise would be difficult if MARAD were to choose only one, or three, of the four VLCCs to remain in the trade. Such a decision would have an element of arbitrariness to it, since it either would favor one or more of the VLCCs that repaid on an equal footing with all other CDS-built VLCCs through the 1985 CDS rule, or, in the case of the BAY RIDGE, repaid under fairly similar criteria in reliance on continued operations in the domestic trade.

MARAD estimates that the transportation savings on this option would range from $137–$166 million. If only two VLCCs are allowed to remain in the domestic trade, there would be a shortfall of approximately 338,400 DWT on a full-time equivalent basis, unless tonnage were brought out of lay-up or section 506 waivers were granted. Fiscal benefits would be fewer than under the rulemaking option since there would only be $63 million in CDS repayment from two VLCCs and Alaska state revenues would be reduced by higher transportation costs. Demand for newbuilding of crude tankers would continue to be minimal.

MARAD continues to believe that the best option in light of the purposes and policies of the Act is to allow the four VLCCs, all of which are particularly suitable for the Alaska-Panama trade, to remain in the domestic trade. Further, allowing them to remain in the trade will promote the domestic commerce in furtherance of the goals of the Act by eliminating the current uncertainty regarding the operation and use of the VLCCs in the Alaskan oil trade, facilitating planning for oil companies and tanker owners.

E.O. 12291, Statutory and DOT Requirements

The Maritime Administrator has determined that this rule is major under the criteria of Executive Order 12291. Pursuant to the Department of Transportation's Regulatory Policies and Procedures, DOT Order 2100.5 (49 FR 11034, February 26, 1979), this rule is also considered to be "significant" because it concerns a matter on which there is substantial public interest.

The Maritime Administrator certifies that the rule will have no significant economic impact on a substantial number of small entities pursuant to the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) The companies owning and chartering the four VLCCs at issue, and companies owning or chartering tankers possibly affected by the rulemaking in the foreign and domestic trades, are either large oil companies or large independent shipping companies.

A Regulatory Impact Analysis has been prepared and is available for public review and copying in the Docket (R–110) in the Office of the Secretary, Maritime Administration (room 7300). It discusses the important economic aspects of this proposed rule, and is incorporated by reference into this rule.

An Environmental Assessment of the rule has also been prepared, and may be inspected at the Office of the Secretary, Maritime Administration, room 7300. The Environmental Assessment concludes that the effect of the rule will be that greater quantities of ANS oil would be transported in VLCCs than in smaller vessels, fewer total trips would be made by a smaller number of vessels, the risk of accidental oil spill would be reduced as the number of trips decreases. In addition, the tankers which have repaid CDS are equipped with safety and environmental features required by statute. Overall, the risk to the environment will be reduced with the rule as compared to without it. On the basis of this environmental assessment, the Maritime Administration has concluded that the rule will not result in a significant environmental impact.

This rule contains no paperwork requirements under the Paperwork Reduction Act.

This final rule is effective upon publication. MARAD for good cause finds that the 30 day period between publication and the effective date must be waived. 5 U.S.C. 553(d)(3). The rule must be made effective prior to the judicially imposed deadline of July 16, 1987 in order to avoid disruptions in the domestic trade. MARAD believes that it has acted in good faith in conducting an informal rulemaking with notice and opportunity for comment and issuance of this final rule responding to comments within a relatively short period. The courts have found that a judicially imposed deadline may constitute good cause for making a rule effective immediately. *American Federation of Government Employees* v. *Block*, 655 F.2d 1153 (D.C. Cir. 1981). The D.C. Circuit has stated that "... the requirement of 553(d) that publication of a rule be made at least thirty days prior to its effective date serve[s] the laudable purpose of informing affected parties and affording them a reasonable time to adjust to the new regulation." *Id.* at 1157.

Since this final rule effectively continues the participation of VLCCs that have operated in the Alaskan oil trade for at least a year, the public does not need time to prepare for this final rule. *See* Ellen R. Jordan, "The Administrative Procedure Act's 'Good Cause' Exemption," 36 *Administrative Law Review*, 113, 119, 141 (Spring 1984).

List of Subjects in 46 CFR Part 276

Maritime Carriers.

PART 276—[AMENDED]

46 CFR Part 276 is amended as follows:

1. The authority citation for Part 276 continues to read as follows:

Authority: Secs. 204(b), 207, 506, and 714, Merchant Marine Act, 1936, as amended (46 U.S.C. 1114(b), 1117, 1156 and 1204) Pub. L. 86-518 (74 Stat. 216); Reorganization Plans No. 21 of 1980 (64 Stat. 1273) and No. 7 of 1981 (75 Stat. 840), as amended by Pub. L. 91-469 (84 Stat. 1036); and Dept. of Commerce Organization Order 10-8 (36 FR 19707); July 23, 1973), unless otherwise noted.

2. Section 276.3 is revised to read as follows:

§ 276.3 Total repayment.

(a) The Maritime Administration reaffirms the allowance of the irreversible total repayment of unamortized construction-differential subsidy (CDS), with interest and rescission permanently of the domestic trading restrictions related to the grant of CDS for tankers of any deadweight tonnage for applications approved between June 6, 1985 and June 5, 1986, in accordance with the terms and conditions of paragraph (b) of this section. The approved applications were for the ARCO INDEPENDENCE, ARCO SPIRIT and BROOKLYN.

(b) *Repayment terms.* The full repayment amount consists of the unamortized CDS, as determined by the Maritime Administration, with compounded interest on that amount. The interest rate is the same as the long-term interest rate the owner obtained, or would have obtained if long-term debt financing had been used, in financing the owner's portion of the tanker. Unless the Maritime Administrator determined that using interest rates other than long-term bond rates was justified, such rates are used. If more than one long-term bond was issued to finance the owner's portion of a specific tanker, or if one or more of such bonds has more than one rate (such as a serial bond) an average interest rate is computed weighted by the proportion of each bond par value to the total par value of all long-term bonds issued to finance the owner's tanker. The interest payable on the unamortized CDS is computed by continuous compunding of the interest until the day of repayment. For purposes of this paragraph, "long-term bond rates" are either actual Title XI bond rates on a specific owner's tanker or the Title XI long-term bond rate at the time the tanker's statutory life began.

(c) The Maritime Administration reaffirms the allowance of the irreversible total payment of unamortized construction-differential subsidy with interest and rescission permanently of the domestic trading restrictions relating to the grant of CDS for the BAY RIDGE, which repaid on November 1980.

By Order of the Maritime Administrator.

James E. Saari,

Secretary, Maritime Administration.

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INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
Single copies, back copies of FR	783-3238
Magnetic tapes of FR, CFR volumes	275-1184
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual	523-5230

Other Services

Library	523-5240
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JUNE

20371-20590 1
20591-20694 2
20695-21000 3
21001-21238 4
21239-21492 5
21493-21650 8
21651-21930 9
21931-22286 10
22287-22430 11
22431-22628 12
22629-22752 15
22753-23006 16
23007-23164 17
23165-23264 18
23265-23420 19
23421-23536 22

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR
304 22753

3 CFR
Proclamations:
5631 (*See* U.S. Trade Representative Notice) 22693
5663 20695
5664 21239
5665 23007
5666 23009
5667 23011
5668 23165
Administrative Orders:
Presidential Determinations:
No. 87-14 of June 2, 1987 22431
Executive Orders:
12576 (Superseded by EO 12598) 23421
12598 23421

5 CFR
831 22433
842 22435
843 23013
845 23014
1600 20591
1640 20371
Proposed Rules:
213 23040
890 22475

7 CFR
1d 20372
2 ..... 21493, 21494, 21931
4 21651
51 22436
246 21232
272 ..... 20376, 22888
273 ..... 20376, 22888
330 22892
340 22892
418 23423
419 23423
422 23424
427 23423
429 23423
724 22287
725 22287
726 22287
900 20591
910 ..... 20380, 21241, 22437, 23265
912 21241
918 ..... 21494, 23014
923 20381
925 20382
948 23014
953 23014
1106 20383
1736 22288
1930 20697
1945 20384
1980 22290
Proposed Rules:
220 23041
226 22030
250 22660
251 21545
401 22476
656 20606
907 21546
908 21546
925 ..... 20402, 21960
928 ..... 21065, 22888
959 21068
1011 23453
1033 23306
1046 23306
1065 21560
1944 21069
3016 21820

8 CFR
100 22629
103 22629
214 20554
Proposed Rules:
207 23307
214 22661

9 CFR
51 22290
78 ..... 22290, 22292, 23015
92 21496
381 23016
Proposed Rules:
91 21688
309 21561
310 21561
314 21561
327 23041
362 21563
381 23041

10 CFR
Ch. I 20592
70 ..... 21651, 22416, 23257
72 ..... 21651, 23257
73 ..... 21651, 23257
74 ..... 21651, 23257
Proposed Rules:
600 21820
625 22960
1004 23156
1013 20403

11 CFR
106 20864
9001 20864
9002 20864
9003 20864

9004 ... 20864
9005 ... 20864
9006 ... 20864
9007 ... 20864
9012 ... 20864
9031 ... 20864
9032 ... 20864
9033 ... 20864
9034 ... 20864
9035 ... 20864
9036 ... 20864
9037 ... 20864
9038 ... 20864
9039 ... 20864

12 CFR

225 ... 23021
309 ... 23425
Proposed Rules:
3 ... 23045
18 ... 23456
211 ... 21564
225 ... 21564
262 ... 21564
404 ... 21569
571 ... 23181
588 ... 23181
614 ... 21073

13 CFR

121 ... 21497
309 ... 21932
Proposed Rules:
143 ... 21820

14 CFR

21 ... 23024
25 ... 23024
39 ... 20698-20701, 21242-21244, 21497, 21659, 22630, 23427, 23428
71 ... 20702, 20703, 21246-21248, 21498-1499, 22630, 23138, 23429, 23430
73 ... 21246-21250, 21499
75 ... 21247-21251
91 ... 22734
97 ... 21500, 23430
121 ... 20950, 21472
135 ... 22734
159 ... 21502, 21908
171 ... 20703
300 ... 21150
1207 ... 22755
Proposed Rules:
Ch. I ... 22329
27 ... 20938
29 ... 20938
36 ... 23144
39 ... 20721, 20722, 21312, 21314, 21572-21575, 22329, 22331, 22786, 23461-23466
61 ... 22918
71 ... 20412, 20825, 21316, 22031, 22332, 22918, 23468-23470
91 ... 22918, 23144
121 ... 20560, 20982
135 ... 20560
234 ... 22046
255 ... 22046

15 CFR

371 ... 23026, 23027, 23167
373 ... 22631, 23167
374 ... 23027, 23167
379 ... 21504
385 ... 23167
399 ... 22631, 23167, 23169
Proposed Rules:
24 ... 21820

16 CFR

3 ... 22292
4 ... 22292
305 ... 22633
Proposed Rules:
13 ... 20723, 22789

17 CFR

Ch. IV ... 23138
5 ... 22634
31 ... 22634
140 ... 20592, 22415
210 ... 23170
211 ... 21933
229 ... 21252, 21934
230 ... 21252
239 ... 21252, 21934
240 ... 21252, 21934, 22295
Proposed Rules:
33 ... 22333
240 ... 22334, 22493
270 ... 22334, 22496

18 CFR

2 ... 21410
154 ... 21263, 21660, 23030
270 ... 21669
271 ... 21660, 23030
284 ... 21669
300 ... 20704
375 ... 21263
382 ... 21263
Proposed Rules:
2 ... 23183
4 ... 21576
154 ... 20828
161 ... 21578
250 ... 21578
282 ... 20828
375 ... 20828
380 ... 23183
381 ... 20828

19 CFR

4 ... 20593
24 ... 20593
101 ... 22299
146 ... 20593
178 ... 20593
Proposed Rules:
201 ... 21317

20 CFR

404 ... 21410
416 ... 21939
654 ... 20496
655 ... 20496
656 ... 20593
Proposed Rules:
61 ... 20536
62 ... 20536

21 CFR

74 ... 21302, 21505
81 ... 21302, 21505
82 ... 21505
178 ... 22300
193 ... 23137
201 ... 21505
312 ... 23031
442 ... 20709
510 ... 20385, 20597, 23397
520 ... 20597, 29598
522 ... 23031
544 ... 22438
561 ... 23137
573 ... 21001
866 ... 22577
868 ... 22577
870 ... 23137
876 ... 22577
890 ... 22577
1301 ... 20598
Proposed Rules:
310 ... 23184
1240 ... 22340

22 CFR

224 ... 20385
Proposed Rules:
41 ... 20725, 22628
135 ... 21820
224 ... 20413
526 ... 22791

23 CFR

668 ... 21945
Proposed Rules:
650 ... 20726

24 CFR

Proposed Rules:
85 ... 21820
111 ... 21820
200 ... 21596, 21961
203 ... 21961
221 ... 21961
222 ... 21961
226 ... 21961
234 ... 21961
235 ... 21961
511 ... 21820
570 ... 21820
571 ... 21820
575 ... 21820
850 ... 21820
905 ... 21820
941 ... 21820
968 ... 21820
990 ... 21820

25 CFR

700 ... 21950
Proposed Rules:
76 ... 20727

26 CFR

1 ... 22301, 22764, 23398, 23432
31 ... 21509
602 ... 21509, 22764, 23432
Proposed Rules:
1 ... 22345, 22716, 22795, 23308, 23471
602 ... 23308, 23471

27 CFR

9 ... 21513, 22302

28 CFR

2 ... 22777
541 ... 20678
602 ... 22438, 22439
Proposed Rules:
2 ... 22499
16 ... 22795
66 ... 21820

29 CFR

90 ... 23400
1952 ... 21952
2619 ... 22635
2676 ... 22636
Proposed Rules:
7 ... 22662
22 ... 20606
97 ... 21820
501 ... 20524
511 ... 20386
1470 ... 21820
1926 ... 20616, 22799
2201 ... 23185
2640 ... 21319
2646 ... 21319

30 CFR

250 ... 22305
251 ... 23440
700 ... 21228
870 ... 21228
935 ... 23265
938 ... 23172
Proposed Rules:
700 ... 20546
701 ... 21598
702 ... 20546
750 ... 20546, 21328
764 ... 21904
769 ... 21904
842 ... 21598
843 ... 21598
870 ... 20546
910 ... 20546
912 ... 20546
914 ... 22346
921 ... 20546
922 ... 20546
925 ... 22499, 22500
933 ... 20546
937 ... 20546
939 ... 20546
941 ... 20546
942 ... 20546
947 ... 20546

31 CFR

Proposed Rules:
16 ... 21689
103 ... 21699

32 CFR

40 ... 23267
40a ... 23298
166 ... 23298
706 ... 21001, 21002, 21679-21681, 23173
Proposed Rules:
68 ... 22662
199 ... 20731
278 ... 21820

33 CFR

100 ... 20386, 21002, 21515, 22307, 22308, 22439, 23174
117 ... 21953, 23441
135 ... 23175
165 ... 23442
207 ... 22309
Proposed Rules:
100 ... 21603, 21604, 22347
117 ... 21605, 23187, 23472

34 CFR

649 ... 22284
760 ... 22441

Proposed Rules:

74 ... 21820
80 ... 21820
99 ... 22250
222 ... 22501, 23137
607 ... 22264
608 ... 22274
609 ... 22274
631 ... 22948
632 ... 22948
633 ... 22948
634 ... 22948
635 ... 22948
692 ... 23260
763 ... 21920
785 ... 22062
786 ... 22062
787 ... 22062
788 ... 22062
789 ... 22062

36 CFR

7 ... 20387, 23304
59 ... 22747
211 ... 23175
1254 ... 22415

Proposed Rules:

7 ... 22031, 22662
211 ... 22348
223 ... 22348, 23188
254 ... 23473
1207 ... 21820

37 CFR

202 ... 23443
307 ... 22637

Proposed Rules:

202 ... 23476

38 CFR

Proposed Rules:

1 ... 21700
3 ... 23188
8 ... 22350
17 ... 22351
21 ... 21709
36 ... 20617
43 ... 21820

39 CFR

111 ... 20388
265 ... 22778
963 ... 20599

Proposed Rules:

111 ... 23308, 23477

40 CFR

52 ... 22638, 22778, 23032, 23446
60 ... 20391, 21003, 22779, 22888, 23178
61 ... 20397, 23178
81 ... 22442
141 ... 20672
142 ... 20672
144 ... 20672
180 ... 21953, 23039
260 ... 21010
261 ... 21010, 21306
262 ... 21010
264 ... 21010
265 ... 21010
266 ... 21306
268 ... 21010
270 ... 21010, 23447
271 ... 21010
272 ... 22443
704 ... 21018
707 ... 21412
716 ... 22444
761 ... 23397
766 ... 21412
795 ... 21018
799 ... 20710, 21018, 21516

Proposed Rules:

Ch. I ... 22244, 23477
30 ... 21820
33 ... 21820
52 ... 20422, 21974, 22501, 22503, 23485
61 ... 23486
81 ... 21074
86 ... 21075
123 ... 23487
180 ... 20751, 20753, 21794, 21974
228 ... 20429, 21082, 22352
260 ... 20914
264 ... 20754
265 ... 20754, 20914
268 ... 22356
270 ... 20754, 20914
372 ... 21152
700 ... 20494
750 ... 23054

41 CFR

101-40 ... 21031, 23137
101-41 ... 21682, 21683

42 CFR

2 ... 21796
34 ... 21532
57 ... 20986
58 ... 23179
110 ... 22311
405 ... 22444, 22638
409 ... 22638
413 ... 21225, 23397
416 ... 22444
417 ... 22311
420 ... 22444
431 ... 22444
434 ... 22311
442 ... 22638
485 ... 22444
489 ... 22444
498 ... 22444
1001 ... 22444
1004 ... 22444

Proposed Rules:

34 ... 21607
57 ... 20989, 21486, 21490, 22415
405 ... 22080, 23055, 23514
412 ... 22080, 22359, 23514
413 ... 20623, 21330, 22080, 23514
466 ... 22080, 23514

43 CFR

4 ... 21307
11 ... 22454
3100 ... 22646

Proposed Rules:

2 ... 20494
4 ... 20755
12 ... 21820
1820 ... 22592
3000 ... 22592
3040 ... 22592
3100 ... 22592
3110 ... 22592
3120 ... 22592
3130 ... 22592
3150 ... 22592
3160 ... 22592
3180 ... 22592
3200 ... 22592
3210 ... 22592
3220 ... 22592
3240 ... 22592
3250 ... 22592
3260 ... 22592

Public Land Orders:

6566 (Corrected by PLO 6648) ... 21035
6648 ... 21035

44 CFR

64 ... 21794, 22780
65 ... 22323, 22324
67 ... 22325
81 ... 21035

Proposed Rules:

13 ... 21820
65 ... 22360
67 ... 22800, 23310

45 CFR

1204 ... 20714
2001 ... 22646, 22648

Proposed Rules:

13 ... 23311
92 ... 21820
1157 ... 21820
1174 ... 21820
1179 ... 20628
1183 ... 21820
1234 ... 21820
2015 ... 21820

46 CFR

32 ... 22751, 23515
77 ... 22751
92 ... 22751
96 ... 22751
150 ... 21036
190 ... 22751
195 ... 22751
276 ... 23522
310 ... 21533
386 ... 21534

Proposed Rules:

558 ... 20430
559 ... 20430
560 ... 20430
561 ... 20430
562 ... 20430
564 ... 20430
566 ... 20430
569 ... 20430
586 ... 20430

47 CFR

0 ... 21684
1 ... 21051, 22654
2 ... 21686
15 ... 21686, 22459
22 ... 22461
31 ... 20599
32 ... 20599
64 ... 20714, 21954
67 ... 21537
69 ... 21537
73 ... 21056, 21308, 21684, 21955-21958, 22472, 22473, 22781-22785, 23305
76 ... 22459

Proposed Rules:

1 ... 21333
2 ... 21333
21 ... 21333
22 ... 20630
73 ... 20430-20432, 21086, 21976, 22504-22507, 22816-22818, 23314
74 ... 21333, 21710
80 ... 21334, 22508
87 ... 21334
90 ... 21335
94 ... 21333

48 CFR

5 ... 21884
6 ... 21884
13 ... 21884
15 ... 21884
19 ... 21884
52 ... 21884
252 ... 22415
505 ... 22654
509 ... 22655
542 ... 21056
552 ... 21056
553 ... 21056
701 ... 21057
705 ... 21057
709 ... 21057
715 ... 21057
719 ... 21057
731 ... 21057
736 ... 21057
752 ... 21057

Proposed Rules:

225 ... 22663
242 ... 21711

49 CFR

310 ... 22473
383 ... 20574
391 ... 20574
571 ... 20601
1206 ... 20399
1249 ... 20399

Proposed Rules:

18 ... 21820
171 ... 20631
172 ... 20631
173 ... 20631
174 ... 20631
175 ... 20631
176 ... 20631
177 ... 20631
178 ... 20631
179 ... 20631
192 ... 21087
571 ... 22818, 23314
1150 ... 20632
1201 ... 23316
1241 ... 23316

50 CFR

17 ... 20715, 20994, 21059, 21478, 21481, 22418, 22580, 22585, 22930-22939, 23148
285 ... 20719
604 ... 21544
640 ... 22656, 23450

651 22327
658 21544
672 ..... 20720, 22327
674 23450
675 21958

Proposed Rules:

17 ..... 21088, 22944, 23152, 23317
20 20757
23 20433
25 21976
642 21977
650 21712
653 22822
672 22829
675 22829

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List June 19, 1987.

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Price	Revision Date
1, 2 (2 Reserved)	$9.00	Jan. 1, 1987
3 (1986 Compilation and Parts 100 and 101)	11.00	[1] Jan. 1, 1987
4	14.00	Jan. 1, 1987
5 Parts:		
1-1199	25.00	Jan. 1, 1987
1200-End, 6 (6 Reserved)	9.50	Jan. 1, 1987
7 Parts:		
0-45	25.00	Jan. 1, 1987
46-51	16.00	Jan. 1, 1987
52	23.00	Jan. 1, 1987
53-209	18.00	Jan. 1, 1987
210-299	22.00	Jan. 1, 1987
300-399	10.00	Jan. 1, 1987
400-699	15.00	Jan. 1, 1987
700-899	22.00	Jan. 1, 1987
900-999	26.00	Jan. 1, 1987
1000-1059	15.00	Jan. 1, 1987
1060-1119	13.00	Jan. 1, 1987
1120-1199	11.00	Jan. 1, 1987
1200-1499	18.00	Jan. 1, 1987
1500-1899	9.50	Jan. 1, 1987
1900-1944	25.00	Jan. 1, 1987
1945-End	26.00	Jan. 1, 1987
8	9.50	Jan. 1, 1987
9 Parts:		
1-199	18.00	Jan. 1, 1987
200-End	16.00	Jan. 1, 1987
10 Parts:		
0-199	29.00	Jan. 1, 1987
200-399	13.00	Jan. 1, 1987
400-499	14.00	Jan. 1, 1987
500-End	24.00	Jan. 1, 1987
11	7.00	Jan. 1, 1986
12 Parts:		
1-199	11.00	Jan. 1, 1987
200-299	27.00	Jan. 1, 1987
300-499	13.00	Jan. 1, 1987
500-End	27.00	Jan. 1, 1987
13	19.00	Jan. 1, 1987
14 Parts:		
1-59	21.00	Jan. 1, 1987
60-139	19.00	Jan. 1, 1987
140-199	9.50	Jan. 1, 1987
200-1199	19.00	Jan. 1, 1987
1200-End	11.00	Jan. 1, 1987
15 Parts:		
0-299	10.00	Jan. 1, 1987
300-399	20.00	Jan. 1, 1987
400-End	14.00	Jan. 1, 1987
16 Parts:		
0-149	12.00	Jan. 1, 1987
150-999	13.00	Jan. 1, 1987
1000-End	19.00	Jan. 1, 1987
17 Parts:		
1-239	26.00	Apr. 1, 1986
240-End	19.00	Apr. 1, 1986
18 Parts:		
1-149	15.00	Apr. 1, 1987
150-279	14.00	Apr. 1, 1987
280-399	13.00	Apr. 1, 1987
400-End	8.50	Apr. 1, 1987
19 Parts:		
1-199	27.00	Apr. 1, 1987
200-End	5.50	Apr. 1, 1987
20 Parts:		
1-399	10.00	Apr. 1, 1986
400-499	22.00	Apr. 1, 1986
500-End	24.00	Apr. 1, 1987
21 Parts:		
1-99	12.00	Apr. 1, 1987
100-169	14.00	Apr. 1, 1987
170-199	16.00	Apr. 1, 1987
200-299	5.50	Apr. 1, 1987
300-499	26.00	Apr. 1, 1987
500-599	21.00	Apr. 1, 1987
600-799	7.00	Apr. 1, 1987
800-1299	13.00	Apr. 1, 1987
1300-End	6.00	Apr. 1, 1987
22 Parts:		
1-299	19.00	Apr. 1, 1987
300-End	13.00	Apr. 1, 1987
23	16.00	Apr. 1, 1987
24 Parts:		
0-199	14.00	Apr. 1, 1987
*200-499	26.00	Apr. 1, 1987
500-699	9.00	Apr. 1, 1987
700-1699	17.00	Apr. 1, 1986
1700-End	12.00	Apr. 1, 1987
25	24.00	Apr. 1, 1987
26 Parts:		
*§§ 1.0-1.60	12.00	Apr. 1, 1987
§§ 1.0-1.169	29.00	Apr. 1, 1986
§§ 1.170-1.300	16.00	Apr. 1, 1986
§§ 1.301-1.400	14.00	Apr. 1, 1987
§§ 1.401-1.500	20.00	Apr. 1, 1986
§§ 1.501-1.640	15.00	Apr. 1, 1987
§§ 1.641-1.850	17.00	Apr. 1, 1987
§§ 1.851-1.1200	29.00	Apr. 1, 1986
§§ 1.1201-End	29.00	Apr. 1, 1986
2-29	20.00	Apr. 1, 1987
30-39	13.00	Apr. 1, 1987
40-299	25.00	Apr. 1, 1986
50-299	14.00	Apr. 1, 1987
300-499	14.00	Apr. 1, 1986
500-599	8.00	[2] Apr. 1, 1980
600-End	6.00	Apr. 1, 1987
27 Parts:		
1-199	21.00	Apr. 1, 1987
200-End	14.00	Apr. 1, 1986
28	21.00	July 1, 1986
29 Parts:		
0-99	16.00	July 1, 1986
100-499	7.00	July 1, 1986
500-899	24.00	July 1, 1986
900-1899	9.00	July 1, 1986
1900-1910	27.00	July 1, 1986
1911-1919	5.50	[3] July 1, 1984
1920-End	29.00	July 1, 1986

Title	Price	Revision Date
30 Parts:		
0–199	16.00	[4] July 1, 1985
200–699	8.50	July 1, 1986
700–End	17.00	July 1, 1986
31 Parts:		
0–199	11.00	July 1, 1986
200–End	16.00	July 1, 1986
32 Parts:		
1–39, Vol. I	15.00	[5] July 1, 1984
1–39, Vol. II	19.00	[5] July 1, 1984
1–39, Vol. III	18.00	[5] July 1, 1984
1–189	17.00	July 1, 1986
190–399	23.00	July 1, 1986
400–629	21.00	July 1, 1986
630–699	13.00	July 1, 1986
700–799	15.00	July 1, 1986
800–End	16.00	July 1, 1986
33 Parts:		
1–199	27.00	July 1, 1986
200–End	18.00	July 1, 1986
34 Parts:		
1–299	20.00	July 1, 1986
300–399	11.00	July 1, 1986
400–End	25.00	July 1, 1986
35	9.50	July 1, 1986
36 Parts:		
1–199	12.00	July 1, 1986
200–End	19.00	July 1, 1986
37	12.00	July 1, 1986
38 Parts:		
0–17	21.00	July 1, 1986
18–End	15.00	July 1, 1986
39	12.00	July 1, 1986
40 Parts:		
1–51	21.00	July 1, 1986
52	27.00	July 1, 1986
53–60	23.00	July 1, 1986
61–80	10.00	July 1, 1986
81–99	25.00	July 1, 1986
100–149	23.00	July 1, 1986
150–189	21.00	July 1, 1986
190–399	27.00	July 1, 1986
400–424	22.00	July 1, 1986
425–699	24.00	July 1, 1986
700–End	24.00	July 1, 1986
41 Chapters:		
1, 1–1 to 1–10	13.00	[6] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)	13.00	[6] July 1, 1984
3–6	14.00	[6] July 1, 1984
7	6.00	[6] July 1, 1984
8	4.50	[6] July 1, 1984
9	13.00	[6] July 1, 1984
10–17	9.50	[6] July 1, 1984
18, Vol. I, Parts 1–5	13.00	[6] July 1, 1984
18, Vol. II, Parts 6–19	13.00	[6] July 1, 1984
18, Vol. III, Parts 20–52	13.00	[6] July 1, 1984
19–100	13.00	[6] July 1, 1984
1–100	9.50	July 1, 1986
101	23.00	July 1, 1986
102–200	12.00	July 1, 1986
201–End	7.50	July 1, 1986
42 Parts:		
1–60	15.00	Oct. 1, 1986
61–399	10.00	Oct. 1, 1986
400–429	20.00	Oct. 1, 1986
430–End	15.00	Oct. 1, 1986
43 Parts:		
1–999	14.00	Oct. 1, 1986
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1986. The CFR volume issued as of Apr. 1, 1980, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1986. The CFR volume issued as of July 1, 1984, should be retained.

[4] No amendments to this volume were promulgated during the period July 1, 1985 to June 30, 1986. The CFR volume issued as of July 1, 1985 should be retained.

[5] 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.

[6] 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.

[7] No amendments to this volume were promulgated during the period Oct. 1, 1985 to Sept. 30, 1986. The CFR volume issued as of Oct. 1, 1985 should be retained.