

the regulations. Accordingly, the current references to OGCWS, to the Deputy Administrator, and to the Assistant Administrator for Government Contract Wage Standards are being deleted.

Publication in Final

Since these revisions involve only procedural changes necessitated by agency reorganization and internal procedures and practices, notice of proposed rulemaking and public comment on this rule is found to be unnecessary. Furthermore, the Secretary has determined that good cause exists for waiving the customary requirement for delay in the effective date of a final rule for 30 days following its publication. Therefore, these amendments to Parts 1 and 5 are adopted as a final rule without notice and comment and shall be effective immediately. See 5 U.S.C. 553(b) and 553(d).

Classification

This rule is not classified as a "rule" under Executive Order 12291 on Federal Regulations because it is a regulation relating to agency organization, management or personnel. See Section 1(a)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for the rule under 5 U.S.C. 553(b) the requirements of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1165, 5 U.S.C. 601 et seq. pertaining to regulatory flexibility analysis, do not apply to this rule. See 5 U.S.C. 601(2).

The rule is not subject to section 3504(h) of the Paperwork Reduction Act, 44 U.S.C. 3504(h), since it does not require the collection of information.

List of Subjects

29 CFR Part 1

Administrative practice and procedures, Government Contracts, Labor, Minimum wages, Wages.

29 CFR Part 5

Administrative practice and procedures, Government contracts, Investigations, Labor, Minimum wages, Penalties, Recordkeeping requirements, Reporting requirements, Wages.

Accordingly, 29 CFR Parts 1 and 5 are amended as set forth below.

Signed at Washington, D.C. on this 26th day of October 1983.

Robert B. Collyer

Deputy Under Secretary for Employment Standards.

William M. Otter,

Administrator, Wage and Hour Division.

PART 1—PROCEDURES FOR PREDETERMINATION OF WAGE RATES

1. In § 1.2, paragraph (c) is revised to read as follows:

§ 1.2 Definitions.¹

(c) The term "Administrator" shall mean the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, or authorized representative.

2. In § 1.5, paragraph (a)(1) is revised to read as follows:

§ 1.5 Procedure for requesting wage determinations.

(a)(1) Except as provided in paragraph (b) of this section, the Federal agency shall initially request a wage determination under the Davis-Bacon Act or any of its related prevailing wage statutes by submitting Standard Form 308 to the Department of Labor at this address:

U. S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Branch of Construction Contract Wage Determination, Washington, D.C. 20210.

The agency shall check only those classifications on the applicable form which will be needed in the performance of the work. Inserting a note such as "entire schedule" or "all applicable classifications" is not sufficient. Additional classifications needed which are not on the form may be typed in the blank spaces or on a separate list and attached to the form.

Authority: 5 U.S.C. 301; R.S. 161, 64 Stat. 1267; Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix; 29 U.S.C. 259; 40 U.S.C. 276a-276a-7; 40 U.S.C. 276c; and the laws listed in Appendix A of this Part.

PART 5—LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NONCONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT)

3. In § 5.2, paragraph (b) is revised to read as follows:

§ 5.2 Definitions.

(b) The term "Administrator" means the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, or authorized representative.

4. In § 5.12, paragraph (d)(3)(i) is revised to read as follows:

§ 5.12 Debarment proceedings.

(d)
(3)(i) A request for a determination of interest (or substantial interest, as appropriate), may be made by any interested party, including contractors or prospective contractors and associations of contractor's representatives of employees, and interested Government agencies. Such a request shall be submitted in writing to the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210.

Authority: 40 U.S.C. 276a-276a-7; 40 U.S.C. 276c; 40 U.S.C. 327-332; Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix; 5 U.S.C. 301; and the statutes listed in section 5.1(a) of this part.

[FR Doc. 83-29633 Filed 10-31-83; 8:45 am]

BILLING CODE 4510-27-M

VETERANS ADMINISTRATION

38 CFR Part 3

Ionizing Radiation Claims

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: A recent decision in the case of *Gott v. Nimmo* held that the texts of three documents, considered procedural by the Veterans Administration,

constituted rules and that they must be published in the **Federal Register** for public notice and comment before they could be used as a basis for adjudicating claims. The documents invalidated by the court were (1) a joint VA/Department of Defense memorandum of understanding concerning the processing of requests for information as to a veteran's exposure to ionizing radiation, (2) a VA program guide which provided background information on nuclear weapons testing and some general information on health effects of radiation, and (3) a portion of the Adjudication Procedure manual dealing with development of claims based on radiation exposure. Following standard rulemaking procedures, § 3.311 was created and is now set forth in final form, to replace the documents invalidated by the court. This section may now be used as the basis for development and adjudication of claims based on exposure to ionizing radiation. However, it should be noted that the decision in this case is being appealed, and if the Government is successful, this regulation may be rescinded.

EFFECTIVE DATE: October 7, 1983.

FOR FURTHER INFORMATION CONTACT:

Robert M. White, Compensation and Pension Service (211B), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389-3005.

SUPPLEMENTARY INFORMATION: On October 27, 1982 (47 FR 47602 to 47607) the VA published for comment three proposed regulations to comply with an order of the U.S. District Court for the District of Columbia. They consisted of the texts of three Agency documents relating to processing of claims for benefits based upon veterans' exposure to ionizing radiation in service. Based on the comments received, we have amended the original proposal and restructured it into one comprehensive regulation. The regulations previously proposed as 38 CFR 3.162, 3.163 and 3.164 have been consolidated into one regulation as § 3.311. Readers are reminded that the VA does not consider this information to be regulatory in nature and is appealing the court order which directed its publication. This regulation may be rescinded following appellate review of the underlying litigation.

Pursuant to court order, the regulations, as initially proposed, consisted of the verbatim texts of three documents which had originally been issued in 1979: a joint VA/Department of Defense memorandum of understanding concerning the processing of requests for information as to exposure of veterans to radiation

during military service; a VA program guide providing background information to adjudication personnel concerning the atmospheric testing of atomic weapons and, generally, the health effects of exposure to ionizing radiation; and a section of a VA manual detailing procedures for procuring from claimants information concerning the circumstances of exposure.

The arrangement with the Department of Defense was formalized in response to the exigencies present in 1979 when, due to a recent increase in radiation claims activity, it was thought that the information-exchange procedure should be reduced to writing. At present, no documentary structure is needed: it is anticipated that DOD will continue to provide support in evidence development as it has for many years under existing statutory authority, i.e., 38 U.S.C. 3006. VA also considers it no longer necessary that there be VA issuances detailing much of the background information contained in the radiation program guide. This guide was originally promulgated in 1979, when claims based upon atomic-tests participation were relatively recent phenomena and only limited information was readily available to adjudication personnel. The circumstances of veterans' participation are by now more widely known, and detailed historical data are available from other authoritative sources. The program guide's very brief discussion of the health effects of radiation, limited to excerpts from a report by a Federal interagency study group, is no longer necessary in view of VA personnel's access to other, more comprehensive scientific compilations. In any event, inclusion of reference material of this type is not compatible with CFR formats.

The revised rule, condensed to one section to be added to title 38, Code of Federal Regulations, retains much of the procedural instruction from the manual provision, describes how conflicting information is to be resolved in a veteran's favor, and identifies criteria to be considered in adjudicating claims. With regard to subsection (c) of the current proposal, setting forth adjudication policies, it should be noted that VA policy of longstanding effect, 38 CFR 3.102, mandates the resolution of reasonable doubt in favor of any claimant. The policies set out with respect to presence near a nuclear detonation and degree of individual exposure merely reflect the application of the reasonable doubt doctrine in these aspects of radiation claims.

Publication of the initial proposal educated comments on behalf of five groups: The National Association of

Atomic Veterans, the National Veterans Law Center, the Environmental Policy Institute, the National Center for Atmospheric Research, and the Natural Rights Center. One group, citing in part the outdated nature of some of the material in the October 27 proposal, recommended that it should be withdrawn. This recommendation appears anomalous, as it was the same group which, in its role as plaintiffs' counsel in the case of *Gott v. Nimmo*, No. 80-0906 (D. D.C. September 7, 1982), appeal pending, Nos. 82-1159, 82-1448, 82-1454 (D.C. Cir.), sought and obtained a court order that the proposal be published in its verbatim form. In any event, the Agency recognizes that the October 27 proposal, embodying as it did three documents issued in 1979 and rescinded in 1982, did not reflect current information in some respects: A caveat to that effect accompanied publication. We have, however, amended and restructured the original proposal to partially accommodate this comment.

All the groups responding to the proposal commented negatively as to the quality of dose information supplied VA by the DNA (Defense Nuclear Agency). The 1979 program guide addressed this concern by pointing out the recognized potential for variations in film badge and dosimeter readings, as well as the possibility that unrecorded radiation exposure might have been incurred due to inhalation or ingestion of radioactive particles. The new rule cautions VA personnel concerning the limitations of the data provided by DNA, and advises them to give due consideration to any other estimates provided by or on behalf of claimants. As before, official reports of recorded or estimated doses provide important input for determinations, and will be procured whenever available.

Another comment common to those received took issue with the fact that the program guide identified cancer as "the major disease associated with radiation exposure." Concern was expressed that VA thereby ruled out all other disabilities as potentially radiation related. This misapprehension is obviated by deletion of the reference.

One commentator offered the view that the proposal should include precise standards for determining whether particular diseases are caused by exposure to radiation at certain doses. Unfortunately, this is not yet feasible. The vast literature on the subject identifies acute and late somatic effects of exposure, both observed and suspected, but the dose responses (especially at low doses) are not well enough understood to permit the fashioning of hard rules to cover all of the variables known or believed to be

influential. We have chosen instead to list factors to be considered in making determinations of radiation causation. As is required in making decisions regarding service connection in other contexts, VA personnel will continue to apply sound medical principles derived from the scientific literature, notably (in these cases) dose-response findings reported by prestigious national and international scientific bodies. We are aware of two major efforts currently underway to develop disease-specific radiation-risk tables, and will scrutinize the results of these efforts to determine if any such tables should be incorporated into VA procedures.

Another comment was that VA, based upon preliminary findings of a study by the Centers for Disease Control noting that an increased incidence of leukemia has occurred among participants in one nuclear test explosion, should presume all cases of leukemia suffered by veterans of the nuclear weapon tests are service-connected. VA acknowledges the importance of these findings, but also the CDC's caveat that there is need for additional follow-up studies of persons present at other nuclear tests before conclusions can be formed regarding the health risks involved. The difficulty here is that the statistical significance of such findings is dependent upon the size of the population studied; CDC has cautioned that the cited study was not sufficiently large to yield useful conclusions. Fortunately, the group studied is part of a much larger cohort of former test participants whose death records are being reviewed by the Medical Follow-up Agency of the National Academy of Sciences. We await with great interest the findings of this study, due to be released within a few months.

Recognizing the frustration felt by many over the remaining scientific uncertainties in correlating radiation exposure and subsequent disability, VA nevertheless wishes to move responsibly and deliberately in this area. One commentator flatly asserted that it is "virtually certain from what is known today about the health effects of ionizing radiation exposure, that among the servicemen present at the above-ground atomic weapons tests, there will be an excess of cancers, leukemias, heart and lung diseases, and a wide spectrum of chronic, degenerative health problems." Consistent with that assertion, the commentator recommended that service-connected benefits be awarded "in all cases of medical disability or premature death where the serviceman was presumed present at a test site." We believe such

an approach would be irresponsible, and would violate the Agency's statutory mandate to adjudicate disability claims on the merits of each individual veteran's situation.

Readers are advised that the regulation proposed herein relates solely to claims for service-connected disability and death benefits, and should be distinguished from Agency guidelines which have previously been issued to implement the veterans' health care provisions of Pub. L. 97-72.

It is again emphasized that this regulation is being published solely to comply with the court order. Should the Government position in this litigation be upheld on appeal, this document may be withdrawn.

Regulatory Flexibility Act

The Administrator hereby certifies that this regulation would not have a significant economic impact, in terms of compliance costs, paperwork and recordkeeping, or any other regulatory burden, on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. The reason for this certification is that this regulation would affect only individuals applying for VA disability or death benefits. Pursuant to 5 U.S.C. 605(b), this rule is therefore exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Order 12291

In accordance with Executive Order 12291, Federal Regulation, the administrator has determined that this regulation is nonmajor for the following reasons:

It will not have an effect on the economy of \$100 million or more.

It will not cause a major increase in costs or prices.

It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Catalog of Federal Domestic Assistance Program Numbers are: 64.101, 64.109 and 64.110.

Approved: October 7, 1983.

By direction of the Administrator,
Everett Alvarez, Jr.,
Deputy Administrator.

PART 3—[AMENDED]

38 CFR Part 3, ADJUDICATION, is amended by adding a new § 3.311 to read as follows:

§ 3.311 Claims based on exposure to ionizing radiation.

(a) *Development of evidence in atmospheric nuclear weapons test participation cases.* (1) When a claim is made that disability or death resulted from a veteran's participation in the atmospheric testing of nuclear weapons a special search for radiation exposure data will be conducted through the Compensation and Pension Service. Before requesting this search, full evidentiary development will be undertaken to secure, in addition to complete service and post-service medical records, such information as the claimant can provide as to:

(i) Date(s) and location(s) of the test(s);

(ii) Number of tests witnessed;

(iii) Operation or test shot code name(s);

(iv) Veteran's organization or work unit (ship, task group, company, or squadron, etc.) and rank at time of test(s);

(v) Duty place and organizational unit from which the veteran may have been detailed for participation;

(vi) Detailed description of activities during the entire period of participation, including:

(A) How far was the veteran from the center or ground zero at the time of each explosion?

(B) At the time of each explosion, was the veteran in the open, under cover (building, closed vehicle, trench, etc.), in an aircraft, or aboard ship (on or below deck)?

(C) Did the veteran move to or toward ground zero after the explosion; if so, how soon thereafter, and how close?

(D) How long did the veteran remain in the vicinity of the explosion, initially and, if applicable, after advancing?

(E) Is the veteran aware of any peculiarity of the trials (unexpected wind change, severe dust conditions, etc.)?

(vii) Whether a film badge was issued and worn;

(viii) Names of other servicemembers with the veteran at time of participation; and

(ix) Known pre-service and/or post-service radiation exposure, including all medical and occupational sources, and

exposure to other known carcinogenic agents (tobacco, chemicals, etc.).

(2) When the foregoing development is completed, the information obtained as well as the following data will be telephoned to the Compensation and Pension Service:

- (i) Name and file number of veteran;
- (ii) Social Security number;
- (iii) Service number;
- (iv) Period(s) of service;
- (v) Veteran's or other claimant's telephone number and address;
- (vi) Veteran's date and place of birth, and, if applicable, date and place of death; and
- (vii) Nature of disability.

(3) The Compensation and Pension Service will initiate the necessary contact with the appropriate Nuclear Test Personnel Review Office of the Department of Defense, and request a report of the veteran's participation and exposure. Final rating action will be deferred until a reply is received from the Compensation and Pension Service.

(4) Information relative to military bases where nuclear weapons may be located within the continental United States is classified Confidential whereas locations past or present outside the continental United States are classified Secret or Top Secret. The fact that a veteran inadvertently revealed such information in an application for benefits should not be compounded by further release within or without the VA in any manner.

(i) Such classified data will be cut out (rather than obliterated from such records or statements).

(ii) Documentation will be prepared for the claim file and signed by the Adjudication Officer or supervisory designee not lower than the Assistant Adjudication Officer, and will cite the kind of evidence removed, the reason for record expungement, and summarize or restate any other obliterated facts or statements not referring to specific military bases where nuclear exposure allegedly occurred.

(b) *Development of evidence in other cases.* When a claimant alleges exposure resulting from duties other than participation in atmospheric nuclear weapon testing, the following evidence will be developed:

(1) All service medical records and post-service records of treatment for the disability in issue;

(2) Such information as the claimant can provide to the circumstances of exposure;

(3) A request will be made for a copy of the veteran's Record of Occupational Exposure to Ionizing Radiation (DD Form 1141), if maintained, from the appropriate service department. (Note:

These cases will not be developed through the Compensation and Pension Service.)

(c) *Adjudication policies.* (1) If development with the service department cannot establish the veteran's presence at or absence from a nuclear test site, the veteran's presence at the site will be conceded.

(2) Recorded radiation dose information furnished by service departments will be considered in the context of the known limitations of the particular recording devices employed. For example, consideration will be given to the fact that film badges worn by nuclear weapon test participants measured external gamma and high energy beta radiation, but would not have measured any direct neutron exposure or any dose commitment that may have occurred from inhalation or ingestion of radioactive particles. The possibility of error in the measured doses as a result of defects in either the manufacture or calibration of the dosimetry devices will be considered.

(3) When an individual dosimetry reading for a veteran is not available but the service department is able to supply or estimate a range of doses for the veteran's organizational unit over the corresponding time frame, exposure at the upper limit of the range provided will be conceded. Where the overall estimated exposure level of the veteran's unit, if available, is higher than the documented reading for the veteran, exposure at the estimated dose will be conceded.

(4) Due consideration will be given to any other estimates of dose supplied by or on behalf of claimants.

(5) In determining whether a disease was caused by radiation exposure, the actual or estimated dosage will not be the sole determining factor. All relevant factors will be considered including:

(i) Whether the disease is known to be capable of being induced by radiation;

(ii) In cancer cases, the relative sensitivity of the body site and type of cancer to radiation induction;

(iii) The gender of the exposed individual, age at time of exposure and approximate date of onset of the disease relative to the exposure;

(iv) Where available, such personal histories as would elicit information concerning exposure to other known carcinogens before, during, or after service.

(d) Nothing in this section will be construed to prevent the granting of service-connection with respect to any disease or disorder otherwise shown by sound judgement to have been incurred or aggravated as a result of exposure to radiation during active service.

(38 U.S.C. 210(c))

(FR Doc. 83-29567 Filed 10-31-83; 8:45 am)

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-4-FRL 2459-8; SC-004]

Designation of Areas for Air Quality Planning Purposes, South Carolina: Redesignation of TSP and O₃ Nonattainment Areas

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA today announces approval of a request by the South Carolina Department of Health and Environmental Control (DHEC) that a portion of Georgetown County (that portion of Georgetown County within the southern section of Georgetown) be redesignated attainment for the primary and secondary total suspended particulate (TSP) standards and that the Columbia area (Lexington and Richland Counties) be redesignated attainment for the ozone (O₃) standard. The DHEC also requested that the Charleston area be redesignated attainment for the primary and secondary TSP standards; although the ambient air quality data for the last eight quarters show no violations in that area, EPA is not acting on this request now.

EFFECTIVE DATE: This action will be effective on January 3, 1984 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

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

Air Management Branch, Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365
Bureau of Air Quality Control, SC Dept of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201

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

SUPPLEMENTARY INFORMATION: On March 31, 1983, South Carolina DHEC submitted a request for the redesignation of several areas in the State that had been designated as not meeting the national ambient air quality

standards (NAAQS) for O₃ and TSP. A review of the air quality data (January 1981 through December 1982) gathered at the ozone monitors in the Columbia area (Lexington and Richland County) shows that the concentration of O₃ in the area has not exceeded the NAAQS for ozone of 0.12 parts per million during the last two calendar years. This improvement is due to the effects of the Federal Motor Vehicle Control Program.

The submittal also contained a request for the redesignation of the Georgetown and Charleston TSP nonattainment areas. EPA reviewed the air quality data collected in the Georgetown nonattainment area during calendar years 1981 and 1982 and determined that the concentrations of TSP in the area had not exceeded the national annual standard of 75 µg/m³ or the 24-hour standard of 150 µg/m³. This improvement is due to the implementation of approved SLP strategies. The data support the redesignation of the Georgetown area.

EPA also reviewed the air quality data collected in the Charleston nonattainment area and determined that the concentrations of TSP in the area had not exceeded the national standards. However, the Charleston data do not provide evidence that the decrease in the ambient concentration of TSP in the Charleston area is a result of the control strategy applied at Macalloy, the major facility in the area. In fact, the data indicate that the decrease in the ambient concentration of particulates may be a result of lower production rates. Macalloy operated at full capacity for approximately 25% of the period being used in the State's redesignation request (February 1981 through January 1983). Since the attainment request may not adequately and accurately reflect future operating rates, EPA has determined that the submitted air quality data may not be a true representation of the future ambient concentrations in the vicinity and thus do not demonstrate that the area will continue to maintain the NAAQS for TSP. Therefore no action will be taken on the redesignation request for Charleston at this time.

Action. EPA today announces the redesignation of that portion of Georgetown County within the southern section of Georgetown as attainment for the primary and secondary total suspended particulate standards and the Columbia area—Lexington and Richland Counties—as attainment for the ozone standard.

This action is being taken without prior proposal because the redesignations are noncontroversial and EPA anticipates no comments on them.

The public should be advised that this action will be effective 60 days from the date of this Federal Register notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

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

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

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

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107 of the Clean Air Act, as amended (42 U.S.C. 7409))

Dated: October 24, 1983.

William D. Ruckelshaus,

Administrator

PART 81—[AMENDED]

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

Subpart C—Section 107 Attainment Status Designation

1. In § 81.341, the attainment status designation table for TSP is amended by removing the first entry for Georgetown County (that portion of Georgetown County within southern section of Georgetown) and by revising the remaining entry for Georgetown County to read as follows:

§ 81.341 South Carolina.

SOUTH CAROLINA—TSP

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be Classified	Better than national standards
Georgetown County			X	

SOUTH CAROLINA—TSP—Continued

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be Classified	Better than national standards

2. In § 81.341, the attainment status designation table for ozone (O₃) is amended by removing the entry for the Columbia area.

[FR Doc. 83-29450 Filed 10-31-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 3E2849/R606; PH-FRL 2449-1]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; N, N-Diethyl-2-(1-Naphthalenyloxy) Propionamide

Correction

In FR Doc. 83-27663 appearing on page 46310 in the issue of Wednesday, October 12, 1983, make the following correction: In column three, § 180.328, column two of the table "Parts per million", ".01" should read "0.1"

BILLING CODE 1505-01-M

40 CFR Part 228

[WH-FRL 2462-7]

Ocean Dumping; Final Designation of Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today designates an ocean disposal site offshore of Tampa Harbor for a period of three years for the disposal of dredged material. This action is necessary to provide an ocean dumping site for the disposal of dredged material from the Tampa Harbor Project which will permit unrestricted access for interstate and foreign commerce to the Port of Tampa.

DATE: This site designation shall become effective December 1, 1983.

ADDRESSES: The Environmental Impact statement (EIS) and other material considered in this rulemaking are available for public inspection at the following locations:

EPA Public Information on Reference Unit (PIRU), Room 2404 (rear), 401 M Street, Southwest, Washington, D.C. 20460; and

Tampa-Hillsborough County Public Library, Special Collections
Department, 900 North Ashley Street,
Tampa, Florida 33602.

FOR FURTHER INFORMATION CONTACT:
Mr. Jonathan E. Amson, 202/245-3036,
Criteria and Standards Division, U.S.
Environmental Protection Agency,
Washington, D.C. 20460.

SUPPLEMENTARY INFORMATION:

I. Background

Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq. (hereinafter "the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On September 19, 1980, the Administrator delegated the authority to designate ocean dumping sites to the Assistant Administrator for Water and Waste Management, now the Assistant Administrator for Water. This site designation is made pursuant to that authority.

Under the Act, EPA is today designating a dredged material disposal site in the Tampa Bay area, known as Site 4. This site is approximately 18 nautical miles west of Egmont Key, positioned in a square with corner coordinates as follows:

27°32'27"N., 83°03'46"W.;
27°30'27"N., 83°03'46"W.;
27°30'27"N., 83°06'02"W.;
27°32'27"N., 83°06'02"W.

The site occupies an area of four nautical square miles. Water depths within this area range from 21.8 to 24.1 meters.

In the selection process for dredged material disposal sites in the Tampa Bay area, one of the important factors considered is the absence or minimal presence of hard bottom areas. Hard bottom areas are unsuitable for dredged material disposal because they may contain productive sponge and coral habitats. These habitats may have valuable recreational or commercial uses.

On January 11, 1977, EPA designated two interim sites in the Tampa Bay area for the disposal of dredged material. 42 FR 2461 et seq. One site ("Site A") is located approximately 13 miles west of Egmont Key at the mouth of Tampa Bay; the other site ("Site B") is located approximately 9 miles from Egmont Key. Dredged material was disposed of at Site B from 1969 to 1973; no dredged material has been disposed there since 1973. The U.S. Army Corps of Engineers ("the Corps") disposed of dredged material from a construction dredging project ("the Tampa Harbor Project") at

Site A from June, 1980, until December 24, 1982.

The sites were designated for a three-year period, or until final site designation studies could be completed. On December 9, 1980, the interim designations were renewed until February 1983, pending completion of final site designation studies. 45 FR 81042.

In April 1982, Manatee County sued EPA and the Corps with respect to the interim designation and continuing use of Site A for the disposal of dredged material ("Manatee County v. Gorsuch," 82-248-Civ.-T-GC (M.D. Fla)). On December 21, 1982, the Court enjoined the Corps from disposing of additional dredged material at Site A after December 24, 1982, pending completion of required studies.

The Tampa Harbor Project is a major channel deepening project undertaken by the Corps which will provide deep draft access to parts of the Tampa and Hillsborough Bay system. As of December 24, 1982, the Corps had disposed of approximately 4,936,600 cubic yards of material at Site A from construction phases of the Tampa Harbor Project and two other projects. As a result of the Florida court's decision, the Corps terminated a contract for the dredging and disposal of material from a section of the Tampa Harbor Project, known as "Section 2C (Portion)." Approximately 1,200,000 cubic yards remain to be dredged from Section 2C (Portion). An additional 2,570,000 cubic yards remaining to be dredged from funded portions of the Tampa Harbor Project are not yet under contract.

To avoid delay to, and cost escalation of, the Tampa Harbor Project, EPA proposed to extend the interim designation of Site A for disposal of dredged material from Section 2C (Portion) of the Tampa Harbor Project. 47 FR 44122 (October 6, 1982.) EPA also proposed to designate Site 4 on an interim basis. Following public comment and the decision of the court in the Manatee County case, the Agency has decided not to proceed with the extension of the interim designation of Site A or the interim designation of Site 4. On October 29, 1982, EPA issued a Draft EIS (DEIS) on a proposed dredged material disposal site (Site 4) in the Tampa Bay area (47 FR 49074). On November 8, 1982, the Agency proposed the designation of Site 4 for the continuing disposal of dredged material (47 FR 50524). On September 9, 1983, EPA published a notice of the availability of the Final EIS (48 FR 40780). Today EPA takes final action to designate Site 4.

II. Site Designation Studies

Extensive studies have been made regarding the designation of an ocean disposal site for dredged material in the Tampa Bay area. The sites examined and their distances from Egmont Key at the mouth of Tampa Bay, are presented in Table 1.

TABLE 1

[Nautical miles from Egmont Key]

Site	Location
A (previously designated)	13
B (previously designated)	9
SWAS 1 ¹	16.5
SWAS 2	13
SWAS 2A	14
SWAS 3	24
SWAS 4	18
Control Site	19
State Site X	27
State Site Y	28
State Site Z	30

¹ Shallow-water alternative site.

EPA entered into a contract with Interstate Electronics Corporation (IEC) in 1977 for the evaluation of interim-designated sites and the preparation of EIS's. The Corps joined this effort in 1978 by providing financial support, reviews, and consultation. The Tampa Bay interim-designated sites were included in the contractual effort along with a number of other interim-designated ocean dredged material disposal sites (ODMDS).

IEC initiated its studies of the Gulf of Mexico near Tampa Bay in 1979. Initial screening of historical data and information indicated that three general areas should be considered for the location of a permanently-designated ODMDS: Shallow-Water, Mid-Shelf, and Deepwater. The previously designated sites are located in the Shallow-Water area. Based on the initial screening, areas within three miles immediately north and west of the previously designated sites were eliminated from further consideration because of the presence of hard bottom areas and artificial reefs. Waters less than 10m deep also were eliminated because of potential shoaling.

IEC implemented surveys in September-October 1979 and January 1980 on Sites A and B and the immediately surrounding areas, and concluded that those sites might not be the most environmentally acceptable locations for dredged material disposal. IEC recommended that further studies be conducted on potential alternative sites.

In April 1981, Monte Marine Laboratory (MML) of Sarasota, Florida at the request of the Manatee County Board of County Commissioners, began

a study to evaluate the effects of offshore disposal of sediments dredged from Bayboro Harbor, St. Petersburg, Florida. The study was conducted at Site A. The study concluded that partially buried hard bottom habitats were present at the boundaries of the disposal site. Living hard bottom communities, including hard corals, soft corals, and sponges were observed beyond the limit of the disposal site. One of the recommendations of the MML report was that dredged material disposal at Site A be discontinued and efforts be directed toward locating an alternative site(s).

Subsequently, using the Ocean Survey Vessel *Antelope*, EPA performed a reconnaissance survey of potential alternative sites in the Tampa Bay area in October 1981. Using side scan sonar and fathometer tracings provided by IEC, EPA divers observed and photographed the bottoms of Alternative Shallow-Water Sites 1, 2, and 3. Evaluation of the divers' observations and photographs indicated that Alternative Site 1 contained hard bottom outcrops and numerous animal and plant communities. For this reason, Alternative Site 1 was eliminated from further detailed evaluation. Alternative Site 2 was determined to be only marginally acceptable, due to a finger of hard bottom communities extending into the site from the eastern boundary of the site. The western and southern portions of the site consisted of sandy bottoms. Alternative Site 3 appeared to be sandy-bottomed over its entire area.

Based on the results of the reconnaissance survey, more in-depth surveys were planned. In April 1982, the Corps planned and implemented a survey of the area southwest of Alternative Site 2, known as Site 2A. In May 1982, EPA planned and implemented surveys of the two previously designated sites, Alternative Site 3, and an area southwest of Site 2A identified as Alternative Site 4.

The Corps initiated its study in April 1982, and issued a report in May 1982. The report found that Alternative Site 2A was environmentally unacceptable due to the presence of extensive areas of hard-bottom. Based on this finding by the Corps, and on EPA's finding during its reconnaissance survey, Site 2 and 2A were eliminated from further detailed consideration.

The in-depth survey implemented by EPA in May 1982 included videotaping of the bottom of Site A, a transect of the ocean floor between Site A and Shallow-Water Alternative Site 3, and a transect of the ocean floor in a southwest direction from Alternative Site 2A. During the course of the

videotaping, an extensive sandy-bottomed area southwest of Alternative Site 2 was discovered. This area, designated Alternative Site 4, was surveyed in addition to Alternative Site 3, and the two previously designated sites. Site 4 was found to be virtually barren of hard bottom areas or coralline growths over the area examined, which was a videocamera track 2.3 nautical miles in length from the northeast boundary of Site 4, through approximately the center of the site, to the southwest boundary of the site.

Examination of the videotape of Alternative Site 3 revealed many more hard bottom areas than had been found in the reconnaissance survey of October 1981. These new results led to the elimination of Alternative Site 3 from further detailed consideration.

Due in part to the public comments received in response to the Tampa Bay DEIS, EPA planned and implemented another survey in February, March, and April, 1983. This survey examined in intense detail Alternative Site 4, and a Control Site approximately five miles southeast of Alternative Site 4; Sites A and B were examined in lesser detail. The Survey consisted of extensive videotaping of the bottom of Alternative Site 4 and the Control Site, as well as side scan sonar mapping of both sites. Three other sites suggested by the State of Florida, and identified as State Sites X, Y, and Z, at approximate distances of 27, 28, and 30 nmi, respectively, west of Egmont Key, were also examined in briefer detail, with videotape recordings.

The February, March, and April 1983 EPA surveys collected over 35 nautical miles of videotape data within and immediately surrounding Site 4. Twenty-two transects, at approximately one-quarter mile intervals, were run within Site 4, providing an extraordinarily detailed view of the substratum of the site, as well as a full transect around the periphery of the site. In addition, approximately eight nautical miles of transects were run within the Control Site, and approximately two nautical miles of transects were run at each of the State Sites X, Y, and Z.

The videocamera transects revealed that the vast majority of Site 4 has a minimum of hard bottom areas, and is characterized by flat, barren, sandy areas occasionally interspersed with one- to six-inch high sand waves interdigitated with shell hash. No significant hard bottom areas were seen in Site 4; a limited and sparsely populated area of hard bottom was noted in the northwest quadrant of Site 4, running in a roughly northwest-southeast direction. Analysis of the videotape of all of Site 4 demonstrated

that over 83 percent of the area viewed was virtually devoid of any form of coralline or sponge communities; approximately 17 percent of the site had sparsely covered hard bottom areas, and less than one percent of the site could be characterized as densely populated hard bottoms.

State Site Z was found to contain quite dense growths of hard bottom and associated coralline communities; denser coralline growth were seen at State Site Z than any other site surveyed previously in the Tampa Bay area, including the richly diverse and dense patches of coralline growth seen at Shallow-Water Alternative Site 3. Consequently, State Site Z was eliminated from further detailed consideration. State Site Y was characterized by the presence of immense quantities of the invertebrate *Melitta quinquesperforata*, commonly known as sand dollars. At no time during the survey of State Site Y were the sand dollars not seen; the average density was estimated to be over four animals per square meter. This site is apparently a rare and unique biological area, for this phenomenon has not been seen at any other site surveyed previously in the Tampa Bay area. Consequently, State Site Y was eliminated from further detailed consideration. State Site X was also characterized by the presence of sand dollars, although they were not as dense at Site X as at Site Y. Site X had flat uninterrupted sandy bottoms over the entire area examined, and minimal algal patches were seen in the videocamera transects. Although State Site X may be environmentally acceptable for the disposal of dredged material, more site-specific information would have to be obtained on the site to propose a designation for this purpose.

The February, March, and April 1983 surveys also collected data from a towed side scan sonar fish, geochemical and infaunal sediment analyses, and biochemical invertebrate and teleost tissue analyses.

III. Environmental Impact Statements

A draft environmental impact statement (DEIS) was filed with the EPA Office of Federal Activities on October 22, 1982, and a notice of availability for public review and comment was published in the *Federal Register* on October 29, 1982 (47 FR 49074).

EPA has prepared a "Final Environmental Impact Statement (FEIS) for Tampa Harbor, Florida Ocean Dredged Material Disposal Site Designation." The notice of availability of the FEIS was published in the *Federal Register* on September 9, 1983 (48 FR

40780). This FEIS evaluates the suitability for disposal of material dredged from the Tampa Harbor Project at the two previously designated sites (Sites A and B), as well as at four shallow-water alternative sites (Sites 1, 2, 3, and 4).

The FEIS includes the Agency's assessment of the comments received during the comment period on the DEIS. Comments presenting facts which corrected those in the DEIS were incorporated in the text; those comments which did not require text changes were responded to point by point, in Appendix G of the FEIS.

The FEIS analyzes all pertinent information gathered by EPA from all of its surveys as well as other pertinent information on these sites. Based on the information available to the Agency, Site 4 is an acceptable site from an environmental viewpoint because of its paucity of significant hard bottom areas which may be adversely affected by dredged material disposal.

The FEIS also contains an evaluation of the statutory factors contained in Section 102(a) of the Act, and Section 228.6 of the EPA Ocean Dumping Regulations (40 CFR Part 228). A discussion of the most important of the criteria as applied to Site 4 follows below.

Location in relation to beaches and other amenity areas. The nearest developed beaches are 18 nautical miles away; there is little or no recreational diving, sport or commercial fishing, and very limited hard bottom areas which might support sport or commercial fishing.

Dispersion, horizontal transport, and vertical mixing characteristics of the area, prevailing current direction and velocity, if any. Dispersion and horizontal transport will occur primarily to the north and south, resulting from wind-induced seasonal currents. Vertical mixing is inhibited only during strong late-summer stratification. Influence from waters flowing out of Tampa Bay is less than at Site A, with sediments less likely than those at Site A to be transported back into the entrance channel.

Existence and effects of current and previous discharges and dumping in the area. No disposal has occurred at this site.

Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance, and other legitimate uses of the ocean. No interference is expected with recreational or commercial interests, nor with shipping, mineral extraction,

desalination, fish and shellfish culture, or areas of special scientific importance.

Based on the analysis of these and other factors specified in EPA's regulations, the Agency has decided to designate Site 4 for the disposal of dredged material, for a period of three years. For a more complete discussion of the factors used to evaluate Site 4 and other sites in the area, please refer to Chapter 2 of the FEIS.

IV. Public Comment

On November 8, 1982, EPA proposed designation of this site for the continuing disposal of dredged material (47 FR 50524). The public comment period expired on January 3, 1983. Two comments were received in response to the proposed rule.

The first comment was from the Miami law firm representing the Manatee County Board of County Commissioners. The letter stated that Manatee County was opposed to the designation of Site 4 due to the inadequate information available on Site 4. The letter recommended three actions be taken:

- A site-specific survey of Site 4 be performed;
- A public hearing be scheduled to allow for public comment;
- Pending completion of the recommended environmental studies, no ocean disposal be allowed, and no further "interim" designation of ocean disposal sites be made.

The Agency has completed the site-specific studies of Site 4, which have provided an extraordinary amount of information about Site 4, and have shown it to be environmentally acceptable for the disposal of dredged material. The Agency has met with local, State, and Federal officials on January 26, 1983, in Jacksonville; on April 7, 1983, in Bradenton; on April 8, 1983, in Tampa; and on June 27, 1983, in Tampa. The discussions at these meetings allowed for full comment on the issues at hand. Finally, no ocean disposal of dredged material has occurred in the Tampa area since December 24, 1982; there is no intent on the part of the Agency to make any further interim designations of sites for ocean disposal of dredged material.

The second comment was from the Tampa Port Authority (TPA). The letter stated that the TPA supported the proposed designation of Site 4. The letter recommended that additional investigations of Site 4 be made, using either divers or underwater television to confirm the absence or limited presence of hard bottom communities.

As noted previously, the Agency has completed the additional investigations

recommended by the TPA, and these studies have fully confirmed the virtual absence of hard bottom communities throughout the majority of Site 4, and the limited presence of hard bottom areas only in the northwest quadrant of the site.

Based on the above information, EPA is today designating Site 4 for the disposal of dredged material from the Tampa Harbor Project for a period of three years. Management authority of this site is delegated to the Regional Administrator of EPA Region IV.

The Agency fully intends to carefully monitor the effects of disposal operations at Site 4 to assure that no significant adverse environmental effects occur beyond the boundaries of the site. A monitoring plan, including the necessary parameters and their limits, is presently being developed by representatives of the Agency, the Corps, the TPA, and State and local Florida officials and scientists. This plan will be fully in place prior to the initiation of disposal operations, presently scheduled to begin in January 1984. Should the Agency, through its monitoring of disposal operations at Site 4, find that the dredged material is spreading beyond the limits of Site 4 causing significant adverse environmental effects, it will rapidly move to halt disposal operations until methods can be used to assure that the material remains within the site. Should such containment prove impossible, the EPA will terminate the designation or use of Site 4 and rapidly move toward designation of an environmentally acceptable site.

Further, the Agency has agreed to initiate survey operations with OSV *Antelope* in Fall 1983 to locate another ocean dredged material disposal site approximately 30 miles west of Egmont Key. It is the Agency's intention that complete site-specific studies, an EIS, and completion of rulemaking on a final site designation for this alternative 30-mile site be completed prior to the end of the three-year designation of Site 4.

The Agency expects that the Corps will use the diked disposal areas presently existing in Tampa Bay for the disposal of operational and maintenance dredging. It should be emphasized that, if an ocean dumping site is designated, such a site designation does not constitute or imply EPA's approval of actual disposal of materials at sea. Before ocean dumping of dredged material at the site may commence, the Corps of Engineers must evaluate a permit application according to EPA's ocean dumping criteria. If a Federal project is involved, the Corps must

evaluate the proposed dumping in accordance with those criteria. In either case, EPA has the right to disapprove the actual dumping, if it determines that environmental concerns under the Act have not been met.

The State of Florida has determined that this site designation is consistent to the maximum extent practicable with the State's coastal zone management plan. For any comments by the State of Florida on the DEIS, interested persons should consult the public record, which may be found at the two locations identified in the beginning of this rulemaking.

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this action will not have a significant impact on small entities. The site designation will only have the effect of providing a disposal site for dredged material. Consequently, this action does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of \$100 million or more, or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this action does not necessitate preparation of a Regulatory Impact Analysis.

This rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291. This rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 228

Water pollution control.

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

Dated: October 27, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water

PART 228—[AMENDED]

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is amended by adding paragraph (b)(14) to § 228.12 as follows:

§ 228.12 Delegation of management authority for ocean disposal sites.

(b) * * *

(14) Tampa Harbor Site 4—Region IV.

Location: 27°32'27"N., 83°03'46"W.; 27°30'27"N., 83°03'46"W.; 27°30'27"N., 83°06'02"W.; 27°32'27"N., 83°06'02"W.

Size: 4 nautical square miles.

Depth: Ranges from 21.8 to 24.1 meters.

Primary Use: Dredged material.

Period of Use: Three years.

Restrictions: Disposal shall be limited to dredged material from the Tampa Harbor Project.

[FR Doc. 83-29710 Filed 11-1-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 434

[WH-FRL 2461-5]

Coal Mining Point Source Category; Effluent Limitations Guidelines and New Source Performance Standards

AGENCY: Environmental Protection Agency.

ACTION: Corrections to the final rule.

SUMMARY: On October 13, 1982 EPA promulgated effluent limitations guidelines and standards under the Clean Water Act for the Coal Mining Industrial Category (47 FR 45382). This notice makes various corrections to that final rulemaking which involve typographical, spelling, and wording errors.

FOR FURTHER INFORMATION CONTACT: Ms. Allison Phillips at the Environmental Protection Agency at (202) 382-7167.

SUPPLEMENTARY INFORMATION:

I. Corrections to the October 13, 1982 Rulemaking

Corrections are as follows:

1. On page 45382, column 1, second line of summary; "navigable" is deleted.
2. On page 45382, column 2, line 9 from the bottom; "Regulations" is replaced by "Discharges".
3. On page 45382, column 3, line 3 from the bottom; "to" is replaced by "is".
4. On page 45382, column 2, 16th line from the top; "487-6000" is replaced by "487-4600".
5. On page 45383, column 1, line 29 from the bottom; "[BMOs]" is replaced by "[BMPs]".
6. On page 45384, column 2, line 9 from the top; ")" is added after the word "required".

7. On page 45384, column 2, line 15 from the bottom; "This" is replaced by "These".

8. On page 45385, column 1, line 18 from the bottom; "metal" is replaced by "metals".

9. On page 45385, column 3, line 29 from the top; the comma after "system" is replaced by a period.

10. On page 45386, column 3, line 29 from the bottom; "May 29, 1982" is replaced by "May 29, 1981".

11. On page 45388, column 1, line 30 from the top; "for discharges" is added between "events" and "from".

12. On page 45388, column 2, line 8 from the top; "and" is deleted.

13. On page 45388, column 2, line 10 from the top of footnote 11; "and" is deleted.

14. On page 45388, column 3, line 28 from the top; "this" is replaced by "these".

15. On page 45388, column 3, line 18 from the bottom; "suggests" is added between "surveyed" and "that".

16. On page 45389, column 1, line 19 from the bottom (not including footnote); "has" is replaced by "have".

17. On page 45389, column 2, line 21 from the bottom; "wordshops" is replaced by "workshops".

18. On page 45389, column 2, line 19 from the top; a comma is inserted after "event" and the words "and three others" is deleted. Lines 20 and 21 from the top are also deleted.

19. On page 45389, column 3, line 7 from the top; "of" is replaced by "or".

20. Page 45390, column 1, line 13 from the bottom; "EPA 440 2-82/006" is replaced by "EPA 440/2-82/006".

21. Page 45390, column 2, line 5 from the top; "were" is replaced by "was".

22. Page 45390, column 3, line 31 from the bottom; "analysis" is replaced by "analyses".

23. Page 45391, column 3, line 8 from the top; "540 R." is replaced by "540 F."

24. Page 45393, column 1, line 29 from the bottom; "Standard" is replaced by "Standards" in the entry for § 434.25 in the table of contents for Part 434.

25. Page 45393, column 2, line 9 from the top; "43.44" is replaced by "434.44" in the table of contents for Part 434.

26. Page 45394, column 1, line 4 from the top; "slope" is replaced by "slope" in § 434.11(i)(1)(ii)(D).

27. Page 45394, column 2, line 16 from the top; "S" is added to the beginning of the line in § 434.22(a).

28. Page 45395, column 1, line 10 from the bottom (not including table);

"sources" is replaced by "source" in § 434.25(c).

29. Page 45395, column 1, table at bottom in § 434.25(c): "()" around the "1's" in the "pH row is added.

30. Page 45396, column 1, table at top of § 434.42(a): the numbers in the TSS column are changed to read "70.0" and "35.0" instead of "70." and "35."

31. Page 45396, column 1, table at bottom in § 434.43(a): the vertical lines similar to those shown in the table at the top of the column are added.

32. Page 45396, column 2, tables at top and bottom of column in §§ 434.45(a) and 434.52(a)(1): the vertical lines similar to those shown in the table at the top of column 1 are added.

33. Page 45397, column 3, line 2 from the bottom: "of" is replaced by "or" in § 434.63(b).

34. Page 45397, column 3, line 3 from the bottom in § 434.63(b): "or series of storms" is deleted.

35. Page 45398, column 1, line 34 from the bottom: "Appendixes" is replaced by "Appendices".

36. Page 45398, column 1, line 23 from the bottom: "[BAT]" is deleted.

37. Page 45398, column 1, line 20 from the bottom: "[BCT]" is deleted.

38. Page 45398, column 2, line 20 from the top: "gps" is replaced by "gpd".

Date: October 24, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 83-28675 Filed 10-31-83; 8:45 am]

BILLING CODE 8560-50-M

40 CFR Part 439

[WH-FRL 2443-2]

Pharmaceutical Manufacturing Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

Correction

In FR Doc. 83-28778, beginning on page 49808, in the issue of Thursday, October 27, 1983, make the following corrections:

1. On page 49821, in the third column, the first section heading in the table of contents now reading "439 Applicability," should read "439.0 Applicability."

2. On page 49822, in the second column, the section heading now reading "§ 439 Applicability," should read "§ 439.0 Applicability."

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR Bureau of Land Management

43 CFR Public Land Order 6477

[F-81398]

Alaska; Partial Revocation; Opening of Lands Withdrawn by Public Land Order Nos. 399, 5170, 5179, 5180, and 5184, as Amended

Correction

In FR Doc. 83-27140 beginning on page 45395 of the issue of Wednesday, October 5, 1983, make the following corrections:

1. On page 45396, first column, "T. 21 N., R. 8 W.," should read "T. 26 N., R. 8 W.,".

2. On page 45397, middle column, in "T. 6 S., R. 9 W.," the third line should read "Sec. 6, W $\frac{1}{2}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and W $\frac{1}{2}$ SE $\frac{1}{4}$,".

3. On page 45398, middle column, "R. 6 S., R. 16 W.," the first "R" should be changed to "T".

4. On page 45399, first column, in "T. 4 S., R. 24 W.," the fifth line: "S $\frac{1}{2}$ SW $\frac{1}{4}$," should be added before the "and".

5. On the same page, second column, in "T. 4 S., R. 28 W.," the fifth line, "SW" should read "SE".

6. On the same page, third column, in "T. 6 S., R. 21 W.," fourth line, "NW" should read "NE".

7. On the same page, same column, in "T. 4 S., R. 23 W.," the figure "23" should read "24".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR PARTS 2, 21, 74 and 94

[Gen. Docket No. 79-188; RM-3247; RM-3497; FCC 83-392]

Use of Radio in Digital Termination Systems and in Point-to-Point Microwave Radio Systems for Provision of Digital Electronic Message and Other Specific Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission expands the eligibility for access to the 10.6 GHz DTS band to accommodate private licensees. This action is taken to allocate a portion of the 18 GHz band for use by digital termination systems (DTS) in the Common Carrier and Private Operational-Fixed Microwave services. Further, another portion of the 18 GHz band is rechannelized to accommodate stations more efficiently

in the Broadcast, Common Carrier, and Private Radio Services. This action is in response to a Further Notice of Proposed Rule Making in this proceeding.

EFFECTIVE DATE: December 1, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. Melvin Murray, Office of Science and Technology, 2025 "M" Street, N.W., Washington, D.C. 20554, (202) 653-8168.

List of Subjects

47 CFR Part 2

Frequency allocations, Radio.

47 CFR Part 21

Communications common carriers, Point-to-point microwave.

47 CFR Part 74

Communications equipment, Radio.

47 CFR Part 94

Radio.

Second Report and Order

In the matter of amendment of Parts 2, 21, 74 and 94 of the Commission's rules to allocate spectrum at 18 GHz for, and to establish other rules and policies pertaining to, the use of radio in Digital Termination Systems and in Point-to-Point Microwave Radio Systems of the provision of Digital Electronic Message Services, and for other Common Carrier, Private Radio, and Broadcast Auxiliary Services; and to establish rules and policies for the private radio use of Digital Termination Systems at 10.6 GHz. (General Docket No. 79-188, RM-3247, RM-3497, FCC 83-392).

Adopted: September 9, 1983.

Released: September 30, 1983.

By the Commission.

Introduction

1. On August 4, 1981, the Commission adopted a *Further Notice of Proposed Rulemaking* which proposes the allocation of spectrum at 18 GHz (specifically 18.36-19.04 GHz) for use by Digital Termination Systems (DTS) and by Point-to-Point Microwave Radio Systems.¹ This proposal was made in addition to the allocation at 10.6 GHz previously adopted.² Moreover, whereas that Order provided only for the licensing of DTS facilities and related internodal links under common carrier rules, the *Further Notice* proposed rules to make the frequencies at 10.6 and 18 GHz also available to private radio applicants.

¹ *Further Notice of Proposed Rulemaking* in Gen. Docket No. 79-188, 46 FR 45635 (September 14, 1981).

² *First Report and Order* in Gen. Docket No. 79-188, 46 FR 23428 (April 27, 1981); 86 FCC 2d 360 (1981). Also, *Memorandum Opinion and Order*, 90 FCC 2d 319 (1982).

2. Also, addressed in the *Further Notice* was a proposal to rechannelize certain segments of the 18 GHz band to permit narrower bandwidth channel assignments. It was stated that little use is made of this band due to its wideband channelization, poor cost competitiveness with other high capacity communications facilities, the shortened path lengths of several kilometers required for reliability of these systems of high channel density and problems with service restoration of such a high capacity system.³ In contrast, lower capacity microwave systems at 18 GHz using narrowband channels could be attractive for telephone, utility, railroad, and oil companies, particularly because of the congestion at lower frequencies. Those reasons, coupled with the Commission's own projections of possible new uses of the 18 GHz band, led to the release of the *Further Notice* in this docket.

Summary of Decision

3. The *Further Notice* proposed a number of technical rules and requested comment on a wide range of policy issues in addition to proposing a rechannelization of the 18.360-19.040 GHz band. Comments were filed by twenty-four parties and reply comments by eight parties. All comments have been evaluated and considered in the preparation of the rules contained herein. A list of commenters is contained in Appendix A. On the basis of these comments and the record that has been established, this *Second Report and Order* sets forth our findings and conclusions. The key conclusions set forth are the following:

- We are allocating two 100 MHz bands consisting of 10 two-way channels each 10 MHz wide at 18.360-18.460 GHz and 18.940-19.040 GHz for DTS.
- We are rechannelizing the 18.460-18.940 GHz band to provide for both 10 MHz and 20 MHz channel widths.
- We are rechannelizing the 18.640-18.700 GHz and 18.880-18.940 GHz bands to provide for 12 pairs of 5 MHz wide channels.
- We are allowing private radio licensees under Part 94 to use the 10.6 GHz and 18 GHz bands for DTS.⁴

³ At the time of the *Further Notice*, the 17.7-19.7 GHz band was channelized into eight RF channels 220 MHz wide to be used for common carriers on a cross-polarized basis to derive two communications channels per frequency assignment and a 240 MHz unchannelized segment for channels of 100 MHz or less.

⁴ We are reallocating channel Nos. 4, 7, 9 and 19/20 from common carrier to private effective September 9, 1983 to achieve a measure of parity. No new applications for common carrier DTS

• We are adopting a frequency stability standard at 18 GHz of $\pm 0.001\%$ for DTS nodal stations. We are also adopting a frequency stability standard at 18 GHz of $\pm 0.003\%$ for DTS user stations, for narrowband internodal links, for operational-fixed point-to-point stations, and for other non-DTS operations.

• We are permitting the license of equipment with a modulation spectral efficiency at 18 GHz of 0.6 (bps)/Hz *only until* December 1, 1988 when new licensees must employ equipment with a modulation spectral efficiency no less than 1.0 (bps)/Hz.

• We are permitting MDS licensees to use the 18.460-18.940 GHz band with this new channelization for a return path in connection with their existing one-way channels to provide a two-way communications service.

Allocation Plan

4. In the *Further Notice* we indicated that it was our intent to formulate a comprehensive plan to satisfy an expected demand for services over DTS facilities that may exceed the channel capacity provided at 10.6 GHz and to accommodate the prospective need for narrowband channels for point-to-point uses. In restructuring the 18 GHz band, we proposed to place DTS omnidirectional operations in two paired bands, 18.36-18.46 GHz and 18.94-19.04 GHz. The location of these two bands was chosen to avoid overlapping the 200 MHz allocated for passive sensor operation within 18.6-18.8 GHz. A channelization plan consisting of ten (10) MHz wide channels for each of the two bands was proposed.

5. With respect to the DTS proposed allocation at 18 GHz only AT&T and MCI Telecommunications Corporation outrightly opposed it. They desire that the Commission retain the existing channelization plan which consists of eight RF channels 220 MHz wide and a 240 MHz unchannelized segment in the 17.7-19.7 GHz band. They claim that the presently sparse use of these frequencies is not sufficient reason to ignore the bands potential and reallocate it to other services. AT&T and MCI contend that the demand for the proposed services is unknown.

6. In contrast, we received twenty-two comments supporting the proposed allocation for DTS. GTE Telenet indicated that because of the development of fiber optics technology, it is possible that extensive use of the remaining wideband 220 MHz channels in the 18 GHz band for intra and

operations on these channels will be accepted effective September 9, 1983.

intercity communication may not come to pass. It recommended rechannelization of the entire 18 GHz band into narrower channels. The Farinon Division of the Harris Corporation suggested that four 220 MHz channels be retained, but the remaining spectrum be divided into narrower channels. It claimed that narrow-band operational fixed requirements are real and now exist whereas the wide-band 220 MHz requirements do not.

7. In our *Further Notice* we stated that we did not believe that the lack of use of 18 GHz necessarily justified a wholesale restructuring of the band. In support of this premise, we proposed to leave intact six of the eight 220 MHz paired channels in the 17.7-19.7 GHz band. We stated that a rechannelization of the entire 18 GHz band would be premature, based on an absence of use over a limited period of time and a customer interest in equipment not yet reflected in actual use of these frequencies. However, since the time the *Further Notice* was adopted, a number of other applications for narrow-band usage of this spectrum have been brought to our attention through comments received in Gen. Docket 82-334 (*Notice of Inquiry*, 47 Fed. Reg. 31959 July 23, 1982). The Commission subsequently adopted a *Notice of Proposed Rule Making* in Gen. Docket 82-334 (48 Fed. Reg. 6730, February 15, 1983). Concurrent with the adoption of the instant proceeding, the Commission adopted a *First Report and Order* in Gen. Docket 82-334 addressing the rechannelization of that portion of the 17.7-19.7 GHz band not dealt with in the instant proceeding (viz., 17.70-18.36 GHz and 19.04-19.70 GHz).

8. For the instant proceeding, we are adopting the attached rules which allocate the 18.36-18.46 GHz band paired with the 18.94-19.04 GHz band for DTS facilities and the 18.46-18.94 GHz band for narrowband, point-to-point usage.

Rechannelization

DTS (18.36-18.46 GHz and 18.94-19.04 GHz)

9. In our proposal we requested the submission of comments on the appropriateness of a 10 MHz channel width for DTS wide-area coverage, which would allow for 10 pairs of two-way channels each 10 MHz wide, within the 200 MHz total proposed for DTS at 18 GHz. We received favorable comment in support of this channelization scheme for DTS; however, Contemporary Communications and Tymnet pointed

out that the receive/transmit frequency separation of 580 MHz between the 18.36-18.46 MHz band and 18.940-19.040 MHz band, in contrast to the 65 MHz separation provided for DTS at the 10.6 GHz allocation may be a cause for some concern. This difference in frequency separation, they noted, might limit equipment commonality and subsequent cost savings. In its reply comments, M/A-COM indicated that a 65 MHz transmit/receive separation at 18 GHz could present substantial filtering problems and result in an increase in equipment cost that could outweigh any possible savings from equipment commonality.

10. We agree with the comments submitted by M/A-COM that a greater transmit/receive separation is necessary at 18 GHz, compared to operation at 10.6 GHz, to facilitate equipment design. We do not believe the 580 MHz transmit/receive separation will increase equipment costs as alleged; accordingly, we adopt the channelization plan for DTS facilities as proposed.

Point-to-Point Narrow-band (18.46-18.94 GHz)

11. With regard to our proposed rechannelization of the band 18.46-18.94 GHz, a large number of comments were received, several of which offered alternative channelizing plans. Those parties submitting detailed plans included MA/COM, Farinon Div. of Harris Corporation, and Loral Microwave Communications. There was no consensus of opinion that one plan was superior over another. Each commenter put forth its own analysis of what it perceived to be the marketplace demand. For example, Loral opined that additional 20 MHz channel pairs are needed to meet "widespread demand for medium density (100 to 300 voice and data circuits) microwave links." Its plan would provide for eight 20 MHz pairs, seven 10 MHz pairs and seven 5 MHz pairs interstitial to the 10 MHz channels. Farinon claimed "the demand is for 45 Mbit radios with 40 MHz bandwidths and 90 Mbit radios with 80 MHz bandwidth in excess of those needs for 274 Mbit radios with 220 MHz bandwidth. The 40 MHz and 80 MHz channels provide 672 [voice] channel and 1344 [voice] channel capabilities, respectively, which can be used in conjunction with longer haul digital microwave systems at lower frequencies." MA/COM supported the proposed channel bandwidth of 5, 10, 20, and 40 MHz but suggested that its revised plan would be more suitable to its perception of user demand. Its plan would provide for three pairs of 40 MHz channels, six pairs of 20 MHz channels,

eleven pairs of 10 MHz channels, and twenty-two pairs of 5 MHz channels. The 20 MHz and 5 MHz channels would be derived by "splitting" the 40 MHz and 10 MHz channels. This approach, according to MA/COM, is consistent with the channelization of the 10.7-11.7 GHz common carrier microwave band which incorporates both 40 MHz and 20 MHz "half channels".

12. Another point raised by MA/COM was that the frequency spacing between each paired transmit and receive channel should be constant to minimize the number and complexity of components required in the design of the radio equipment. Its plan provides for a constant transmit/receive separation of 250 MHz for all paired channels.

13. Another concern raised was in regard to our proposal to require licensees to use antenna systems with orthogonal or cross polarization capability to double the utilization of spectrum. A number of commenters claim that at 18 GHz there is a significant depolarization effect by rain which would not provide the isolation necessary to reuse a channel on the same link. To require use of cross polarization on the same path for the same frequencies would necessitate employing shorter path lengths, higher power, larger antennas or other factors that would result in higher equipment costs to users. Moreover, additional hops would require use of additional frequencies as the same frequencies could not be used on adjacent hops.

14. From our analysis of the comments received in this proceeding and in Gen. Docket 82-334, there is a significant demand for channels of bandwidths 5 MHz, 10 MHz, 20 MHz, 40 MHz, and 80 MHz. From a spectrum management viewpoint we believe it is pragmatic to channelize the 480 MHz being allocated (i.e. 18.46-18.94 GHz) into channel bandwidths that have exhibited thus far, the greatest demand. Accordingly, the channeling plan being adopted herein provides for 12 pairs of 20 MHz, two-way channels. A second plan, superimposed on the first, is derived by using half-channels to provide for 24 pairs of 10 MHz, two-way channels. To allow for use of 5 MHz wide internodal links by DTS facilities and other narrow band users, we are further subdividing six pairs of 10 MHz channels, just described, to provide for 12 pairs of 5 MHz, two-way channels in the 18.64-18.70 GHz and 18.88-18.94 GHz bands.⁵

⁵In the *Notice of Proposed Rule Making* in Gen. Docket 82-334, the Commission is proposing a further rechannelization of the 17.7-18.36 GHz and 19.04-19.70 GHz band which includes a number of two-way paired channels with bandwidths of 40 MHz and 80 MHz.

Additionally, we are arranging the bands to provide for a common transmit/receive channel separation.

15. We concur with the commenters' points stated above and are not implementing the channelization plan which proposed use of interstitial frequencies to derive additional channels. We also concur with the comments regarding problems with implementing the varying frequency spacing between paired transmit and receive channels. In response, we have modified our proposal and are adopting a constant transmit/receive frequency separation of 240 MHz. Finally, we will permit licensees to use cross polarization on the channels being adopted herein when circumstances dictate that such usage would be beneficial. We agree with the comments that indicate difficulties in using cross polarization and have chosen not to make this a requirement.

Accommodation of Services

Common Carrier and Private

16. In addition to authorizing common carriers to provide Digital Electronic Message Service (DEMS) using DTS and associated facilities we proposed in the *Further Notice* authorization of applicants other than common carriers. We stated that different radio services should be authorized in common frequency bands based on the similarity of the radio facilities employed and their electromagnetic compatibility. In particular, we proposed rules under Part 94 to establish that DTS both at 10.6 GHz and 18 GHz be extended to include applicants under the Private Operational-Fixed Microwave Service. It was further proposed that private radio applicants obtaining DTS licenses and related internodal links comply with the same operational and technical standards established for common carriers. We intentionally avoided a proposal to allocate spectrum according to service category.

17. Comments representing various common carrier interest groups expressed the view that only common carriers should be permitted to engage in DEMS operations, as private entities would erode the potential market for smaller entities. They contend that DEMS common carrier operators can adequately serve all potential subscribers. If private radio entities are considered eligible for the DEMS, they continue, then a lower priority status should be given to non-common carrier licensees. At a minimum, they contend, to avoid issues of increased interference and mutual exclusivity of competing

application, the Commission should provide private operators with their own allocation.

18. Several private radio interests voiced opposition to our plan not to bifurcate the allocation. A suggestion was made to provide separate allocations for private and common carriers for a period of 5 years. This time period would enable the telecommunications requirements and preferences of the public to determine the utilization of these portions of the spectrum. A second channelization plan to be superimposed upon the existing channels at 10.6 GHz was also suggested to allow private users thirteen 10 MHz channels for analog transmissions. Also, a number of comments objected to our use of the term "preferred use" in proposed Sections 21.502(h) and 94.189 (d) and (h) as giving preferential treatment to DTS licensees for use of the narrower bandwidth channels.

19. We reiterate that the principal use we had in mind in this docket was to provide spectrum for facilities to handle the expected growth in data communications. As was indicated, past experience, dating back to the authorization of private terrestrial microwave systems, suggests that the public interest has been well served by allowing eligibles in the private services the option of obtaining their own facilities to satisfy private communications requirements. For this reason, we proposed that DTS should be available to satisfy private communications requirements on an equal basis with common carriers at 18 GHz, as well as at 10.6 GHz, previously allocated. However, since the release of the *Further Notice* in 1981, the Commission has received numerous applications from common carriers for nearly all available channels at 10.6 GHz to operate DTS facilities in most of the top 100 U.S. Standard Metropolitan Statistical Areas (SMSA's). As a consequence, there are only a few channels for which private carriers could now submit applications.

20. Consequently, we acknowledge the disparity that exists for private DTS carriers now being allowed access. In an attempt to give private DTS carriers some opportunity to apply for what remaining channels exist at 10.6 GHz, we are reallocating channel Nos. 4, 7, 9 and 19/20 at 10.6 GHz to private carriers effective September 9, 1983. No new applications for common carrier DTS operations on these designated channels will be accepted effective September 9, 1983. All existing common carrier DTS applicants, permittees and licensees on

these channels at 10.6 GHz will be grandfathered indefinitely. (Of course, it is recognized that only those applicants that are eventually granted construction permits and authorizations will actually be permitted to continue to operate.) Consequently, these applicants, permittees and licensees will be able to renew their authorization or apply for additional nodal and associated user stations only in the standard metropolitan statistical area (SMSA) indicated on the original applications, permits or authorizations. Applications for private DTS carrier operations within 50 miles of these common carrier DTS operations (as indicated by the application, permit or authorization) must provide an analysis of the potential harmful interference to the common carrier operations. Private carrier DTS operations will not be permitted to cause harmful interference to other DTS operations, private or common carrier, as currently required for all common carrier DTS operations.

21. At 18 GHz we are assenting to the suggestion to bifurcate the DTS band equally between common carrier and private users. As was raised in the comments, there are a number of technical and administrative problems that would act to impede our desire to implement "across-the board" sharing now. Recognizing these problems, we agree that it would be advantageous to allow the service to develop bifurcated for several years. As the service develops we can better analyze whether the allocation should remain bifurcated. In any case, we point out that either a common carrier or private carrier can request a waiver of the rules (See Section 1.3 of the Commission's Rules) to access the other's 18 GHz DTS channels where good cause is shown.

22. With respect to the 10.6 GHz allocation for DTS, we are not persuaded that an additional channeling scheme superimposed upon the present one would serve to contribute to further utilization of this spectrum. This spectrum is intended for use by DTS and their associated internodal links. Since DTS is effectively omnidirectional, it would not be advisable to mix point-to-point with omnidirectional operations. Moreover, implementation of another channeling plan would introduce additional problems of coordination and interference. In conclusion, we dismiss this suggestion as not being in the overall public interest.

23. In the Appendix to our *Further Notice* the proposed rules specifically stated that the use of the narrowband channels in the 18.46-18.94 GHz segment was preferred to provide internodal

links for Digital Termination Systems.⁶ Although our intention was to point out that we favored the assignment of DTS internodal stations to these channels, we now recognize that there is no documented reason to stray from our policy to allow similar services equal access to the same spectrum without distinction. To clarify, although these narrower channels have been particularly patterned for DTS operations, we will consider other applications without preferential treatment to DTS. However, because this band is considered an optimal choice for displaced licensees relocating from the 12.2-12.7 GHz band (see para. 29), we are temporarily limiting access for certain applications; these are, (1) Displaced, as well as new, Private Operational-fixed microwave stations, (2) Aural broadcast STL and intercity relay stations, (3) point-to-point return radio links for Multipoint Distribution Service stations, (4) Point-to-Point Microwave Service stations, and (5) internodal links for Digital Termination Systems. Once the displaced licensees from the 12.2-12.7 GHz band have been accommodated either in this band or elsewhere, we will revisit this band to determine if any remaining services can be allowed access.

24. Several comments were also received in regard to footnote 38 in the *Further Notice* which stated that non-common carriers intending to provide data services should apply for spectrum under Part 94. API, in its comments, suggested that there is no legal basis by which the Commission could authorize data service providers to apply under Part 94 to offer a DTS service on a non-carrier basis. A second reason cited by API for not permitting Part 94 licensees to provide data services to customers is that there is insufficient spectrum to accommodate existing private microwave systems.

25. We believe that API's conclusions are wrong. Under our decisions in Docket 19671, the Commission has concluded that the public interest is served by permitting private service licensees to deliver products and services to their customers. Thus, clearly a data service provider is eligible under Part 94 to offer its data services to its customers (See *First Report and Order* adopted May 7, 1981, 86 FCC 2d 299 and *Memorandum Opinion and Order* adopted May 26, 1983, 48 FR 32578 (July 18, 1983)).

⁶ In proposed Sections 21.502(h) and 94.189(d)(h) we included a statement that read as follows: "The preferred use of these channels is to provide internodal communications for Digital Termination Systems."

MDS

26. In our *Further Notice* we requested comments on the feasibility and advisability of making a portion of the spectrum under consideration available for use by licensees in the Multipoint Distribution Service (MDS). It was suggested that MDS licensees could be given access to some spectrum for use in conjunction with their existing one-way channels to provide a two-way communication service. We received generally favorable comment supporting MDS access to 18 GHz. Typical of such comments was that of Tymnet. It said, "The simplex transmission capability imposed upon MDS licensees severely constrains the utility of MDS for non-video applications. Although 18 GHz is unsuitable for a universal return channel, there may be special situations based upon unique customer needs in which point-to-point links at 18 GHz could be utilized as an adjunct to a MDS-based data distribution system." Another commenter, Contemporary Communications Corporation (CCC) is currently developing, under authorization from the Commission, an MDS system in Atlantic City, New Jersey, to establish the possible parameters of service for two-way digital transmission within a single MDS channel. CCC contends, "The availability of frequency spectrum for reverse transmission would enhance this service, particularly in terms of the spectral efficiency that might be achieved. Separation of transmit and receive frequencies at a station lessens the requirements for filtering, as well as the requirement for guard bands to prevent interference, with such guard bands otherwise unused." Although CCC suggests that spectrum in the 2 GHz range would be more desirable for a return link, it supports the proposed availability at 18 GHz.

27. Presently, MDS licensees have access only to the band 2150-2162 MHz to provide one-way radio transmission (usually in an omnidirectional pattern) of subscriber supplied information from a stationary transmitter to multiple receiving facilities located at fixed points designated by the subscriber. (See Subpart K of Part 21). As we are rechannelizing the 18.46-18.94 GHz band into narrower channels for use in point-to-point applications, we are persuaded that MDS licensees should also have access to this spectrum to provide a point-to-point return path to be used in conjunction with their existing operations. We believe that MDS licensees will be enabled as a consequence of this action to increase their clientele, particularly as it relates

to the growing demand for two-way data transmission. In summary, the appropriate rules are amended herein to make available the 18.46-18.94 GHz band to MDS for the purposes of providing a fixed point-to-point return radio path from a subscriber location to the MDS transmitting location.

Aural broadcast STL and Intercity Relay Stations

28. To provide room the long range growth of auxiliary broadcast stations [viz. aural studio-to-transmitter links (STL's) and intercity relay stations], we proposed in the *Further Notice* to permit this service to access a certain segment of the proposed allocation. In view of the few, but favorable, comments received, we are herein adopting rules to allow stations in this service to use 12 two-way paired frequencies, each 5 MHz wide. Applicants for these frequencies may use either a frequency pair for a two-way link or one frequency pair for a one-way link. As these frequencies are being shared with other fixed services, auxiliary broadcast stations are subject to the same requirements for frequency coordination and technical standards as set forth in the Rules in the Appendix B herein. Either analog or digital modulation is permissible.

Displaced licensees from the 12.2-12.7 GHz band

29. At the time the *Further Notice* was being written it was uncertain whether an additional need for 18 GHz spectrum would develop because of the consideration of possible broadcast-satellite service operation in the 12.2-12.7 GHz band. Since then, the Commission has set forth a course of action to provide for the use of the 12.2-12.7 GHz band by direct broadcast satellite (DBS) and to relocate the terrestrial microwave links in that band. Based on a detailed analysis of the current terrestrial microwave users in the 12.2-12.7 GHz band, the Commission estimates that between 50 to 85 percent of the links can be accommodated at 18 GHz and higher frequencies. Accordingly, we envision that the 5, 10, and 20 MHz channels in the 18.46-18.94 GHz band being allocated by this *Second Report and Order* could be used to accommodate at least 35 percent of the users relocating from 12.2-12.7 GHz band.⁷ Moreover, in an associate

⁷ *Report and Order* in Gen. Docket 80-603 adopted June 23, 1982, 47 Fed. Reg. 3155 [July 21, 1982].

proceeding being adopted today the Commission is providing many additional channels in other frequency bands to accommodate other displaced private radio licensees.⁸

Technical Standards

Frequency stability

30. A frequency stability standard of $\pm 0.001\%$ for DTS nodal stations and $\pm 0.003\%$ for DTS user stations, operational-fixed point-to-point and narrow band common carrier stations was proposed in our *Further Notice*. At least one commenter supported a looser frequency stability standard indicating that the cost penalties of tightening the standard are significant and would not provide any operational advantages. There were others who felt that a much tighter standard than what was proposed should be considered. The Microwave Communications Products division of Hughes Aircraft Company recommended a $\pm 0.0005\%$ standard claiming that implementation need not have an undue economic impact on manufacturer or user. However, most commenters expressed agreement that our proposed standards represent reasonable values that may be achieved at low cost.

31. At this time we expect use of a crystal reference will probably be needed to stabilize the equipment oscillator to meet the proposed performance standards. Any tighter standard would probably require the use of an oven to further stabilize the crystal. Although a tighter frequency stability standard is apparently achievable, we do not now wish to unnecessarily limit use of the 18 GHz band by placing an economically burdensome requirement on potential users. Accordingly, we are adopting herein the standards for frequency stability as proposed.

Spectrum efficiency

32. In the *Further Notice* we discussed the need to require spectrally efficient modulation techniques as a means of obtaining a more effective use of the spectrum. Because the state-of-the-art has advanced to make achievement of a modulation spectral efficiency of 1.0 (bps)/Hz possible below 18 GHz, we felt this standard might be feasible to achieve also at 18 GHz. However, the majority of comments received did not support an across-the-board adoption of a 1.0 (bps)/Hz standard for the 18 GHz band. Submitting the most cogent set of comments, Local Digital Distribution Company ("LDD") brought to our attention a number of technical factors

⁸ *First Report and Order* in Gen. Docket 82-334.

that were not considered in the drafting of our *Further Notice*. LDD indicated that a radio design capable of achieving 1 (bps)/Hz is dependent on the availability of low cost 18 GHz GaAs power FETS. As technology has not yet sufficiently developed, such devices are not now readily available. However, LDD predicts within a few years GaAs FETS will be manufactured in quantity at low cost. Alternatively, the use of TWT amplifiers at 18 GHz has not gained wide acceptance due to their greater physical size and higher cost. Another factor concerns the generation of oscillator noise which, at higher frequencies (in this case, 18 GHz), contributes significant interference [at relatively greater bandwidths] compared to lower frequencies (i.e. 10 GHz). As a consequence, it is more difficult to attain a 1 (bps)/Hz efficiency factor given these technological problems.

33. Although LDD requests we hold in abeyance the adoption of any technical standards at 18 GHz, we are compelled based on the needs established earlier to make available this spectrum for public use in implementing the most reasonable plan to increase utilization and efficiency. Accordingly, we are going forward with the technical standards and are choosing to adopt a spectral efficiency factor of 0.6 (bps)/Hz for an interim period of 5 years. Accordingly, a 1.0 (bps)/Hz factor will become effective December 1, 1988. Stations authorized before December 1, 1988 using equipment with a spectral efficiency factor of 0.6 (bps)/Hz will be permitted to continue operating for an indefinite period of time. Adoption of these factors, we believe, will encourage the largest number of possible users to gain access to relatively virgin spectrum with minimal economic impact.

Antenna standards

34. Although we did not propose any changes to the current radiation suppression standards, we received several comments requesting a relaxation of these standards. At the present time, the main lobe of a fixed station's antenna (other than temporary fixed, Digital Termination Nodal Stations and Digital Termination User Stations), in areas not subjected to frequency congestion is required to have a minimum power gain of 38 dbi on frequencies above 5 GHz. M/A-COM claims that this standard should be eased to 36 or 37 dbi to permit the use of 2-foot parabolic dishes at 18 GHz. It contends that the surface tolerance requirements to achieve a 38 dbi power gain at that frequency prohibit the manufacture of a reasonably priced

antenna. The Farinon Division of the Harris Corporation supported this view. Tymnet, Inc. and Microband Corporation of America, in their joint comments, suggested that the category B and standard B antennas be allowed without restriction by Digital Termination System users.⁹ They pointed out that many users are reluctant to deploy category B or Standard B antennas as the Commission may require the replacement, at the licensee's expense, of any antenna system which does not meet the stricter category A or standard A performance upon a showing that such antenna causes or is likely to cause interference to any other authorized or proposed station which could be avoided by deployment of a category A or standard A antenna.

35. We are appreciative of Tymnet/Microband comments and agree that usage of category B and standard B antennas would definitely increase if there were no restrictions. However, because of increasing congestion of the radio frequency spectrum, it has become imperative to require the use of more directive antennas, particularly in areas of high usage. Although we recognize that this requirement mandates higher costs to the user, we must, of necessity, provide adequate interference protection in such congested areas through the implementation of standards that have been demonstrated to be in the greater public interest. As a consequence, we are not persuaded to revoke such requirements at this time.

36. To investigate the assertion that a category B or standard B antenna with a 2-foot diameter cannot be manufactured to meet the present requirements at a reasonable price, we contacted several manufacturers of antennas at 18 GHz. Each one indicated it manufactures a 2 foot parabolic dish that exceeds all of the existing parameters. The price range of the antennas we surveyed was from \$1430 to \$1500. We also queried each manufacturer whether this price could be lowered if the required main lobe power gain were to be decreased to 36 dbi. Each responded that such reduction in gain would not influence its manufacturing costs and ultimate sale price. Accordingly, we conclude that the existing parameters for a standard B or category B antenna with a 2-foot diameter dish are reasonably obtainable. Therefore, we are

⁹ Standard A and B antenna requirements are applicable to licensees under the Commission's Common Carrier Radio Service; whereas, category A and B refer to those under the Private Operational-Fixed Microwave Service.

maintaining the requirements as they presently appear in our Rules.

Other Issues

Cable

37. Several comments were received from parties representing cable television interests that said consideration should be given to their needs in this allocation proceeding. Comments indicated that the only band allocated to Cable Television Relay Service (CARS), 12.7-13.2 GHz, also shared by television auxiliary broadcast stations, is heavily congested in many metropolitan areas. Hughes Aircraft Company, Microwave Communications Products (Hughes-MCP), a major manufacturer and distributor of terrestrial microwave systems, requested that a segment of the 17.7-19.7 GHz band be set aside to accommodate 6 MHz bandwidth, vestigial sideband amplitude modulation (VSBAM) equipment. Hughes contends that such a 6 MHz channelization plan should be an adjunct to other channeling plans occupying the same allocation. Accordingly, each applicant would be able to choose whether to use conventional FM or VSBAM equipment depending on its needs, as is possible now in the 12.7-13.2 GHz band.¹⁰ Hughes suggests that a minimum of 160 contiguous 6 MHz channels arranged in a fashion analogous to the present CARS channelization plan is needed particularly in the metropolitan areas. We acknowledge the concerns expressed by the commenters for an increased allocation for CARS. As we do not believe the allocation being adopted herein is able to support any further use such as suggested by Hughes, we are choosing to consider this request in Gen. Docket No. 82-334.¹¹

Passive Sensors

38. In the *Further Notice* we pointed out that spectrum was allocated internationally at the World Administrative Radio Conference in 1979 (WARC-79) to provide for the operation of environmental passive sensors in the 18.8-18.8 GHz bands. In response, the Commission has proposed two footnotes in its implementation of WARC-79 which would restrict fixed

¹⁰ Hughes is the primary developer and manufacturer of such equipment. Under Part 78 of the Commission Rules, Cable Television Relay Service, a channeling plan consisting of 42 VSBAM channels is currently provided in the 12.7-13.2 GHz band. Other CARS channeling plans for 12.5 MHz and 25 MHz bandwidths for use by conventional FM Microwave Systems are also provided in the 12.7-13.2 GHz band.

¹¹ *Supra*, 8.

and mobile operation in the 18.6-18.8 GHz band.¹² These footnotes read as follows:

US254 In the band 18.6-18.8 GHz the fixed and mobile services shall be limited to maximum equivalent isotropically radiated power of +35 dBW and the power delivered to the antenna shall not exceed -3 dBW.

US255 In the band 18.6-18.8 GHz the fixed satellite service shall be limited to a power flux density at the Earth's surface of -101 dBW/M² in a 200 MHz band for all angles of arrival.

As we believe the adoption of these footnotes may take place within the coming year, it is prudent that applicants planning systems in this portion of the spectrum take into consideration the possible adoption of these proposed limitations

Existing Systems

39. The Farinon Division of Harris Corporation pointed out that the Commission had made no provision for relocation, compensation or grandfathering in respect to licensed stations now operating under the current channelization plan in the 18 GHz band. We admit this point was overlooked and have taken into account these systems in the Report and Order. A footnote to the Table of Frequency Allocations (Section 2.106 of the Commission's Rules) is added to "grandfather" all such systems on a co-equal basis for an indefinite time period.

Alaska

40. Alascom in its submission urged the Commission to leave questions regarding the provision of DEMS and DTS service for Alaska by non-common carriers for determination on individual applications in the light of the unique conditions that pertain in Alaska. As indicated in the *First Report and Order*,¹³ we generally believe that Alaska should be treated no differently than the contiguous 48 states with the possible exception of MTS and WATS (see *MTS and WATS Market Structure Inquiry*, 81 FCC 2d 177 (1980)). Also, see *DHL Communications, Inc.*, File No. W-P-C 2000 (released Dec. 30, 1980); See also *Integration of Rates and Services*, 81 FCC 2d 380 (1976), *reconsideration*, 65 FCC 2d 324 (1977). We see no overall public interest benefit in establishing a different policy here. Accordingly, the action being taken in this *Order* will equally apply to Alaska as well as to the other areas under the jurisdiction of the Commission.

41. Pursuant to the Regulatory Flexibility Act of 1980, the Commission's final analysis is as follows:

I. Need for and Purpose of the Rules

The Commission has concluded that an allocation at 18 GHz for Digital Termination Systems, a rechannelization of the 18.460-18.940 GHz band into smaller bandwidths, and allowing private DTS licensees to access channels at both 10.6 GHz and 18 GHz would enhance the public interest by providing increased opportunities for spectrum usage as well as by improving the efficiency of spectrum utilization.

II. Summary of issues raised by public comments in response to the initial regulatory flexibility analysis, Commission assessment, and changes made as a result

A. Issues raised

1. No issues or concerns were raised in response to the initial regulatory flexibility analysis.

B. Assessment

1. The Commission views the absence of specific claims of adverse impact with respect to its allocation proposals as indicative of their lack of potential for negative effects on small businesses. In actuality, we believe the actions taken herein will benefit many small businesses by allowing them access to spectrum previously set aside exclusively for common carriers.

C. Changes made as a result of such comments: None.

III. Significant Alternatives Considered and Rejected

The Commission's other alternatives were (1) not to allocate spectrum for DTS use and not to rechannelize the 18 GHz band or (2) to deny private access to DTS frequencies at 10.6 GHz due to the large number of common carrier applications on file. To deny the allocation would be to forego the beneficial objectives sought in this rule making. Similarly, to deny private access to DTS frequencies at 10.6 GHz would interfere with realization of the full potential and benefits the Commission desires by allowing different radio services in common frequency bands based on the similarity of the radio facilities employed and their electromagnetic compatibility.

Motion to Consolidate

42. The Hughes Aircraft Company, Microwave Communications Products ("Hughes-MCP"), filed on March 19, 1983, an item entitled *Motion to Consolidate or to Hold in Abeyance*. It

requested that the Commission consolidate proceedings under the *Further Notice of Proposed Rulemaking* in Gen. Docket 79-188 with the proceedings in the *Notice of Proposed Rulemaking in Gen. Docket 82-334*. In the alternative, it requested that the Commission defer consideration and resolution of the issues raised in Gen. Docket No. 79-188 pending resolution of Gen. Docket No. 82-334. Hughes-MCP claims this latter docket effectively modifies the proposals contained in the *Further Notice of Proposed Rulemaking* in Gen. Docket 79-188. First, it states that a determination cannot be made as to the amount of spectrum to allocate for private-operational fixed service (POFS) use at 18 GHz without knowing through comments submitted in Gen. Docket 82-334 how much spectrum will be made available to POFS in other bands. Second, it argues that a channelization plan for the 18 GHz band cannot properly be developed without comprehensively considering the needs of all microwave users. Third, it claims the proposed channelization plan in Gen. Docket 79-188 does not take into consideration the impact of a number of technical rules being considered in Gen. Docket 82-334, such as minimum path length.

43. Comments supporting Hughes-MCP's *Motion* were filed by the Local Distribution Company ("LDD"), the New York Times Company ("The Times"), and the Farinon Division of the Harris Corporation ("Farinon"). While LDD recognizes a similarity in the issues in the two proceedings, it believes that a consolidation could result in delaying both proceedings. It is not opposed to a consolidation, but requests that the Commission not delay allocating frequencies for the Digital Electronic Message Service (DEMS). Since each proceeding addresses allocations and technical standards in the 18 GHz band, according to the Times, each should not be decided independently. Farinon supports a partial consolidation suggesting the Commission complete its action in Gen. Docket No. 79-188 and associate the results with the ultimate findings in Docket 82-334.

44. We agree with the comments that the reference dockets are related and we need to address the issues that are similar for the 18 GHz band. To consolidate the two dockets into a new, third docket, however, would further delay action. As an alternative, we are responding to the concerns of the petitioner and commenters by jointly considering the two proceedings together at the same Agenda meeting.

¹² *First Notice of Proposed Rule Making in Gen. Docket 80-739*, 48 Fed. Reg. 3790 (January 27, 1983).

¹³ *Supra*, 2.

45. Accordingly, it is ordered, that pursuant to Sections 4(i), 302 and 303 of the Communications Act of 1934, as amended, 47 U.S.C. Sec. 154(i), 302, and 303, the Motion to Consolidate or to Hold in Abeyance filed by the Hughes Aircraft Company, Microwave Communications Products is granted to the extent discussed above. Also, it is ordered, that the petition (designated by the Commission as RM-3497) submitted by Farion Electric, a division of the Farion Corporation, is granted to the extent discussed above.

46. Accordingly, it is ordered, That pursuant to the authority found in Section 4(i), 301 and 303(r) of the Communications Act of 1934, as amended, [47 U.S.C. 154(i), 301, 303(r)], Parts 2, 21, 74, and 94 of the Commission's Rules and Regulations are amended as specified in Appendix B. These amendments become effective November 1, 1983. It is further ordered that this proceeding is terminated.

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

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix A

List of parties submitting comments in response to the Further Notice of Proposed Rule Making:

- Aerospace and Flight Test Radio Coordinating Council
- American Satellite Company
- AT&T
- American Transcommunication, Inc.
- Central Committee on Telecommunications of the American Petroleum Institute
- Citicorp
- Contemporary Communications Corporation
- County of Los Angeles
- Cox Cable Communications, Inc.
- Datapoint Corporation
- Gill Industries
- GTE Telenet
- Harris Corporation-Farion Division
- Hughes Aircraft Company; Microwave Communications Products
- ISA Communications Services, Inc.
- Joint comments of Cable TV operators
- Local Area Telecommunications, Inc.
- Local Digital Distribution Company
- M/A-COM, Incorporated
- MCI
- Rockwell International Corporation
- Satellite Business Systems
- Satellite Television Corporation
- Southern Pacific Communications Company

Parties submitting Reply comments included the following:

- Alascom, Inc.
- Central Committee on Telecommunications of the American Petroleum Institute
- Datapoint Corporation
- GTE Telenet Communications Corporation
- Harris Corporation-Farion Division

Hughes Aircraft Company, Microwave Communications Products
ISA Communications Services, Inc.
Utilities Telecommunications Council

Loral Microwave submitted late comments received June 28, 1982.

Appendix B

Chapter I, Parts 2, 21, 74, and 94 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 2—FREQUENCY ALLOCATION AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

§ 2.106 [Amended]

In § 2.106, the Table of Frequency Allocation is amended for the frequency bands 10.55–10.68 GHz and 17.7–19.7 GHz in columns 7, 8, 9, 10, and 11 and a new footnote NG144 is added as follows:

FEDERAL COMMUNICATIONS COMMISSION

Band (GHz)	Service	Class of Station	Frequency	Nature of services of stations
7	8	9	10	11
10.5-10.55	•••	•••	•••	•••
10.55-10.565	Fixed	Fixed		Domestic public.
10.565-10.615	Fixed	Fixed		Operational fixed.
				Domestic public.
				Operational fixed.
				Digital Termination nodal stations.
10.615-10.63	Fixed	Fixed		Domestic public.
10.63-10.68	Fixed	Fixed		Operational fixed.
				Domestic public.
				Operational fixed.
				Digital Termination user stations.
17.7 to 19.36 (NG140) (NG144).	•••	•••	•••	•••
18.36 to 18.46 (NG144).	Fixed, Fixed-satellite, Mobile.	Fixed, Space		Domestic public.
				Operational fixed.
				Digital Termination nodal stations.
18.46 to 18.94 (NG106) (NG144).	Fixed, Fixed-satellite, Mobile.	Fixed, Mobile, Space		Domestic fixed public.
				Operational fixed.
				Fixed-satellite.
				Aural studio-transmitter links and intercity relay broadcast.
18.94 to 19.04 (NG144).	Fixed, Fixed-satellite, Mobile.	Fixed, Space		Digital termination user stations.
				Fixed-satellite.

NG144 Stations authorized as of September 9, 1983 to use frequencies in the band 17.7–19.7 GHz may, upon proper application, continue to be authorized for such operation.

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES (OTHER THAN MARITIME MOBILE).

1. Section 21.101 is amended by revising the table for frequency tolerance in paragraph (a) for the frequency range "12,200–40,000 MHz" and adding a new footnote ⁵ to read as follows:

§ 21.101 Frequency tolerance.
(a) •••

Frequency range (MHz)	Frequency tolerance (percent)		Mobile stations 3 watts or less ¹
	All fixed and base stations	Mobile stations over 3 watts	
12,200-18,360	0.03	0.03	0.03
18,360-18,460	0.001		
18,460-19,040 ⁵	0.003		
19,040-40,000	0.03	0.03	0.03

⁵ Existing type accepted equipment with a frequency tolerance of ±0.03% may be marketed until December 1, 1988. Equipment installed and operated prior to December 1, 1988 may continue to operate after that date with a minimum frequency tolerance of ±0.03%. However, the replacement of equipment requires that the ±0.003% tolerance be met.

2. Section 21.106 is amended by revising paragraphs (a)(3) (i) and (ii) to read as follows:

§ 21.106 Emission limitations.
(a) •••
(3) •••

(i) In any 4 kHz band, the center frequency of which is removed from the frequency of the center of the Digital Electronic Message Service channel by more than 50 percent of the Digital Electronic Message Service channel bandwidth up to and including 50 percent plus 250 kHz (in the 10,550–10,680 MHz band) or 500 kHz (in the 17,700–19,700 MHz band): As specified by the following equation but in no event less than 50 decibels.

$$A = 50 + 0.12(F - 0.5B) + 10 \log_{10} N$$

(in the 10,550–10,680 MHz band)

$$A = 50 + 0.06(F - 0.5B) + 10 \log_{10} N$$

(in the 17,700–19,700 MHz band)

Where:

A = Attenuation (in decibels) below output power level contained within the Digital Electronic Message Service channel for a given polarization.

B = Bandwidth of Digital Electronic Message Service channel (in kHz).

F = Absolute value of the difference between the center frequency of the 4 kHz band measured and the center frequency of the Digital Electronic Message Service channel (in kHz).

N = Number of active subchannels of the given polarization within the Digital Electronic Message Service channel.

(ii) In any 4 KHz band within the authorized Digital Electronic Message Service band, the center frequency of which is removed from the center frequency of the channel by more than 250 kHz (in the frequency band 10,550–10,680 MHz) or 500 kHz (in the 17,700–19,700 MHz band) plus 50 percent of the channel bandwidth: As specified by the following equation but in no event less than 80 decibels.

$$A = 80 + \log_{10} N \text{ decibels}$$

3. Section 21.108 is amended by revising that portion of paragraph (c) that appears before the table to read as follows:

§ 21.108 Directional antennas.

(c) Fixed stations (other than temporary fixed, Multipoint Distribution Service Stations, Digital Termination Nodal Stations and Digital Termination User Stations) operating at 2500 MHz or higher shall employ transmitting and receiving antennas meeting the appropriate performance Standard A indicated below, except that in areas not subjected to frequency congestion, antennas meeting performance Standard B may be used subject to the liabilities set forth in § 21.109(c). Additionally, the main lobe of each antenna operating below 5000 MHz shall have minimum power gain of 36 dBi over an isotropic antenna; at or above 5000 MHz the minimum gain shall be 38 dBi. Digital Termination User Station antennas

operating in the 10,550–10,680 MHz band shall meet performance Standard B and have a minimum power gain of 34 dBi. The values indicated represent suppression required in the horizontal plane, without regard for the polarization plane of intended operation.

4. Section 21.122 is amended by adding paragraph (e) to read as follows:

§ 21.122 Microwave digital modulation.

(e) Microwave transmitters employing digital modulation techniques operating in the frequency band 18.36–19.04 GHz shall transmit at a bit rate, in bits per second, equal to or greater than the bandwidth specified by the emission designator in Hertz (e.g., to be acceptable, equipment transmitting at a 20 MB/s rate must not require a bandwidth greater than 20 MHz), except the bandwidth used to calculate the minimum rate shall not include any authorized guard band.

Note.—Paragraph (e) is effective December 1, 1988. Until that date, a minimum bit rate of 0.6 (bps)/Hz shall be permitted. Equipment installed and operated prior to December 1, 1988 may continue to operate after that date with a minimum bit rate of 0.6 (bps)/Hz. The replacement of equipment requires that the 1.0 (bps)/Hz be met.

5. Section 21.502 is amended by revising paragraph (a) and adding paragraphs (g) and (h) as follows:

§ 21.502 Frequencies.

(a) Each assignment in the 10,550–10,680 MHz band will be for either Extended network or for Limited network operation. Assignments in the 17,700–19,700 MHz band will be for all DEMS applicants regardless of the size of any intended network an applicant chooses to construct. Assignments for Extended network operation will consist of a pair of 5 MHz channels as set out in paragraph (b) of this section plus internodal channels as set out in paragraph (d) of this section. Assignments for Limited network coverage will consist of a pair of 2.5 MHz channels as designated in paragraph (c) of this section plus internodal channels as set out in paragraph (d) of this section. Assignments in 17,700–19,700 MHz band will consist of a pair of 10 MHz channels as designated in paragraph (g) of this section plus internodal channels set out in paragraph (h) of this section. A Limited network applicant may apply for an additional channel pair on showing the service to be provided will fully utilize all spectrum requested. An Extended network licensee may not apply for an additional channel pair

until such time as the applicant has operated its initial channel pair at or near the expected capacity.

Note.—(1) New applications for the assignment of channel nos. 4, 7, 9, and 19/20 in the 10,550–10,680 MHz band that have been reallocated for private DTS stations will not be accepted after September 9, 1983. Existing licensees, permittees and pending applicants are permitted to submit applications for renewal and for additional nodal and associated user stations within the SMSA for which they have applied or have been authorized for use.

(2) Applications for the assignment of frequencies in the 17,700–19,700 MHz band as indicated in subsection (g) will be accepted only for channels 6-A, 6-B, 7-A, 7-B, 8-A, 8-B, 9-A, 9-B, 10-A, and 10-B. Channel Nos. 1-A through 5-A and 1-B through 5-B are available for assignment to private DTS stations under Part 94 rules.

(g) Assignments in the 17,700–19,700 MHz band shall be made according to the following plan:

CHANNEL GROUP A

Channel No.	Frequency band limits MHz
6-A	18,410–18,420
7-A	18,420–18,430
8-A	18,430–18,440
9-A	18,440–18,450
10-A	18,450–18,460

CHANNEL GROUP B

Channel No.	Frequency band limits MHz
6-B	18,990–19,000
7-B	19,000–19,010
8-B	19,010–19,020
9-B	19,020–19,030
10-B	19,030–19,040

Each assignment will consist of one channel from Group A, used for the Digital Termination System Nodal Station transmitter, and one channel from Group B, used for the Digital Termination System User Station transmitter. These channels will be assigned in each SMSA starting with channel pair 6 and continuing numerically upward. These channel pairs may be subdivided as desired by the licensee.

(h) The band 18,460–18,940 MHz is available for assignment to Digital Termination Systems for internodal communications. As the band is also allocated to the Point-to-Point Microwave Radio Service (Subpart I of Part 21) and to Private Operational-fixed Microwave Service (Part 94), all applicants for these channels shall follow the frequency coordination procedures of Section 21.100(d) and Subpart F of Part 94. Assignment in this

band shall be made according to the following frequency plan consisting of two-way channels, each 5 MHz wide:

PAIRED FREQUENCIES

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
18,642.5	18,882.5
18,647.5	18,887.5
18,652.5	18,892.5
18,657.5	18,897.5
18,662.5	18,902.5
18,667.5	18,907.5
18,672.5	18,912.5
18,677.5	18,917.5
18,682.5	18,922.5
18,687.5	18,927.5
18,692.5	18,932.5
18,697.5	18,937.5

6. Section 21.503 is amended by designating the present text as paragraph (a), by revising newly designated paragraph (a), and adding paragraph (b) to read as follows:

§ 21.503 Frequency stability.

(a) In the frequency band 10,550–10,680 MHz the frequency stability of each Digital Termination Nodal Station transmitter authorized for this service shall be $\pm 0.0001\%$. The frequency stability of each Point-to-Point Microwave Radio Station transmitter used for an internodal link and each Digital Termination User Station transmitter shall be $\pm 0.0003\%$.

(b) In the frequency band 17,700–19,700 MHz the frequency stability of each Digital Termination Nodal Station transmitter authorized for this service shall be $\pm 0.001\%$. The frequency stability of each Point-to-Point Microwave Radio Station Transmitter used for an internodal link and each Digital Termination User Station transmitter shall be $\pm 0.003\%$.

7. Section 21.504 is amended by adding a new paragraph (d) to read as follows:

§ 21.504 Frequency interference.

(d) In addition a copy of the interference analysis submitted in response to paragraph (c)(1) of this section must be served on all applicants and/or grantees concerned within 5 days of its submission to the Commission.

8. Section 21.506 is amended by revising paragraphs (a) and (b) and removing paragraphs (c) and (d) to read as follows:

§ 21.506 Transmitter power.

(a) For stations operating in the 10,550–10,680 MHz band, the following restrictions apply:

(1) The output power of a Digital Electronic Message Service nodal

transmitter shall not exceed 0.5 watt per 250 kHz. Further, each application shall contain an analysis demonstrating compliance with § 21.107(a).

(2) The output power of a Digital Electronic Message Service user transmitter shall not exceed 0.04 watts per 250 kHz.

(3) The transmitter power in terms of the watts specified in this section is the peak envelope power of the emission measured at the associated antenna input port.

(4) Operating power shall not exceed the authorized power by more than ten (10) percent of the authorized power in watts at any time.

(b) For stations operating in the 17,700–19,700 MHz band the transmitter output power will be governed by § 21.107 of this rule part. Further, each application shall contain an analysis demonstrating compliance with § 21.107(a).

9. Section 21.701 is amended by revising the introductory text of paragraph (a); the table in paragraph (a) and footnote 10; by adding footnote 15 to the table in paragraph (a); and by revising paragraph (j). Paragraph (k) is redesignated as (1) and a new paragraph (k) is added as follows:

§ 21.701 Frequencies.

(a) Frequencies in the following bands are available for assignment to fixed radio stations in the Point-to-Point Microwave Radio Service:

- 2,110–2,130 MHz ^{1, 2, 7}
- 2,160–2,180 MHz ^{1, 2, 5}
- 3,700–4,200 MHz ^{2, 8}
- 5,925–6,425 MHz ^{3, 6, 9}
- 10,550–10,565 MHz ¹⁴
- 10,615–10,630 MHz ¹⁴
- 10,700–11,700 MHz ^{8, 9}
- 13,200–13,250 MHz ⁴
- 17,700–18,360 MHz ^{9, 18}
- 18,460–18,940 MHz ^{9, 10, 14, 15}
- 19,040–19,700 MHz ^{9, 18}
- 21,200–22,000 MHz ^{4, 11, 13, 15}
- 22,000–23,600 MHz ^{4, 11, 12}
- 27,500–29,500 MHz ⁵
- 31,000–31,200 MHz ⁴
- 38,600–40,000 MHz ⁴

¹⁰ The band segment 18,460–18,940 MHz is shared with operational-fixed stations and aural broadcast auxiliary and intercity relay stations. This band may be used for analog or digital modulation.

¹⁵ Stations licensed as of September 9, 1983 to use frequencies in the 17.7–19.7 GHz band may, upon proper application, continue to be authorized for such operation.

(j) The bands 17,700–18,360 MHz and 19,040–19,700 MHz are available for assignment on the basis of the following frequency plan consisting of six two-way channels, each 220 MHz wide ("V"

indicates vertical polarization; "H" indicates horizontal polarization), designated channel group A and B:

CHANNEL GROUP A

Channel No.	Frequency band limits (MHz)
1-A	17,700–17,920 (V)
2-A	17,700–17,920 (H)
3-A	17,920–18,140 (V)
4-A	17,920–18,140 (H)
5-A	18,140–18,360 (V)
6-A	18,140–18,360 (H)

CHANNEL GROUP B

Channel No.	Frequency band limits (MHz)
1-B	19,480–19,700 (V)
2-B	19,480–19,700 (H)
3-B	19,260–19,480 (V)
4-B	19,260–19,480 (H)
5-B	19,040–19,260 (V)
6-B	19,040–19,260 (H)

(k) The 18,460–18,940 MHz band is available for assignment on the basis of the following frequency plans consisting of 12 two-way channels, each 20 MHz wide; 24 two-way channels, each 10 MHz wide; and 12 two-way channels, each 5 MHz wide.

(1) The frequency plan of the 12 two-way channels, each 20 MHz wide, is as follows:

Paired Frequencies

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
18,470	18,710
18,490	18,730
18,510	18,750
18,530	18,770
18,550	18,790
18,570	18,810
18,590	18,830
18,610	18,850
18,630	18,870
18,650	18,890
18,670	18,910
18,690	18,930

(2) The frequency plan of the 24 two-way channels, each 10 MHz wide, is as follows:

Paired Frequencies

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
18,465	18,705
18,475	18,715
18,485	18,725
18,495	18,735
18,505	18,745
18,515	18,755
18,525	18,765
18,535	18,775
18,545	18,785
18,555	18,795
18,565	18,805
18,575	18,815
18,585	18,825
18,595	18,835
18,605	18,845
18,615	18,855

Paired Frequencies—Continued

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
18,625	18,865
18,635	18,875
18,645	18,885
18,655	18,895
18,665	18,905
18,675	18,915
18,685	18,925
18,695	18,935

(3) The frequency plan of the 12 two-way channels, each 5 MHz wide, is as follows:

Paired Frequencies

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
18,642.5	18,882.5
18,647.5	18,887.5
18,652.5	18,892.5
18,657.5	18,897.5
18,662.5	18,902.5
18,667.5	18,907.5
18,672.5	18,912.5
18,677.5	18,917.5
18,682.5	18,922.5
18,687.5	18,927.5
18,692.5	18,932.5
18,697.5	18,937.5

10. Section 21.703 is amended by revising paragraph (g) as follows:

§ 21.703 Bandwidth and emission limitations.

(g) The maximum bandwidth authorized shall not exceed that reasonably necessary to provide the proposed service but in no event shall it exceed the limits set forth below:

Frequency band (MHz)	Maximum authorized bandwidth (MHz)
2,110 to 2,130	3.5
2,160 to 2,180	3.5
3,700 to 4,200	20.0
5,925 to 6,425	30.0
10,700 to 11,700	40.0
13,200 to 13,250	25.0
17,700 to 18,360	220.0
18,360 to 18,450	10.0
18,460 to 18,940	20.0
19,940 to 19,040	10.0
19,040 to 19,700	220.0
21,200 to 22,000	100.0
22,000 to 23,600	100.0
27,500 to 29,500	220.0
31,000 to 31,200	50.0
38,600 to 40,000	50.0

11. Section 21.901 is amended by adding new paragraph (e) as follows:

§ 21.901 Frequencies.

(e) Frequencies in the band 18.46–18.94 GHz are available for assignment to fixed stations in this service for a point-to-point return link from a subscriber's location to the MDS' transmitting location. As these

frequencies are shared with the Point-to-Point Microwave Service, as well as several other services, the applicant is referred to Subpart I of Part 21 for rules governing operation in this band, 18.46–18.94 GHz.

12. Section 21.903 is amended by revising paragraph (a) to read as follows:

§ 21.903 Purpose and permissible service.

(a) Multipoint Distribution Service stations are generally intended to provide one-way radio transmission (usually in an omnidirectional pattern) of subscriber supplied information from a stationary transmitter to multiple receiving facilities located at fixed points designated by the subscriber. A point-to-point return radio link from the subscriber's location to the MDS' transmitting location may be authorized in this service on frequencies in the 18.46–18.94 GHz band. Rules governing such operation are contained in Subpart I of Part 21, the Point-to-Point Microwave Radio Service.

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

1. In Section 74.502, paragraphs (b) and (c) are redesignated as (c) and (d), respectively and a new paragraph (b) is added as follows:

§ 74.502 Frequency assignment.

(b) The frequency bands 18.64–18.70 and 18.88–18.94 GHz are available for assignment to aural broadcast STL and intercity relay stations and are shared on a co-primary basis with stations in the Point-to-Point Microwave (Part 21), the Private-Operational Fixed Service (Part 94) and internodal stations used in connection with digital termination systems. The bands 18.64–18.70 and 18.88–18.94 GHz consist of 12 two-way channels, each 5 MHz wide.

PAIRED FREQUENCIES

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
18,642.5	18,862.5
18,647.5	18,867.5
18,652.5	18,872.5
18,657.5	18,877.5
18,662.5	18,882.5
18,667.5	18,887.5
18,672.5	18,892.5
18,677.5	18,897.5
18,682.5	18,902.5
18,687.5	18,907.5
18,692.5	18,912.5
18,697.5	18,917.5

Applicants may use either a two-way link or one frequency of a frequency pair for a one-way link and shall coordinate proposed operations pursuant to procedures required in Parts 21 and 94.

2. In § 74.534 the existing paragraph is designated as (a) and a new paragraph (b) is added as follows:

§ 74.534 Power Limitations.

(b) For the 18 GHz band the transmitter of an aural broadcast STL of an intercity relay station will be licensed with a power output not in excess of that necessary to render service and shall in no event exceed 10 watts.

3. In § 74.535 the phrase "For operation in the 947–952 MHz band:" is added at the beginning of paragraphs (a), (b), and (c); and new paragraphs (d), (e), and (f) are added as follows:

§ 74.535 Emission and bandwidth

(a) For operation in the 947–952 MHz band: * * *

(b) For operation in the 947–952 MHz band: * * *

(c) For operation in the 947–952 MHz band: * * *

(d) For operation in the 18 GHz band: Aural broadcast STL and intercity relay stations may be authorized to employ either digital or frequency modulation.

(e) For operation in the 18 GHz band: The mean power of emission shall be attenuated below the mean output power of the transmitter in accordance with the following schedule:

(1) When using frequency modulation:

(i) On any frequency removed from the assigned frequency by more than 50 percent up to and including 100 percent of the authorized bandwidth: At least 25 decibels;

(ii) On any frequency removed from the assigned frequency by more than 100 percent up to and including 250 percent of the authorized bandwidth: At least 35 decibels;

(iii) On any frequency removed from the assigned frequency by more than 250 percent of the authorized bandwidth: At least $43 + 10 \log_{10}$ (mean output power in watts) decibels, or 80 decibels, whichever is the lesser attenuation.

(2) When using digital modulation:

(i) In any 1 MHz band, the center frequency of which is removed from the assigned frequency by more than 50 percent up to and including 250 percent of the authorized bandwidth: As specified by the following equation but in no event less than 11 decibels.

$$A = 11 + 0.4 (P - 50) + 10 \log_{10} P$$

Where:

A = Attenuation (in decibels) below the mean output power level.
 P = Percent removed from the carrier frequency.
 B = Authorized bandwidth in MHz.

(ii) In any 4 kHz band, the center frequency of which is removed from the assigned frequency by more than 250 percent of the authorized bandwidth: At least $43 + 10 \log_{10}$ (mean output power in watts) decibels, or 80 decibels, whichever is the lesser attenuation.

(f) For operation in the 18 GHz band: When an emission outside of the authorized bandwidth causes harmful interference, the Commission may, at its discretion require greater attenuation than specified above.

4. In § 74.536 the existing paragraph is designated as (a) and new paragraphs (b) and (c) is added as follows:

§ 74.536 Directional antenna required.

(b) An aural broadcast STL or intercity relay station operating in the 18 GHz band shall employ transmitting and receiving antennas meeting the appropriate performance Standard A indicated below, except, that in areas not subject to frequency congestion, antennas meeting performance Standard B may be used subject to paragraph (c) of this section. Additionally, the main lobe of each antenna shall have a minimum power gain of 38 dBi over an isotropic antenna. The values indicated represent the suppression required in the horizontal plane without regard for the polarization plane of intended operation.

Angle from center of main lobe	Minimum radiation suppression	
	Standard A (dB)	Standard B (dB)
5° up to, not including 10°	25	20
10° up to, not including 15°	29	24
15° up to, not including 20°	33	28
20° up to, not including 30°	36	32
30° up to, not including 100°	42	35
100° up to, not including 180°	55	36

(c) The Commission may require the replacement, at the licensee's expense, of any antenna or periscope antenna system of a permanent fixed station operating at 2500 MHz or higher which does not meet performance Standard A specified above upon a showing that said antenna causes or is likely to cause interference to (or receive interference from) any other authorized or proposed station whereas an antenna meeting performance Standard A is not likely to involve such interference.

5. A new § 74.550 is added to appear under the existing heading entitled **EQUIPMENT** to read as follows:

§ 74.550 Type acceptance.

Type acceptance is required by the Commission for all Aural broadcast STL and intercity station transmitters employed in the 18 GHz band. Requirements for obtaining type acceptance are contained in Subpart J of Part 2 of this chapter.

6. In § 74.561 the existing paragraph is designated (a) and a new paragraph (b) is added as follows:

§ 74.561 Frequency tolerance.

(b) For the 18 GHz band, the operating frequency of the transmitter shall be maintained within $\pm 0.003\%$ of the assigned frequency.

PART 94—PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

1. Section 94.3 is amended by adding the following definitions in appropriate alphabetical order:

§ 94.3 Definitions.

Digital Termination Nodal Station—A fixed point-to-multipoint radio station in a Digital Termination System providing two-way communications with Digital Termination User Stations.

Digital Termination System—A fixed point-to-multipoint radio system consisting of Digital Termination Nodal Stations and their associated Digital Termination User Stations.

Digital Termination User Station—Any one of the fixed microwave radio stations located at users' premises, lying within the coverage area of a Digital Termination Nodal Station, and providing two-way digital communications with Digital Termination Nodal Station.

Extended Network—A group of interconnected Digital Termination Systems that provides service to users in at least 30 Standard Metropolitan Statistical Areas.

Internodal Link—The communications link between two point-to-point microwave radio stations used to provide two-way communications between Digital Termination Nodal Stations or to interconnect Digital Termination Systems to other communications media.

Limited Network—A group of interconnected Digital Termination Systems that provides service to users in fewer than 30 Standard Metropolitan Statistical Areas. A single Digital Termination System will be considered

to be a Limited Network for frequency assignment purposes.

2. Section 94.9 is amended by adding paragraph (a)(5) and revising paragraph (b)(1) to read as follows:

§ 94.9 Permissibility of communications.

(a) * * *

(5) Communications on a commercial basis between the licensee and a customer, among different premises of a single eligible user, or from one eligible user to another as part of transmissions by Digital Termination Systems and associated internodal links on the frequencies provided for this purpose.

(b) * * *

(1) Rendition of a common carrier communications service, except stations carrying public correspondence associated with public coast stations licensed under Part 81 may continue in operation for the balance of the term of their licenses and for an additional five-year renewal term.

3. Section 94.15 is amended by adding paragraph (i) to read as follows:

§ 94.15 Policy governing the assignment of frequencies.

(i) Licensees and applicants for Digital Termination Systems will not be subject to the provisions of paragraphs (a) through (h) of this section. They shall comply with frequency assignment policies and procedures prescribed for Digital Termination Systems and associated internodal links in Subpart F of this Part and § 21.100(d) of this chapter.

4. The table in § 94.61 is amended by adding an entry for frequency band 10,550 to 10,680 MHz and by revising the entry for 18,360 to 19,040 MHz in paragraph (b), revising footnote (17), and by adding a new footnote (24) to read as follows:

§ 94.61 Applicability.

(b) Frequencies in the following bands are available for assignment to stations in the Private Operational-Fixed Microwave Service:

FREQUENCY BAND (MHz)	
10,550 to 10,680	(24)
18,360 to 18,460	(24)
18,460 to 18,940	(8), (10), (17), (21)
18,940 to 19,040	(24)

* * * * *

(17) Frequencies in this band are shared with (1) DTS internodal links, Point-to-Point Microwave Service stations and point-to-point return radio links for MDS stations under Part 21 rules and (2) aural broadcasts STL and intercity relay stations under Part 74 rules.

(24) Frequencies in this band are shared with the Common Carrier services for Digital Termination Systems. The channelization of this band is indicated in Section 94.189.

5. Section 94.63 is amended by revising paragraph (a) as follows:

§ 94.63 Interference protection criteria for operational fixed stations.

(a) Before filing an application for new or modified facilities under this part, the applicant must perform a frequency engineering analysis to assure that the proposed facilities will not cause interference to existing or previously applied-for stations in this service of a magnitude greater than that specified in the criteria set forth in paragraph (b) of this section, unless otherwise agreed to in accordance with § 94.15(b). In addition, when the proposed facilities are to be operated in the bands 10,550-10,680 MHz, 18,360-19,040 MHz, 21,200-21,800 MHz, 22,400-23,000 MHz, 31,000-31,200 MHz, or 38,600-40,000 MHz, applicants shall follow the prior coordination procedure specified in § 21.100(d) of this chapter or submit the interference analysis required by § 21.504 of this chapter where applicable as regards stations in the Domestic Public Radio Services and when the proposed facilities are to be operated in the bands 2655-2690 MHz or 12,500-12,700 MHz, applications shall also follow the procedures in § 21.706 (c) and (d) and the technical standards and requirements of Part 25 of this chapter as regards licensees in the Communication-Satellite Service. See also § 94.77.

6. Section 94.65 is amended by revising paragraph (i) and adding paragraphs (j) and (k) to read as follows:

§ 94.65 Frequencies.

- (i) 10,550-10,680 MHz and 18,360-19,040 MHz. Frequencies in the bands 10,550-10,680 MHz and 18,360-19,040 MHz authorized for Digital Termination Systems and associated internodal links are specified in Section 94.189. (Note, however, that stations authorized as of September 9, 1983 to use frequencies in the band 17.7-19.7 GHz may, upon proper application, continue to be authorized for such operation).
- (j) 18,460-18,940 MHz
- (k) 20 MHz maximum bandwidth.

PAIRED FREQUENCIES

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
18,470	18,710
18,490	18,730
18,510	18,750
18,530	18,770
18,550	18,790
18,570	18,810
18,590	18,830
18,610	18,850
18,630	18,870
18,650	18,890
18,670	18,910
18,690	18,930

(2) 10 MHz maximum bandwidth.

PAIRED FREQUENCIES

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
18,465	18,705
18,475	18,715
18,485	18,725
18,495	18,735
18,505	18,745
18,515	18,755
18,525	18,765
18,535	18,775
18,545	18,785
18,555	18,795
18,565	18,805
18,575	18,815
18,585	18,825
18,595	18,835
18,605	18,845
18,615	18,855
18,625	18,865
18,635	18,875
18,645	18,885
18,655	18,895
18,665	18,905
18,675	18,915
18,685	18,925
18,695	18,935

(3) 5 MHz maximum bandwidth.

PAIRED FREQUENCIES

Transmit (or receive) (MHz)	Receive (or transmit) (MHz)
18,642.5	18,882.5
18,647.5	18,887.5
18,652.5	18,892.5
18,657.5	18,897.5
18,662.5	18,902.5
18,667.5	18,907.5
18,672.5	18,912.5
18,677.5	18,917.5
18,682.5	18,922.5
18,687.5	18,927.5
18,692.5	18,932.5
18,697.5	18,937.5

(k) Except as provided for in § 94.91 frequencies in bands authorized in § 94.61(b) above 21.2 GHz are not paired and will be specified as in the authorization.

7. Section 94.67(a) is amended by revising the table and adding a new footnote No. 7 and 8 to read as follows:

§ 94.67 Frequency tolerance.

Frequency band (MHz)	Tolerance as percentage of assigned frequency
928-929	0.005
952-960 ¹	(5)
1850-1990	0.002
2130-2150	0.001
2150-2160	0.001
2180-2200	0.001
2450-2500	0.001
2500-2690	(2)
6525-6,875	0.005
10,550-10,680	(8)
12,200-12,700	0.005
12,700-18,360	0.03
18,360-18,460	0.001
18,460-19,040	0.003
19,040-40,000	0.03
Above 40,000	(4)

¹ Existing type accepted equipment with a frequency tolerance of ±0.03% may be marketed until December 1, 1988. Equipment installed and operated prior to December 1, 1988, may continue to operate after that date with a minimum frequency tolerance of ±0.03%. However, the replacement of equipment requires that the ±0.003% tolerance be met.

² Digital Termination System transmitters must maintain frequency tolerances in accord with Section 94.191 in this band.

8. Section 94.71 is amended by revising the introductory text of paragraph (b) and adding the frequency band "10,550-10,680 MHz". The band "18,360-19,040 MHz" is replaced by the bands "18,360-18,460 MHz", "18,460-18,940 MHz" and "18,940-19,040 MHz". Also, a new paragraph (c)(3) is added as follows:

§ 94.71 Emission and bandwidth limitations.

(b) The maximum bandwidth that will be authorized per frequency assigned is as follows:

Frequency band (MHz)	Maximum authorized bandwidth (MHz) ¹
10,500-10,680	5
18,360-18,460	10
18,460-18,940	20
18,940-19,040	10

(c)

(3) For Digital Termination System channels and point-to-point microwave channels authorized for internodal communications:

(i) In any 4 kHz band, the center frequency of which is removed from the frequency of the center of the Digital Termination System channel by more than 50 percent of Digital Termination system channel bandwidth up to and including 50 percent plus 250 kHz (in the 10,550-10,680 MHz band) or 500 kHz (in the 17,700-19,700 MHz band): As specified by the following equation but in no event less than 50 decibels.

(in the 10,550-10,680 MHz band) $A = 50 + 0.12(F-0.5B) + 10 \text{ Log}_{10} N$
 (in the 17,700-19,700 MHz band) $A = 50 + 0.06(F-0.5B) + 10 \text{ Log}_{10} N$

Where:
 A = Attenuation (in decibels) below mean output power level contained within the Digital Termination System channel for a given polarization.
 B = Bandwidth of Digital Termination System channel (in kHz).
 F = Absolute value of the difference between the center frequency of the 4 kHz band measured and the center frequency of the Digital Termination System channel (in kHz).
 N = Number of active subchannels of the given polarization within the Digital Termination System channel.

(ii) In any 4 kHz band within the authorized Digital Termination System band, the center frequency of which is removed from the center frequency of the channel by more than 250 kHz (in the 10,550-10,680 MHz band) or 500 kHz (in the 17,700-19,700 MHz band) plus 50 percent of the channel bandwidth: As specified by the following equation but in no event less than 80 decibels.

$$A = 80 + \text{Log}_{10} N \text{ decibels.}$$

(iii) In any 4 kHz band the center frequency of which is outside the authorized Digital Termination System band: At least $43 + \text{Log}_{10}$ (mean output power in Watts) decibels.

9. Section 94.73 is amended by revising paragraph (a)(1) to add footnote 6 and by revising paragraph (a)(2) to add footnote 7 to read as follows:

§ 94.73 Power limitations

(a) * * *
 (1)

Frequency band	Maximum transmitter output power (watts)
928-929 MHz	5.
952-960 MHz	20 ¹ .
1,850-6,875 MHz	20.
10,550-10,680 MHz	See footnote 6.
12,200-40,000 MHz	10 ² .
Above 40,000 MHz	As specified in authorization.

(2)

Frequency band	Maximum allowable ERP ³ dbm
928-929 MHz	47.
952-960 MHz	70 ¹ .
1,850-2,690 MHz	75 ^{1,2} .
6,325-40,000 MHz	90 ^{1,2,3} .
Above 40,000 MHz	As specified in authorization.

¹ The output power of a Digital Termination System nodal transmitter shall not exceed 0.5 watts per 250 kHz. The output power of Digital Termination System user transmitter shall not exceed 0.04 watts per 250 kHz. The transmitter power in terms of the watts specified is the peak envelope power of the emission measured at the associated antenna input port.

² Except for Digital Termination Systems as provided in § 94.197.

§ 94.75 [Amended]

10. The table in § 94.75 is amended by revising the fourth element under the heading "Frequency band (megahertz)" to "10,550 to 12,700²," and by revising footnote 3 to read:

³ Except as provided: in § 94.90, in § 94.199 for Digital Termination System antennas, and in § 21.108(c) for antennas employed at point-to-point stations in the 10,550-10,680 MHz band.

11. Section 94.94 is added to read as follows:

§ 94.94 Microwave digital modulation in the 10,550-10,680 MHz and 18,360-19,040 MHz bands

For transmitters operated in the 10,550-10,680 MHz and 18,360-19,040 MHz bands (including for Digital Termination Systems and point-to-point links) the bit rate, in bits per second, shall be equal to or greater than the bandwidth specified by the emission designator in Hertz (e.g., to be acceptable, equipment transmitting at a 20 MB/s rate must not require a bandwidth of greater than 20 MHz), except the bandwidth used to calculate the minimum rate shall not include any authorized guard band.

Note.—Until December 1, 1988 a minimum bit rate of 0.6 (bps)/Hz shall be permitted for the 18,360-19,040 band. Equipment installed and operated prior to December 1, 1988 may continue to operate after that date with a minimum bit rate of 0.6 (bps)/Hz. The replacement of equipment requires that the 1.0 (bps)/Hz be met.

12. A new Subpart F of Part 94 on Digital Termination Systems is added to read as follows:

Subpart F—Digital Termination Systems

- Sec.
 94.181 Scope.
 94.183 Permissible communications.
 94.185 Applications.
 94.187 Time in which station must be placed in operation.
 94.189 Frequencies.
 94.191 Frequency tolerance.
 94.193 Interference.
 94.195 Transmitter power.
 94.197 Radiated power limitation in the 10,600-10,680 MHz band.
 94.199 Antennas.

Authority: Secs. 4(i), 301, and 303(r), Communications Act of 1934 as amended (47 U.S.C. 154(i), 301, 303(r)).

§ 94.181 Scope.

Digital Termination Systems and associated internodal links are intended to provide for the exchange of digital information between fixed locations.

§ 94.183 Permissible communications.

Unless otherwise directed or conditioned in the applicable instrument of authorization, Digital Termination Systems and associated internodal links may be used to exchange any type of digital information consistent with the Commission's Rules.

§ 94.185 Applications.

(a) A separate application form must be filed for each Digital Termination System. When a set of related applications are filed to form a network of Digital Termination Systems, an exhibit must be included which contains a list of the Standard Metropolitan Statistical Areas (SMSA's) or service areas that will be served by the network and a proposed Digital Termination Nodal Station in the network. Applications proposing frequencies specified for Extended networks must contain at least 30 SMSA's

(b) all applicants for Digital Termination System frequencies must submit as part of the original application a detailed plan indicating how the bandwidth requested will be utilized. In particular the application must contain detailed descriptions of the modulation method, the channel time sharing method, any error detecting and/or correcting codes, any spatial frequency reuse system and the total data throughput capacity in each of the links in the system. Further, the application must include a separate analysis of the spectral efficiency including both information bits per unit bandwidth and the total bits per unit bandwidth.

(c) Only those applications which state an intent to provide interconnected service to users in at least 30 Standard Metropolitan Statistical Areas (SMSA's) within 60 months of the granting of the application will be eligible for assignment of any of the frequencies designated as Extended network frequencies in § 94.189(b). All other applications will be eligible for assignment of the frequencies designated for Limited network frequencies in § 94.189(c) or of the frequencies designated for all DTS applicants in § 94.189(g).

(d) Digital Termination Nodal Stations may be authorized only as a part of an integrated communication system

wherein Digital Termination User Stations associated therewith also are licensed to the Digital Nodal Station licensee. Applications for Digital Nodal Station licenses should specify the maximum number of Digital Termination User Stations to be served by that nodal station. No separate authorization is required for Digital Termination User Stations.

§ 94.187 Time in which station must be placed in operation.

(a) For stations in an Extended network each authorization issued by the Commission will specify the date of the grant as the earliest date of construction and a maximum of 60 months thereafter as the latest time when all construction shall be completed and the station is ready for operation, unless otherwise determined by the Commission upon proper showing in any particular case. The schedule filed in accordance with § 94.185(a) shall provide for substantial progress in the early years of the construction period. Furthermore, the licensee must file progress reports with the Commission commencing six months after the date of issue of the authorization and continuing every six months thereafter until construction is completed.

(b) For stations in a Limited network each authorization issued by the Commission will specify the date of the grant as the earliest date of construction and a maximum of 30 months thereafter as the latest time when all construction shall be completed and the stations ready for operation, unless otherwise determined by the Commission upon proper showing in any particular case. The schedule filed in accordance with § 94.185(a) shall provide for substantial progress in the early years of the construction period. Furthermore, the licensees must file progress reports with the Commission commencing six months after the date of issue of the authorization and continuing every six months thereafter until construction is completed.

§ 94.189 Frequencies.

(a) Each assignment in the 10,550-10,680 MHz band will be for either Extended network or Limited network operation. Assignments in the 17,700-19,700 MHz band will be for all applicants regardless of the size of the network that an applicant intends to construct.

(1) In the 10,550-10,680 MHz band, assignments for Extended network operations will consist of a pair of 5 MHz channels as set out in subsection (b) of this section plus internodal channels as set out in subsection (d) of

this section. Assignment for Limited network operations will consist of a pair of 2.5 MHz channels as designated in subsection (c) plus internodal channels set out in subsection (d) of this section.

Note.—Application for the assignment of frequencies in the 10,550-10,680 MHz band will only be accepted for channel nos. 4, 7, 9, and 19/20. These channels are also used by common carrier licenses or are proposed for use by existing permittees and pending applications under common carrier rules in Part 21.

(2) In 17,700-19,700 MHz band, assignments will consist of a pair of 10 MHz channels as designated in subsection (g) of this section plus internodal channels set out in subsection (h) of this section.

Note.—Applications for the assignment of frequencies in the 17,700-19,700 MHz band will be accepted *only* for channels 1-A, 1-B, 2-A, 2-B, 3-A, 3-B, 4-A, 4-B, 5-A, and 5-B. Channel Nos. 6-A through 10-A and 6-B through 10-B are available for Common Carrier DTS stations under Part 21 rules.

(3) A Limited network applicant or an applicant for assignment in the 17,700-19,700 MHz band may simultaneously apply for more than one channel pair on showing the service to be provided will fully utilize all spectrum requested. An Extended network licensee may not apply for an additional channel pair until such time as the applicant has operated its initial channel pair at or near the expected capacity.

(b) Extended network assignments in the 10,550-10,680 MHz band shall be made according to the following plan:

Channel Group A		Channel Group B	
Channel No.	Frequency band limits MHz	Channel No.	Frequency band limits MHz
4-A	10,580-10,585	4-B	10,645-10,650
(19/20)-A	10,585-10,590	(19/20)-B	10,650-10,655

The channel from group A will be used for the Digital Termination Nodal Station transmitter and the channel from group B will be used for Digital Termination User Station Transmitters. The channel may be subdivided as desired by the licensee.

(c) Limited network assignments in the 10,550-10,680 MHz band shall be made according to the following plan:

Channel Group A		Channel Group B	
Channel No.	Frequency band limits MHz	Channel No.	Frequency band limits MHz
7-A	10,805.0-10,807.5	7-B	10,670.0-10,672.5
9-A	10,610.0-10,612.5	9-B	10,675.0-10,677.5

Each assignment will consist of one channel from Group A and the corresponding channel from Group B.

The channel from Group A will be used for the Digital Termination Nodal Station transmitter and the channel from Group B will be used for Digital Termination User Station transmitters. These channels may be subdivided as desired by the licensee.

(d) The bands 10,550-10,565 MHz and 10,615-10,630 MHz are available for internodal links and other point-to-point microwave facilities. Assignments in these bands will be made according to the following plan:

Channel Group A		Channel Group B	
Channel No.	Frequency band limits MHz	Channel No.	Frequency band limits MHz
11-A	10,550.0-10,552.5	11-B	10,615.0-10,617.5
12-A	10,552.5-10,555.0	12-B	10,617.5-10,620.0
13-A	10,555.0-10,557.5	13-B	10,620.0-10,622.5
14-A	10,557.5-10,560.0	14-B	10,622.5-10,625.0
15-A	10,560.0-10,561.25	15-B	10,625.0-10,626.25
16-A	10,561.25-10,562.5	16-B	10,626.25-10,627.5
17-A	10,562.5-10,563.75	17-B	10,627.5-10,628.75
18-A	10,563.75-10,565.0	18-B	10,628.75-10,630.0

The assignment of these channels will be in accord with the demonstrated requirement of the applicant. All applicants for these channels shall follow the frequency coordination procedures of Section 21.100(d). Channels 11-14 will be assigned to Extended network licensees and Channels 15-18 will be assigned to Limited network licensees.

(e) The bands 10,585-10,600 MHz and 10,650-10,665 MHz will be available for Extended network applicants when all the available Extended network channels have been assigned or when applications have been accepted for all available Extended network channels. These bands will be available for Limited network applicants only after April 16, 1986. Assignments in these bands will be according to the following plan:

Channel Group A		Channel Group B	
Channel No.	Frequency band limits MHz	Channel No.	Frequency band limits MHz
21-A	10,590.0-10,592.5	21-B	10,655.0-10,657.5
22-A	10,592.5-10,595.0	22-B	10,657.5-10,660.0
23-A	10,595.0-10,597.5	23-B	10,660.0-10,662.5
24-A	10,597.5-10,600.0	24-B	10,662.5-10,665.0

(1) An Extended network licensee will be assigned one pair of channels from Group A and the corresponding pair of channels from Group B. These channels may be adjacent, if available as such. The channel from Group A will be used for the Digital Termination Nodal Station transmitter and the channel from Group B will be used for Digital Termination User Station transmitters. Each pair of channels if adjacent may be used as a single channel by all Extended

network licensees. Extended network assignments will start with Channels 19 and 20 and continue numerically upward.

(2) A Limited network licensee will be assigned one channel from Group A and the corresponding channel from Group B. The channel from Group A is to be used for a Digital Termination Nodal Station transmitter and the channel from Group B is to be used for a Digital Termination User Station transmitter. Limited network assignments will start at Channel 24 and proceed numerically downward.

(f) After April 16, 1986, all unassigned Extended network channels will be rechannelized into 2.5 MHz channels. This spectrum, plus any unassigned Limited network channels, will then become available to either Limited or Extended network applicants.

(g) Assignments in the 17,700-19,700 MHz band shall be made according to the following plan:

Channel Group A		Channel Group B	
Channel No.	Frequency band limits MHz	Channel No.	Frequency band limits MHz
1-A	18,360-18,370	1-B	18,940-18,950
2-A	18,370-18,380	2-B	18,950-18,960
3-A	18,380-18,390	3-B	18,960-18,970
4-A	18,390-18,400	4-B	18,970-18,980
5-A	18,400-18,410	5-B	18,980-18,990

Each assignment will consist of one channel from Group A, used for the Digital Termination System Nodal Station transmitter, and one channel from Group B, used for the Digital Termination System User Station transmitters. These channels will be assigned in each SMSA starting with Channel pair 1 and continuing numerically upward to channel pair 5. These channel pairs may be subdivided as desired by the licensee. (h) The band 18,460-18,940 MHz is available for assignment to Digital Termination systems for internodal communications. As the band is also allocated to the Point-to-Point Microwave Radio Service (Subpart I of Part 21) and to Private Operational-fixed Microwave Service (Part 94), all applicants for these channels shall follow the frequency coordination procedures of § 21.100(d) and Part 94. Assignments in this band shall be made according to the following frequency plan consisting of two-way channels, each 5 MHz wide:

PAIRED FREQUENCIES

Transmit (or receive)	Receive (or transmit)
MHz	MHz
18,642.5	18,882.5
18,647.5	18,887.5

PAIRED FREQUENCIES—Continued

Transmit (or receive)	Receive (or transmit)
18,652.5	18,892.5
18,657.5	18,897.5
18,662.5	18,902.5
18,667.5	18,907.5
18,672.5	18,912.5
18,677.5	18,917.5
18,682.5	18,922.5
18,687.5	18,927.5
18,692.5	18,932.5
18,697.5	18,937.5

§ 94.191 Frequency tolerance.

(a) In the frequency band 10,550-10,680 MHz the frequency tolerance of each Digital Termination Nodal Station transmitter authorized for this service shall be ±0.0001%. The frequency tolerance of each point-to-point operational-fixed transmitter and each Digital Termination User Station transmitter operated in the frequency band 10,550-10,680 MHz shall be ±0.0003%.

(b) In the frequency band 17,000-19,700 MHz, the frequency stability tolerance of each Digital Termination Nodal Station transmitter authorization this service shall be ±0.001%. The frequency tolerance of each point-to-point fixed transmitter and each Digital Termination User station transmitter in this band shall be ±0.003%.

§ 94.193 Interference.

(a) All harmful interference to other users and blocking of adjacent channel use in the same city and co-channel use in nearby Standard Metropolitan Statistical Areas is prohibited. In areas where SMSA's are in close proximity, careful consideration should be given to minimum power requirements and to the location, height, and radiation pattern of the transmitter antenna. Licensees, permittees and applicants are expected to cooperate fully in attempting to resolve problems of potential interference before bringing the matter to the attention of the Commission.

(b) As a condition for use of frequencies in this subpart each applicant is required to:

- (1) engineer the system to be reasonably compatible with adjacent channel operations in the same city; and
- (2) cooperate fully and in good faith to resolve whatever potential interference and transmission security problems may be present in adjacent channel operation.

(c) The following interference studies, as appropriate, shall be included with each application for a new or major modification in a Digital Termination Nodal Station:

(1) an analysis of the potential for harmful interference with other stations if the coordinates of any proposed station are located within 80 kilometers (50 miles) of the coordinates of any authorized, or previously proposed station(s) that utilizes, or would utilize, the same frequency or an adjacent potentially interfering frequency; and

(2) an analysis concerning possible adverse impact upon Canadian communications if the station's transmitting antenna is to be located within 55 kilometers (35 miles) of the Canadian border.

(d) In addition a copy of the interference analysis submitted in response to paragraph (c)(1) of this section must be served on all applicants and/or grantees concerned within 5 days of its submission to the Commission.

§ 94.195 Transmitter power.

(a) For stations operating in the 10,550-10,680 MHz band, the following restrictions apply:

(1) The output power of a Digital Termination Nodal Station transmitter shall not exceed 0.5 watt per 250 kHz. Further each application shall contain an analysis demonstrating compliance with § 94.73(a).

(2) The output power of a Digital Termination User Station transmitter shall not exceed 0.04 watts per 250 kHz.

(3) The transmitter power in terms of the watts specified in this Section is the peak envelope power of the emission measured at the associated antenna input port.

(4) Operating power shall not exceed the authorized power by more than ten (10) percent of the authorized power in watts at any time.

(b) For stations operating in the 17,700-19,700 MHz band the transmitter output power will be governed by § 94.73(a) of this rule part. Further, each application shall contain an analysis demonstrating compliance with § 94.73(a).

§ 94.197 Radiated power limitation in the 10,600-10,680 MHz band.

The effective isotropic radiated power (EIRP) of stations in the 10,600-10,680 MHz band cannot exceed the following limits: (1) Digital Termination Stations: + 40 dBW. (2) Point-to-Point Microwave Stations used for internodal communications: = 40 dBW.

§ 94.199 Antennas.

(a) Nodal transmitting antennas may be omnidirectional or directional, consistent with coverage and interference requirements.

(b) The use of horizontal or vertical plane wave polarization, or right hand or left hand rotating elliptical polarization must be used to minimize harmful interference between stations.

(c) Directive antennas shall be used at all Digital Termination User Stations and shall be elevated no higher than necessary to assure adequate service. The Digital Termination User Station

antennas shall meet the performance standards as specified in § 21.108(c) and have a minimum power gain of (1) 34 dBi in the 10,550-10,680 MHz band and (2) 38 dBi in the 17,700-19,700 MHz band. User antenna heights shall not exceed the height criteria of Part 17 of this chapter, unless authorization for use of a specific maximum antenna height (above ground and above sea level) for

each location has been obtained from the Commission prior to the erection of the antenna. Requests for such authorization shall show the inclusive dates of the proposed operation. (See Part 17 of this chapter concerning the construction, marking and lighting of antenna structures).

[FR Doc. 83-26794 Filed 10-31-83; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register

Vol. 48, No. 212

Tuesday, November 1, 1983

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

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 330 and 337

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 564

Brokered Deposits

AGENCIES: Federal Deposit Insurance Corporation and Federal Home Loan Bank Board.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") and the Federal Home Loan Bank Board ("Board") (as operating head of the Federal Savings and Loan Insurance Corporation) ("FSLIC") are interested in receiving comments on certain deposit-placement activities in the depository institutions industry. The FDIC and the Board are concerned that a growing dollar amount of brokered and brokered-type deposits is being placed in fully insured accounts at FDIC- or FSLIC-insured institutions ("insured institutions") without an adequate analysis of the managerial strength and financial stability of the insured institutions. The concern is that this lack of analysis facilitates a flow of funds into financially unstable or managerially poor depository institutions. The FDIC and the Board are seeking comment on the extent to which these practices exist and on whether or how to deal with these practices through either limiting the insurance coverage afforded in connection with these deposits or restricting the receipt of such funds by insured institutions.

Additionally, both agencies suspect that the multiple insurance coverage afforded in relation to pension and other custodial deposits also fails to encourage market and institution analyses in the placement of these deposits. Currently, the regulations of both the FDIC and the FSLIC provide

that each beneficial owner of such accounts is insured up to \$100,000. The Advance Notice also seeks comments regarding whether insurance on these accounts should be limited.

DATE: Comments must be received by November 28, 1983.

ADDRESSES: Comments should be directed to:

Hoyle L. Robinson, Executive Secretary,
Federal Deposit Insurance
Corporation, 550 17th Street, NW.,
Washington, D.C. 20429. Comments
may be delivered to Room 6108 on
weekdays between 8:30 a.m. and 5:30
p.m.

Director, Information Services Section,
Office of the Secretariat, Federal
Home Loan Bank Board, 1700 G
Street, NW., Washington, D.C. 20552.
Comments will be publicly available
at this address.

FOR FURTHER INFORMATION CONTACT:

Joseph A. DiNuzzo, Senior Attorney,
Legal Division, (202) 389-4171, Room
4126B, 550 17th Street, NW.,
Washington, D.C. 20429. Federal Deposit
Insurance Corporation; or Robert H.
Ledig, Attorney, (202) 377-7057, Office of
General Counsel, 1700 G Street, NW.,
Washington, D.C. 20552, Federal Home
Loan Bank Board.

SUPPLEMENTARY INFORMATION: The FDIC and the Board are concerned that the increased activity of deposit brokers and the emergence of innovative arrangements for the placement of deposits may disrupt market discipline by eliminating the need for risk-sharing by large depositors. These arrangements facilitate the placement of deposits with insured institutions within the insured amount regardless of the institutions' lending practices and financial soundness. Examples of existing brokering and brokering-type activities are as follows:

(1) *Simple Brokering.* The straight brokering of deposits to insured institutions operates in two basic ways. The money broker, acting on its own or at the request of an institution or institutions, solicits deposits from its customers. Under the first method, the interested customer sends funds directly to the institution which has been given prior notice by the broker of the impending purchase. Under the second method, the broker itself transfers the customer's funds to the institution and has the deposit registered at the

institution in its name as nominee or agent for the customer. In turn, the broker maintains records reflecting the ownership interest of each customer in the deposit. According to current FDIC and FSLIC regulations, the broker's customers would each be insured on an individual basis under either brokering method. Section 330.2(a) of the FDIC's regulations and § 564.3(a) of the FSLIC's regulations provide that deposits placed by an individual at an insured institution are insured up to \$100,000. 12 CFR 330.2(a), 564.3(a). Sections 330.2(b) and 564.2(b) provide that deposits placed by an agent or nominee on behalf of an individual are insured as funds of the individual to \$100,000 in the aggregate with any other deposits maintained by that same individual in his or her own capacity at the same institution. 12 CFR 330.2(a), 564.3(b). In order for this insurance coverage to be provided, however, the records of the institution must indicate that the deposits are being held in an agency capacity and the records of either the institution or the agent must indicate the ownership interest of the principal(s). 12 CFR 330.1, 564.2(b).

(2) *CD Participations.* Some brokers engage in the practice of "participating certificates of deposit to their customers. Under this arrangement a broker-dealer purchases a certificate of deposit issued by an insured institution and sells interests in it to customers. Upon sale of the participations in the deposit to its customer, the broker so informs the issuing institution and requests that the deposits be registered in its own name as nominee for others. The broker's records, in turn, reflect the ownership interest of each customer in the deposit. A CD participation program results in a "flow-through" of insurance coverage to each owner of the deposit. The ownership interest of each participant in the deposit is added to the individually owned deposits held by the participant at the same institution and the total is insured to a maximum of \$100,000, provided the proper recordkeeping requirements are maintained. 12 CFR 330.2(b), 330.1(b), 564.3(b) & 564.2(b).

(3) *Deposit-Listing Services.* Deposit-listing services have been formed to facilitate the placing of deposits with insured institutions. Institutions call the listing service and state the quantities, rates and maturities of deposits they wish to offer. Purchasers phone the

listing service to obtain information on available deposits. An agent of the institution delivers the bearer-form deposit certificate to the purchaser's custodial agent subject to receipt of payment and the proceeds are forwarded to the institution. The insurance coverage regulations applicable in a typical principal/agent situation apply in this context. Each customer is insured to \$100,000 per insured institution in which he or she has placed a deposit through the deposit-listing service. 12 CFR 330.2(b) & 564.3(b). For purposes of determining insurance coverage per institution, this amount includes any other deposits owned by the customer in the same capacity at each of the institutions.

The FDIC and the Board are concerned that the above-described deposit-placement practices enable virtually all institutions to attract large volumes of funds from outside their natural market area irrespective of the institutions' managerial and financial characteristics. The ability to obtain *de facto* one-hundred-percent deposit insurance through the parceling of funds eliminates the need for the depositor to analyze institutions' likelihood of continued financial viability. The availability of these funds to all institutions, irrespective of financial and managerial soundness, reduces market discipline. Although deposit brokering can provide a helpful source of liquidity to institutions, the practices described above make it possible for poorly-managed institutions to continue operating beyond the time at which natural market forces would have otherwise precipitated their failure. This impediment to natural market forces results in increased costs to the FDIC and the FSLIC in the form of either greater insurance payments or higher assistance expenditures if the institutions are subsequently closed because of insolvency.

The FDIC and the Board are also concerned about the statutory and regulatory provisions which afford multiple insurance coverage in connection with pension fund and other custodial deposits. Part 330 of the FDIC's regulations (12 CFR Part 330) and Part 564 of the FSLIC's regulations (12 CFR Part 564) provide, subject to recordkeeping and qualifying requirements, that deposits consisting of funds in which more than one individual has a beneficial interest are insured up to \$100,000 per beneficiary or owner. The most typical of these situations is the deposit account maintained by the trustee of a pension plan. There a \$1,000,000 deposit, for example, would

be fully insured if ten participants in the plan each had an ascertainable interest in the deposited funds of \$100,000. As with the other types of deposits described above, the "flow-through" insurance coverage (*i.e.*, the insurance "flows through" the trustee or agent to the beneficial owner(s) of the account) afforded in connection with trustee or custodial accounts is effective irrespective of the managerial or financial characteristics of the institution in question, so long as it is insured. Trustees and custodians normally limit deposits in each insured institution in order to keep within the insurance limits of FDIC and FSLIC coverage. The FDIC and the Board are concerned that this provision of multiple insurance undermines market discipline by relieving fiduciaries of their normal obligation to ascertain the soundness of an institution in which they place funds. It is not the FDIC's or Board's intention to shift the risk of loss to the beneficiaries of trustee or custodial accounts; rather, it is hoped that fiduciaries will be held to a higher standard of care in the placement of such funds.

In order to obtain comments on the matters set forth above, the FDIC and the Board are posing the following questions. Those commenting are also welcome to address related issues not included within the questions. The FDIC notes that, in soliciting comments on a possible revamping of the FDIC insurance coverage regulations, it is not questioning the legality of its current regulation. The agencies intend to consider all possible avenues available for remedying existing industry practices which may have a negative effect upon depository institutions and produce increased costs to the insurance funds as well as to the public. The questions are as follows:

1. Is the reduction in "market discipline" resulting from either brokerage activity or multiple insurance coverage of pension fund and other custodial deposits significant enough to warrant regulatory or legislative action? Why?
2. How should "deposit broker" and "deposit-brokerage activity" be defined?
3. Should the FDIC and the Board take any steps to limit the placement of deposits in insured institutions by a third-party intermediary? Why?
4. Should the FDIC and the Board amend their deposit insurance regulations to limit insurance coverage relative to deposits placed in an insured institution through any of the deposit-placement alternatives noted above or

by any other method? Why and in what way?

5. Should the FDIC and the Board request that Congress amend the applicable provisions of the Federal Deposit Insurance Act (12 U.S.C. §§ 1811-31d) and the title IV of the National Housing Act (12 U.S.C. §§ 1724-30) to limit insurance coverage relative to deposits placed in an insured institution through any of the deposit-placement alternatives noted above or by any other method? Why and in what way?

6. Part 337 of the FDIC's regulations (12 CFR Part 337) prohibits certain prescribed activities which are deemed inherently unsafe or unsound banking practices. The Board similarly limits or prohibits certain transactions because they are potentially inconsistent with safe and sound operations. 12 CFR 563.34, 563.41, 563.43. Should the receipt of funds by an insured institution through a deposit-placement arrangement similar to the ones noted above be included within the prohibited activities in Part 337 and §§ 563.34, 563.41, and 563.43? Why?

7. Alternatively, should the FDIC and the Board either prohibit or limit the receipt of brokered deposits only by institutions experiencing financial or managerial problems by deeming such a practice to be inherently unsafe or unsound? Why?

8. Should the FDIC and the Board impose special reporting requirements on: (1) institutions whose deposits consist of a significant percentage of funds placed through intermediaries and/or (2) institutions which are experiencing financial or managerial problems? Why? What should be deemed a significant amount?

9. Should the FDIC require that each bank involved in an FDIC-related enforcement action or memorandum of understanding on certain of the bank's activities obtain approval from the FDIC for deposits placed through intermediaries, and similarly, should the Board require each FSLIC-insured institution covered by a supervisory agreement to obtain such approval from the Board? Why?

10. Should the FDIC and the Board request that Congress enact legislation to require deposit-placement firms to register with the FDIC and the Board and/or report on a regular basis the institutions to which they are channeling investors' funds and the dollar amounts involved? Why?

11. Should the FDIC and the Board request that Congress enact legislation requiring brokers engaged in the placement of deposits at insured

institutions to be registered with the Securities Exchange Commission? Why?

12. Should the FDIC and the Board request that Congress enact legislation requiring that the involved deposit-placement firm share part of the costs ultimately incurred by the insurance fund where funds have been placed with an institution within a specified time (e.g. thirty days) prior to the institution's failure for purposes of exploiting the deposit insurance system?

13. To what extent would any of the proposed limitations or restrictions on deposit-brokerage activities affect the availability of funds for well-run institutions?

14. Should the FDIC and the Board take any steps to limit the multiple insurance coverage of deposits owned by more than one individual, such as pension-fund, trust, agency and escrow deposits? If so, should this be done by amending current FDIC and FSLIC regulations or by requesting that Congress amend the applicable provisions of the Federal Deposit Insurance Act (12 U.S.C. 1811-31d) and title IV of the National Housing Act (12 U.S.C. 1724-30)? Why? To what extent would this shift the risk of loss to the beneficiaries of such accounts as opposed to the fiduciaries?

15. To what extent has the placement of brokered funds been subject to a corresponding commitment to enter into a loan agreement with persons affiliated with or represented by a broker? Should such tie-ins be restricted or prohibited?

16. To what extent does the use of direct, nationwide advertising by insured institutions present problems similar to those arising from the acquisition of brokered funds? To what extent could such practices serve as substitute for raising funds through the use of brokers?

17. Should the Board require FSLIC-insured institutions to establish additional reserves for liabilities secured through brokers? Should such a requirement be limited to institutions whose net worth falls below a specified level?

18. Should the FDIC and the Board afford different treatment to short term (one year or less) and long term brokered deposits? Why?

19. What effect does the use of brokered funds have on the cost of funds of institutions which use them and on the cost of funds for institutions in general?

List of Subjects

12 CFR Part 330

Bank deposit insurance, Banks, banking.

12 CFR Part 337

Banks, banking.

12 CFR Part 564

Savings and loan associations.

By order of the Board of Directors, October 24, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 83-29507 Filed 10-31-83; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-CE-35-AD]

Airworthiness Directives; Pilatus Aircraft, Ltd., and Fairchild-Hiller PC-6 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This action supplements a notice proposing to adopt a new Airworthiness Directive (AD), applicable to Pilatus Aircraft, Ltd., PC-6 series (Up to Serial Number 815) airplanes manufactured in Switzerland. The notice, which would require replacement of the aileron/flap mount attachment fittings to prevent failure of these fittings and resultant loss of an aileron, was published in the *Federal Register* on April 11, 1983 (48 FR 15480, 15481). The FAA has now determined that the condition addressed by the notice may also exist on PC-6 series airplanes built by Fairchild-Hiller. Therefore the notice, as supplemented, includes these airplanes.

DATES: Comments must be received on or before December 5, 1983.

Proposed Compliance: As prescribed in the body of the AD.

ADDRESSES: Pilatus Aircraft, Ltd., Service Bulletin No. 138, dated December 1982, applicable to this AD may be obtained from Pilatus Aircraft, Ltd., C#6370—Stans, Switzerland, or the Rules Docket at the address below.

Send comments on the proposal in duplicate to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 83-CE-35-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT:

Mr. A. Astorga, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium, Telephone 513.38.30; or H. Belderok, Foreign FAR 23 Section, FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this supplemental notice may be changed in the light of comments received. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each 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 Supplemental Notice of Proposed Rulemaking by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83-CE-35-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion: The manufacturer received two reports of fatigue cracks being found in the angle brackets which attach the aileron/flap mountings on Pilatus Aircraft, Ltd., PC-6 series airplanes. In one instance, the bracket failed, resulting in loss of an aileron. As a result, Pilatus Aircraft, Ltd., issued Service Bulletin No. 138 which requires replacement of aileron/flap mount attachment fittings. The Federal Office for Civil Aviation (FOA), who has the responsibility and authority to maintain the continuing airworthiness of these airplanes in Switzerland, classified this Service Bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under Swiss registration, this

action has the same effect as an AD on airplanes certified for operation in the United States. The FAA relies upon the certification of the FOA combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States.

The FAA examined the available information related to the issuance of Service Bulletin No. 138 and the mandatory classification of this Service Bulletin as an Airworthiness Directive by the FOA and issued a Notice of Proposed Rulemaking (48 FR 15480, 15481), which proposed replacement of the aileron/flap mount attachment fittings on Pilatus, Ltd., PC-6 series airplanes manufactured in Switzerland and certificated for operation in the United States. Subsequently, the FAA determined that the condition may also exist on Model PC-6 airplanes built in the United States by Fairchild-Hiller.

Based on the foregoing, the FAA believes that the condition addressed by Service Bulletin No. 138 is an unsafe condition that may exist on additional products of this type design certificated for operation in the United States. Consequently, the proposed AD, as supplemented, would require replacement of the aileron/flap mount attachment fitting on Pilatus Aircraft, Ltd., PC-6 series airplanes (up to Serial Number 815) and on Fairchild-Hiller PC-6 series airplanes (Serial Numbers 2001 through 2092).

There are approximately 12 U.S. registered airplanes affected by the proposed AD. The cost of complying with the proposed AD is estimated to be \$21,000 to the private sector.

List of Subjects in 14 CFR 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the FAA proposes to amend § 3913 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new AD:

Pilatus Aircraft, Ltd., and Fairchild-Hiller:

Applies to PC-6 series airplanes manufactured by Pilatus Aircraft, Ltd. (up to Serial No. 815), and to Model PC-6 airplanes manufactured by Fairchild-Hiller (Serial Numbers 2001 through 2092) (all variants) certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To prevent failure of the aileron support structure, accomplish the following:

(a) Within the next 100 hours time-in-service after the effective date of this AD for airplanes having more than 2,000 hours time-

in-service, or, within the next 200 hours time-in-service, after the effective date of this AD, for airplanes having more than 1,000 hours but less than 2,000 hours time-in-service, or, within the next 300 hours time-in-service after the effective date of this AD, for airplanes having 1,000 or less hours time-in-service, replace the aileron/flap mount attachment fittings in accordance with Pilatus Service Bulletin No. 138 dated December 1982.

(b) Compliance time of this AD can be adjusted up 10 percent to allow accomplishing these modifications concurrent with other scheduled maintenance of the airplane.

(c) Airplanes may be flown under FAR 21.197 to a place where repairs can be made to this AD.

(d) Equivalent means of compliance may be used, if approved, by the Manager, Aircraft Certification Staff, AEU-100, Europe, Africa and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a) 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and Section 11.85 of the Federal Aviation Regulations (14 CFR 11.85))

Note.—For reasons discussed earlier in the preamble: the FAA has determined that this document: (1) Involves a proposed regulation that is not major under the provisions of Executive Order 12291, (2) is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and certifies under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A draft regulatory evaluation has been prepared and has been placed in the public docket. A copy of it may be obtained by contracting the Rules Docket at the location identified under the caption "ADDRESSES."

Issued in Kansas City, Missouri, on October 19, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-29494 Filed 10-31-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10, 19, 24, 113, 125, 141, 142, 143, 144, and 146

Amendments To Revise Customs Form 7501 and To Replace Other Forms

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend various parts of the Customs Regulations to provide for the use of a revised Customs Form 7501 and the elimination of other forms.

In addition to containing all of the data elements necessary for the assessment of duty and collection of import statistics, the revised Customs Form 7501, the "Entry/Entry Summary," would replace the following Customs Forms:

1. Customs Forms 7501, 7501A, 7501B, 7501C, the "Consumption Entry;"
2. Customs Forms 7502, 7502A, 7502B, 7502c, the "Warehouse or Rewarehouse Entry;"
3. Customs Form 5101, the "Entry Record;"
4. Customs Form 5119-A, the "Informal Entry" (Only the non-serially numbered 4-part carbon salable form used by the importer would be replaced.) The serially numbered Customs Form 5119-A would be retained; and
5. Customs Form 7500, the "Appraisalment Entry."

This document includes a draft of the revised Customs Form 7501 and instructions as well as proposed regulations changes. Customs requests public comments on each aspect.

The purpose of this proposal is to improve the procedures used by Customs for the entry of imported merchandise and the collection of statistics, and to reduce the paperwork burden on the importing community by eliminating forms and assuring that only necessary information will be collected.

DATE: Comments must be received on or before January 3, 1984.

ADDRESS: Written comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229. Comments relating to information collection aspects of the proposal may be addressed to the Commissioner of Customs, as noted above, and also to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503. Attention: Desk Officer for U.S. Customs Service.

FOR FURTHER INFORMATION CONTACT: Herbert H. Geller, Duty Assessment Division, (202-566-5307); Dale F. Snell, Jr., Program Management Staff, (202-566-5865); U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

Background

Pub. L. 95-410 (92 Stat. 888), the "Customs Procedural Reform and Simplification Act of 1978," approved October 3, 1978 (the "Act"), made

significant changes in the Customs law relating to the entry of imported merchandise. A document amending the Customs Regulations to establish new procedures needed to reflect these changes was published as T.D. 79-221 in the **Federal Register** on August 9, 1979 (44 FR 46794).

Section 102 of the Act amended section 484(a), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)), by providing that entry shall be made by filing that documentation necessary to enable Customs to determine whether the merchandise may be released from Customs custody. Section 102 also provided that documentation necessary to classify and appraise merchandise and to verify statistical information shall be filed at the time prescribed by regulation, either when entry is made, or at any time within 10 working days thereafter. Furthermore, section 102 provided for the issuance of regulations to ensure the accuracy and timeliness of statistics under the new entry procedures, particularly statistics with regard to the classification and value of imports.

One of the changes made by T.D. 79-221 involved the revised entry concept. The entry of imported merchandise is a 2-part process consisting of (1) filing the documentation necessary to determine whether merchandise may be released from Customs custody, and (2) filing the documentation which contains information for duty assessment and statistical purposes.

Section 141.0a(a), Customs Regulations (19 CFR 141.0a(a)), defines "entry" to mean that documentation required by § 142.3, Customs Regulations (19 CFR 142.3), to be filed with the appropriate Customs officer to secure the release of imported merchandise from Customs custody, or the act of filing that documentation. Section 141.0a(b), Customs Regulations (19 CFR 141.0a(b)), defines "entry summary" to mean any other documentation necessary to enable Customs to assess duties and collect statistics on imported merchandise, and determine whether other requirements of law or regulation are met.

Entry summary documentation is required to be filed within 10 working days after the "time of entry" as defined in § 141.68, Customs Regulations (19 CFR 141.68).

Section 142.3(a)(1), Customs Regulations (19 CFR 142.3(a)(1)), provides that the entry documentation required to secure the release of merchandise shall consist of Customs Form 3461 (also used currently as an application for special permit for immediate delivery), appropriately

modified, or Customs Form 7533, appropriately modified, in place of Customs Form 3461 for merchandise imported from a contiguous country.

Section 142.11(a), Customs Regulations (19 CFR 142.11(a)), states that entry summary shall be on (1) Customs Form 7501 for both merchandise formally entered for consumption, and formally entered under a temporary importation bond; (2) Customs Form 3311 for merchandise which may be entered free of duty; and (3) Customs Form 7502 for warehouse entries.

Section 142.3(b), Customs Regulations (19 CFR 142.3(b)), provides that when the entry summary is filed at the time of entry, Customs Form 3461 or 7533 shall not be required, and Customs Form 7501, 7502, or 3311 shall serve as both the entry and entry summary documentation.

For merchandise entitled to be entered under an informal entry, Customs Form 5119-A, or Customs Form 7501, appropriately modified, may be used.

Under the regulations, various Customs forms may be used for the entry of imported merchandise depending upon the circumstances. However, in light of the changes in the entry procedures necessitated by the Act, Customs believes it would be beneficial to the importing community and the Government if Customs Form 7501 were revised to improve the procedures for entering imported merchandise and at the same time, eliminate other Customs forms. The revised form would be a critical element in achieving national uniformity in entry processing.

Furthermore, revising Customs Form 7501 and eliminating other forms would be consistent with the objectives of the "Paperwork Reduction Act of 1980" (Pub. L. 96-511, December 11, 1980). In this regard, this project would help assure that Customs collects only necessary information from the public and eliminates those burdens which are found to be unnecessary and wasteful.

Therefore, this document proposes to amend various parts of the Customs Regulations to provide for the use of a revised Customs Form 7501, the "Entry/Entry Summary," and the elimination of the following Customs Forms:

1. Customs Forms 7501, 7501A, 7501B, 7501C, the "Consumption Entry;"
2. Customs Forms 7502, 7502A, 7502B, 7502C, the "Warehouse or Rewarehouse Entry;"
3. Customs Form 5101, the "Entry Record;"
4. Customs Form 5119-A, the "Informal Entry" (Only the non-serially

numbered 4-part carbon salable form used by the importer would be replaced. The serially numbered Customs Form 5119-A would be retained. All references in the regulations to Customs Form 5119-A would mean the serially numbered form; and

5. Customs Form 7500, the "Appraisal Entry."

This document also includes a draft of the revised Customs Form 7501 (Attachment A to this document) and instructions explaining the use of this form (Attachment B to this document).

Comments are requested on (1) the proposed amendments to the Customs Regulations to reflect the use of the revised form and elimination of the current forms; (2) the format of revised Customs Form 7501 and instructions explaining the use of this form; and (3) the information collection aspects of the proposal.

Change to the regulations necessitated by enactment of Pub. L. 97-446 (January 12, 1983), relating to importers of record and consignees, will be the subject of a separate document. However, the declaration appearing on the front of Customs Form 7051 has been revised to conform to the new provisions of this statute.

Prior Studies

On May 23, 1979, Customs published a notice in the **Federal Register** requesting comments on a revised Customs Form 7501 (T.D. 79-144, 44 FR 29916). Based upon the comments received and Customs review, on October 4, 1982, Customs published in the **Federal Register** (47 FR 43717), a revised Customs Form 7501 and instructions explaining the use of this form. Commenters had until December 3, 1982, to submit their comments. After review of the comments received, it became clear that extensive changes to the form were necessary and that another notice of proposed rulemaking with a revised Customs Form 7501 and instructions would have to be published.

Discussion of Comments on October 4, 1982, Notice General Comments

Comment: The two questions relating to "assists" and "rebates" appearing on the reverse side of the form should be eliminated. The following reasons were provided:

- (a) There is no statutory or regulatory authority for the requirement;
- (b) The requirement will cause significant difficulty in the automated preparation of the form;
- (c) This requirement reinstates certain provisions of Customs Form 5515;

(d) The response to the questions in the declaration can impede the filing of the Customs Form 7501;

(e) The questions involve legal interpretations and could interfere with broker-importer relationships;

(f) The information can be obtained upon request;

(g) The questions will cause confusion for multi-invoice entries;

(h) Customhouse brokers do not have first-hand knowledge of all the facts to enable them to answer the questions;

(i) The questions unjustly expose the preparer to the risk of penalties and drastic legal consequences;

(j) The questions are an unnecessary trap;

(k) The questions should be a part of invoice requirements;

(l) The declaration on the front of Customs Form 7501 is sufficient;

(m) The questions are redundant of present invoice requirements;

(n) The questions increase the burden on the public in contravention with the Paperwork Reduction Act and;

(o) The questions should be answered by the seller, shipper, or their agent.

Response: That portion of the nominal consignee, consignee or agent declaration, which appeared on the back of the form has been removed and combined with the declaration on the front of the form to decrease the difficulty in automated preparation of the form.

With regard to the other comments, Customs notes that section 484(a)(1)(B), Tariff Act of 1930, as amended (19 U.S.C. 1484(a)(1)(B)), requires the filing of "such other documentation as is necessary to enable such officer to assess properly the duties on the merchandise, collect accurate statistics with respect to the merchandise, and determine whether any other applicable requirement of law (other than a requirement relating to release from Customs custody) is met." Customs believes that these questions do provide such information and that, because the importer of record is liable for both submitting the above information and for the payment of duties, he should be required to answer the questions contained in declaration. While many of the above objections may have some merit, these comments would be true with almost all the information required on Customs Form 7501. The practical answer to the brokers' concerns is that they should obtain the information necessary to answer these questions in the same manner they obtain the other data for Customs Form 7501. To include the substance of the questions in the declaration on Customs Form 7501 does not increase the reporting burden on the

public in contravention of the Paperwork Reduction Act. Customs has determined to continue requiring that a declaration be made concerning rebate and assists.

Comments concerning the format:

(a) Paper size should be 8½" by 11";

(b) Bureau of Census copy should be beige instead of salmon for reproduction purposes;

(c) The Census copy should be 16 to 20 pound weight paper;

(d) A "blip" mark (½" by ¼") should appear in a consistent place on the form; and

(e) The sequence of the entry package should be altered so the Census copy is near the top.

Response:

Customs notes:

(a) The paper size will remain 8½"x11";

(b) For reproduction purposes, the Census copy will be yellow;

(c) Paper weight, for privately printed forms, must be approved by Customs. A standard 16 pound paper weight will be encouraged.

(d) A "blip" mark on the Census copy would create an additional cost to Customs and importers producing their own forms, especially in a continuous mode; and

(e) The Census copy will appear as the 3rd sheet in the set.

Comment: Customs should allow additional data to be placed in the body of the form.

Response: The instructions indicate that when a box cannot contain the required data, the data should be shown in a designated location in the body of the form, or on an attached sheet.

Comment: The canary colored Internal Revenue Service copy should not be required; it merely adds a cost to forms printing.

Response: Customs agrees. The requirement for an additional copy of Customs Form 7501 for the Internal Revenue Service is removed.

Comment: The Paperwork Reduction Act notice should be placed on the reverse of the form.

Response: All printing on the reverse side has been eliminated to reduce printing costs. There is adequate space on the front for the notice.

Comment: The permit copy should be eliminated or Customs should allow use of a regular copy of Customs Form 7501 or 3461 in place of the permit copy.

Response: Customs agrees. Customs will allow a copy of the Customs Form 7501 annotated "Permit" to be used for this purpose.

Comment: The revision may be premature in view of Customs new Automated Broker Interface (ABI) and

Automated Commercial System (ACS) programs.

Response: Customs has considered the requirements of ABI and ACS in this revision project. The form has been designed to emphasize compatibility with current and future Customs requirements.

Comment: Customs should retain Customs Form 5101 because its elimination will cause internal processing problems. Furthermore, it should be retained for accelerated drawback.

Response: Customs believes that elimination of Customs Form 5101 will cause no internal processing problems. The elimination has been and is being tested in certain Customs districts with excellent results. A copy of the Customs Form 7501 would be used for accelerated drawback or until appropriate drawback forms can be modified. Instructions appended to this document will indicate the appropriate data required when a Customs Form 7501 is filed with a drawback entry.

Comment: A horizontal format would be more beneficial than the current and proposed vertical format.

Response: Customs considered this approach. Designs employing a horizontal format were developed. However, this approach was rejected as being inadequate.

Visa Numbers:

Comment: For imports of textile and apparel products, Customs should collect visa number (a quantity control number assigned by foreign governments to foreign manufacturers) by line item for the following reasons:

(a) Seventy percent of textiles/apparel are exported by countries with visa arrangements.

(b) Lack of reporting causes costly disruptions to trade;

(c) Visa number reporting will avoid unnecessary quota openings and closings;

(d) Reporting visa numbers will avoid law suits;

(e) Reporting will reduce the volume of entry retrievals and;

(f) Reporting will improve the ability to investigate fraudulent shipments.

Response: Customs believes this comment is valid. Accordingly, for imports of textile and apparel products, Customs intends to collect the visa number on the revised Customs Form 7501 when published as a final rule. A location for a visa number on the revised Customs Form 7501 appended to this document is provided in Column 34D. The instructions appended to this document provide information on this requirement.

Comment: It would cost too much to reprogram computers for the revised Customs Form 7501.

Response: Customs acknowledges the expense to reprogram. However, the benefits to be derived, (e.g., fewer forms, uniformity, less burden hours), will be beneficial and cost effective for both the Government and the importing community.

Comment: No provision has been made in the body of the form for inclusion of a manifest number, description, and ultimate consignee's name and address for consolidated shipments.

Response: The information required for consolidated shipments may appear in the body of Customs Form 7501 or may be shown on an attachment.

Comment: The form should provide for more vertical space.

Response: Customs believes adequate space is provided to accommodate the average Customs entry (1.8 line items).

Comment: Customs should eliminate Customs Form 7523 and use revised Customs Form 7501 in its place.

Response: Possible elimination or modification of this form will be considered as a separate project.

Comment:

(a) Proposed § 141.61(e)(1)(ii)(C)(1) should be amended for consistent coding of "P", "C", & "E";

(b) The second sentence of proposed § 141.61(d)(4) should be deleted because it is confusing;

(c) Proposed § 144.11(c) should indicate where on Customs Form 7501 the information should be shown; and;

(d) The second sentence of proposed § 144.41(d) should read, "However, no entry bond shall be required * * *"

Response: Customs has revised the proposed regulations to reflect comments (a), (b), and (d) above. The instructions, rather than the regulations, provide the requested information for (c) above.

Comment: The form should be arranged for ease of data input or there should be a change in E510 (Customs computer format).

Response: The E510 format used by Customs for data transcription will be modified to accommodate the revised Customs Form 7501.

Comment: Will the Immediate Delivery Control (IDC), release system in Detroit be eliminated?

Response: The IDC release system will not be affected by this project.

Comment: The requirement for a minimum of 2 copies (broker and importer) should be eliminated.

Response: Customs agrees. The number of additional copies for use by a

broker or importer should be at the option of those parties.

Comment: All statements on the reverse of Customs Form 7501 should be eliminated.

Response: Customs agrees. All data on the revised form appears on one side.

Comment: Customs should provide space on the top of the form for privately printed information such as preparer's name, address, and box number.

Response: Customs notes that privately printed names, etc., are permissible; however, space for this printing is, of necessity, limited.

Comment: Withdrawals from warehouse could be accomplished by using the revised Customs Form 7501.

Response: To use the revised Customs Form 7501 for warehouse withdrawals would require space for additional bond information, withdrawal amounts, balances, name of party withdrawing, and authorizations. Space is not adequate to permit these additions. Furthermore, use of the Customs Form 7501 for withdrawals could cause significant confusion.

Data Elements

Comment: Box 1.

The "Census Use Only" box is unnecessary.

Response: Customs agrees and has removed this box from the revised form.

Comment: Box 2.

The broker and importer reference number should appear in this box.

Response: The box is reserved for use by a broker or importer for his own internal control number or code.

Therefore, Customs does not wish to dictate use of this box. For clarification, this box is now entitled "Broker/Importer File No."

Comment: Box 3.

(a) This box should be aligned with boxes 2 through 8;

(b) Month-day-year order sequence should be the required format;

(c) Instructions should show acceptable formats; and

(d) WANDA format (Customs automated random batch system), should be required for labels only and not required to be printed on document.

Response: Customs agrees and has so revised the document.

Comment: Box 4.

(a) The entry code should be adequate without spelling out entry type;

(b) An entry code should be assigned to informal entries;

(c) Abbreviations for entry type should be allowed; and

(d) In the last sentence of the instructions for this box, "name" should be deleted and replaced by "code."

Response: Customs agrees with suggestions (a), (b), and (d). The code "O" will be used to designate an informal entry. Concerning suggestion (c), an abbreviation of the type of entry will not be necessary. The code alone will suffice.

Comment: Box 6.

Customs should require a 5 digit numeric code to include region designations required for antidumping and countervailing duty report.

Response: Customs automated systems require only the 4 digit port code to be input. Increasing this field to 5 digits would lead to an increased error rate in data transcription. Since the region code is required only for a small percent of entries, the benefit to be derived would not be significant.

Comment: Box 8.

This should be changed to "Bond Number", rather than "Bond Code".

Response: Customs agrees.

Comment: Box 9.

The box is not sufficient to accommodate a name and address. It should be increased by reducing box 10 "importer number".

Response: The form has been aligned to the U.S. Standard Master/United Nations Layout Key, so that space is now adequate. The U.N. Layout Key is the international basis for the standardization of documents.

Comment: Box 10.

In the instructions, 2 digit suffixes should be added to acceptable formats.

Response: Customs agrees.

Comment: Box 11.

"Ultimate consignee" should be further defined to cover situations such as duty included sales, drop shipments, several ultimate consignees, and trading companies. Customs should provide for additional ultimate consignees to be shown in box 30 in the body of the form with a "see below" designation in box 11.

Response: The ultimate consignee is adequately defined in the instructions. When adequate space is available in the body of the form, information that cannot be contained in an appropriate box may be "shown below" instead of on a supplemental sheet. However a supplemental sheet may be used if desired and *must* be used if placement of additional data in the body of revised Customs Form 7501 will render that data unclear.

Comment: The word "consolidated" should be allowed in this box in accordance with § 141.61(d)(2).

Response: Customs agrees.

Comment: Box 13.

This box should be combined with box 29. Also, the location data should

not be required for goods released on immediate delivery procedure.

Response: Customs agrees. On goods released on entry or immediate delivery, this box need not be completed.

Comment: Box 14.

There is a need for more data concerning containerized cargo, such as the need for origin and ultimate State destination in the United States. Container information should be shown as line item data and the term "containerized" should be defined. A single box in the header portion of the revised Customs Form 7501 will distort statistics on containerized cargo.

Response: The suggestions to report additional data concerning containerized cargo would place a new requirement on the importing public. To require additional data by line item and to show destination State of shipments after unloading at a port of entry would cause an excessive burden on those required to file a Customs Form 7501. However, Customs can appreciate the usefulness of this information to the transportation community, and therefore, a line has been provided in block 9 to record the two character state abbreviation utilized by the Postal Service.

Customs also has discussed this particular subject matter in the "Specific Request For Comments" portion of this document.

Comment: Box 15.

This box should be aligned under boxes 10 and 12. It was noted that this information previously has been transmitted on Customs Form 4811.

Response: Customs believes the location of this element on revised Customs Form 7501 is satisfactory. This information, transmitted via Customs Form 4811, appears on the Entry Record, Customs Form 5101. The information is necessary only when refunds, bills, and notices are to be sent to a party other than the importer of record.

Comment: Box 16.

The date of summary filing should not be required; it cannot be predetermined and the date is normally stamped by the entry unit. This box should be placed with the entry identification information.

Response: The entry summary date box is for Customs use only. The "Entry Summary Date" box has been placed adjacent to entry identification information.

Comment: Box 17.

The bill of lading or air waybill number should be the number of the international carrier, not a domestic carrier. No bill of lading number is available or needed for imports by rail

or truck. "Box 17" should read "Box 17, if applicable."

Response: Customs agrees with these comments. The instructions will clarify these points.

Comment: Box 18.

(a) Customs should add to the instructions, "For merchandise entering the U.S. Customs territory from a U.S. foreign trade zone, leave blank;"

(b) Allow for schedule K code (foreign port) and 2-digit province or state code (Canada and Mexico) assigned by Bureau of Census;

(c) For shipments arriving by air, no port of lading should be required, as it is not used;

(d) For transshipments through Canada or Mexico, there is no meaningful port of lading, and one should not be required;

(e) Align box 18 over box 30; and

(f) Add "see below" to be allowed (in instructions).

Response: Customs agrees with comments (a), (b), (c), and (d). Concerning comment (e), Customs disagrees because the suggested alignment would serve no useful purpose. Lastly, the instructions have been modified to allow additional information to appear in the body of the form when space permits.

Comment: Box 20.

(a) The question was raised whether the flag, registration, and flight number are required for air shipments;

(b) Standard airline abbreviations should be allowed; and

(c) Instructions should provide, "For merchandise entering the United States territory from a U.S. foreign trade zone, insert 'FTZ' followed by the 'FTZ number'."

Response: Customs notes that the data listed in (a) above is not now needed. Customs agrees with suggestions (b) and (c).

Comment: Box 21.

(a) Information may not be known at inland port;

(b) Information is not required on Customs Form 7512;

(c) Information is the same as that in box 20; and

(d) Add to instructions, "For merchandise entering the U.S. Customs territory from a U.S. foreign trade zone, specify other."

Response: (a) and (b). Information concerning mode of transportation is normally available or easily obtained for imported goods and Customs Form 7512 does require carrier information; (c) The name of an importing carrier does not always reveal mode of transportation; and (d) as indicated in the instructions appended to this document, Customs has determined to

leave this box blank rather than use the word "other."

Comment: Box 22.

This box should be, "M (mandatory), if applicable."

Response: This box is eliminated.

Comment: Box 23.

Customs should:

(a) Add to instructions, "For merchandise entering the U.S. Customs territory from a U.S. foreign trade zone, leave blank;"

(b) Require full date in all instances (MMDDYY) for uniformity; and

(c) Include the date of export from the country of origin for those entries in which country of export differs from country of origin for the proper allocation of quotas.

Response: Customs agrees with comments (a) and (b). The date of export is defined in the instructions.

Comment: Box 24.

Customs should:

(a) Add to instructions, "For merchandise entering the U.S. Customs territory from a U.S. foreign trade zone, leave blank;" and

(b) Provide the option to use the country code from schedule C-1.

Response: Customs agrees with the first suggestion. The country code, included in International Standard ISO 3166, will be acceptable; Country codes included in Schedule C-1 will not be acceptable.

Comment: Box 25.

Customs should (a) Add to the instructions, "For merchandise entering the U.S. Customs territory from a U.S. foreign trade zone, leave blank;" and (b) Require the port of unloading in all instances and add an additional box for the summary filing port code.

Response: Customs agrees with the first suggestion. The U.S. port of unloading is required only for goods arriving by vessel or air. The port code where the entry summary is filed will be collected in box 5.

Comment: Box 26.

The current requirement is to name the delivering in-bond carrier.

Response: This box has been eliminated.

Comment: Box 27.

Customs should (a) Add to the instructions, "For merchandise entering the U.S. Customs territory from a U.S. foreign trade zone, leave blank;" and (b) Require uniform date for this box, i.e., MMDDYY format.

Response: Customs agrees with both suggestions.

Comment: Box 28.

Customs should amend instructions to allow "see below" in this box; and

remove "(/)" between "shipper" and "relation" in instructions.

Response: This box requirement is eliminated.

Comment: Box 29.

This box should be combined with "location of goods".

Response: Customs agrees.

Comment: Box 30.

(a) The field is too small for standard 30 character description;

(b) The requirement for a description should be eliminated;

(c) Column 30a should be divided to provide for a separate column for country of origin and gross weight;

(d) The total value of foreign trade zone goods should be shown at bottom of column 30 (per FTZ Manual Supplement);

(e) Box 30 should not be required for informal entry; and

(f) The description should follow the invoice description of the goods.

Response:

(a) Sufficient space has been provided for recording a standard 30 character description.

(b) A description will not be required on informal entries nor will it be required on entries prepared by computer systems that validate the TSUSA number. It will be required on all other entries.

(c) Gross weight and country of origin fields have been expanded.

(d) Instructions related to goods originating in a Foreign Trade Zone have been addressed.

(e) Agree.

(f) To minimize the space devoted to the description of merchandise, only standard abbreviated descriptions will be accepted.

Comment: Box 31.

(a) The question was raised whether the code P, C, and E can be used and whether parentheses are required;

(b) Since "pext" is rarely different than entered value, it should be dropped; and

(c) The column should be removed and data placed in column 32.

Response: (a) This column has been eliminated; the data will be shown in the body of the form in accordance with the instructions.

Comment: Box 33.

The space is not adequate for the Harmonized System.

Response: The space is increased for future requirements.

Comment: Box 34.

The space should be larger.

Response: Customs has increased the space.

Comment: Box 35.

The space provided is too small, and should be enlarged.

Response: Customs agrees.

Comment: Box 36.

The space should be reduced and allocated to other items requiring additional space. Liquidation data and liquidator code should be printed in this box for Customs liquidation processing.

Response: The space has been reduced but is necessary for Customs use. Customs agrees with the second comment.

Comment: Box 37.

The space will not accommodate multiple missing documents; it is out of alignment for computer printing.

Response: (a) Customs believes the space is adequate because codes will be used. The space is realigned for printing.

Comment: Box 38.

(a) The space is too small;

(b) The box is out of alignment for printing; and

(c) Boxes 38, 39, 41, and 44 should be consecutively numbered.

Response: Customs agrees with all of these comments.

Comment: Box 39.

(a) This block must be broken down for beer, wine, or distilled spirit; and (b) the space is not aligned for printing.

Response: (a) The reporting requirement remains unchanged.

(b) Customs agrees and has aligned the box.

Comment: Box 40.

(a) The space is out of alignment for printing;

(b) The space should be incorporated into box 36; and

(c) There should be a line between I.S. Team and Liq. Code.

Response: Customs notes that the I.S. Team Code has been eliminated and Liquidator Code is incorporated in "Customs Use Only" box.

Comment: Box 41.

(a) The use of this box should be defined. The space is out of alignment for printing.

Response: This space is used to record estimated total antidumping and countervailing duties or other charges or exactions not included in duties and tax. The space has been aligned.

Comment: Box 43.

The space is too small. The word "signature" should be used instead of "authentication."

Response: Customs has provided additional space. The term "signature" will be used.

Comment: Box 44.

The space is too small.

Response: Customs has provided increased space.

Comment: Box 45.

This box should be combined with box 43. The question was raised as to what title is required?

Response: The box has been combined with the "Signature" box. The job title of person signing the form is required.

Comment: Box 46.

The space is inadequate; and this block duplicates information in box 9.

Response: The box is eliminated.

Comment: Box 47.

This box should be incorporated with box 16 or moved into box 45.

Response: The date is included in the "signature" box.

Specifications of Customs Form 7501

The Government-printed revised Customs Form 7501, the "Entry/Entry Summary," will consist of a carbon interleaved set of 5 pages, each page 8½" X 11". As a minimum, Customs will require the following pages to be filed for each entry:

Page 1. Original—white color for Customs.

Page 2. Cashier Copy—white color for Customs.

Page 3. Statistical Copy—yellow color for Bureau of Census.

The 4th and 5th pages may be used as a permit copy, receipt copy, or to fulfill a requirement of another agency such as in an antidumping duty or countervailing duty case.

The Government also will print a revised Customs Form 7501A, "Entry/Entry Summary Continuation Sheet" consisting of a carbon interleaved set of 5 pages, each page 8½" X 11". If all line items cannot be contained on Customs Forms 7501, the importer may use either (1) another Customs Form 7501 set and leave the header information blank, or (2) the continuation sheet Customs Form 7501A set.

The entry number must appear on each additional sheet.

When the Customs Form 7501 is used as an informal entry, only the following blocks and columns must be completed.

1, 2, 5, 11, 13, 15, 17, 18, 19, 23, 27, 28, 30A, 31A, 32, 33A, 34A, 34C, 35, 36, 37, 38, 39, 40 and 41.

In the October 4, 1982, notice, Customs advised that when Customs Form 7501 is used for an informal entry, only the blocks shaded on the form need be completed. Customs believes that because use of the "shaded block" concept is not entirely satisfactory, it has been eliminated from the present form.

In its place, Customs encircled the number of each block that must be completed for an informal entry.

Discussion of Customs Form 7501

The revised Customs Form 7501 and instructions appended hereto are part of

a continuing Customs effort to improve the procedures for entering imported merchandise and collecting statistics. The form would reduce the paperwork burden on the importing community and Customs by eliminating specified Customs forms and ensuring that only necessary data will be collected from the public.

Customs recognizes and appreciates the concern of members of the public and other agencies desiring Customs to collect additional data elements. However, Customs cannot adopt all of the suggestions and still be consistent with its objective of streamlining commercial procedures and the Administration's goal of reducing public reporting burdens and paperwork. This is especially so in this era of austerity when Customs is faced with an ever-increasing workload and declining resources. In fact, Customs has determined to eliminate some items on the Customs Form 7501 that are useful, but not essential, to the performance of its mission.

The revised Customs Form 7501 is aligned with the U.S. Standard Master/U.N. Layout Key. There are several advantages to this approach. Uniform sequence of data presentation provides a convenient link with computer processing, transmission, and output of information. Simplified standardized document preparation and processing provides savings of time, money, and effort. Standardized preparation of data, and multiple use of data, can result in document consolidation and elimination.

Customs continues to support the Administration's goals of furthering trade relations with our trading partners and reducing paperwork burdens. Adoption of this proposed form will emphasize Customs commitment to international treaties and conventions concerned with documentation simplification and standardization, such as the International Convention on the Simplification and Harmonization of Customs Procedures (the Kyota Convention), to which the United States Senate on June 21, 1983, gave its advice and consent to U.S. accession.

The revised Customs Form 7501 has been redesigned to emphasize economy, and the instructions have been simplified and clarified. There will be an overall reduction in costs to brokers and importers because of the elimination of specified forms, and the reduction in the number of data element boxes and columns to 40 from the earlier 47 data element boxes and columns appearing on the form published in the October 4, 1982, notice. Removed data element boxes and columns include:

- (a) I.T. port;
- (b) I.T. carrier;
- (c) Relationship, and
- (d) Entry type name.

Production and printing costs will be reduced because there is a minimum number of copies required for each interleaved set of the form; all printing appears on one side; there is a minimum number of tab stops; and there are no spot carbons.

Data collection has been streamlined consistent with automation and the form is compatible with computer printers. Wherever possible, codes have been used in place of words.

The form addresses current requirements and future needs such as the Automated Commercial System (including ABI), the Harmonized System, and the proposed new bond system.

Specific Request for Comments

Containerized Cargo

In the October 4, 1982, notice, Customs Form 7501 had a box 14 designated "Containerized." In accordance with the instructions for that document, when merchandise was containerized, a "Yes" was to be placed in the box. When the merchandise was not containerized, a "No" was to be placed in box 14.

As noted in the analysis of comments portion of this document, the "Containerized" box has been removed.

Customs is aware of trade community interest in retention of this data element. As explained elsewhere in this document, Customs is interested in minimizing reporting burdens placed upon the private sector. Therefore, we request comments on the possibility of incorporating the containerized information with data element 20, "Mode of Transportation" (which is to specify the method of transportation by which the imported merchandise entered the first United States port from the last foreign country). For example, it may be desirable to record a "C" following the "Mode of Transportation" wherever any portion of the merchandise covered by an entry is containerized. Customs also will consider suggestions for alternative approaches.

Effective Date

Customs wishes to assure that sufficient time be provided to permit importers and brokers to reprogram computers, train personnel to use the revised form and use existing stock of current Customs Forms 7501, 7502, 5101, 5119-A, and 7500.

In this regard, the final regulations would not become effective until 6

months after the date of publication of the final rule as a Treasury Decision in the *Federal Register*. After that date, only the revised Customs Form 7501 will be accepted by Customs, and the other forms will be eliminated.

Authority

These amendments are proposed under the authority of R.S. 251, as amended (19 U.S.C. 66), sections 484, 624, 46 Stat. 722, as amended, 759 (19 U.S.C. 1484, 1624); section 301, 80 Stat. 379 (5 U.S.C. 301), Pub. L. 95-410 (October 3, 1978); Pub. L. 96-511 (December 11, 1980).

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), during regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Regulatory Flexibility Act—Executive Order 12291

Customs has undertaken a review of the economic and financial implications of the proposal to determine the need for a (1) regulatory analysis in light of 5 U.S.C. 603 and 604 of the Regulatory Flexibility Act of 1980 (Pub. L. 96-353), and (2) regulatory impact analysis in light of section 1(b) of Executive Order 12291.

Pursuant to the provisions of section 3 of the Regulatory Flexibility Act, it is hereby certified that the proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Accordingly, this document is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

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

Customs expects the proposal to result in a net cost reduction to small brokers and importers primarily because of the proposal's elimination of entry documents.

The major effect of the proposed revisions on brokers and importers will be to reduce the quantity of data currently required to be filed by the importing community. A number of

current Customs forms will be entirely eliminated under the proposal (e.g., 7501, 7501A, 7501B, 7501C, 7502, 7502A, 7502B, 7502C, non-serially numbered 5119A, 7500, 5101). In FY 1982, approximately 12.1 million of these above-mentioned documents were filed. As a result of the proposal, the filing of 7.3 million document filings would fulfill the same requirements. The proposal will thus eliminate 4.8 million document filings for an estimated documentation cost savings of \$1.1 million to brokers and importers. The savings more than outweigh the broker-estimated reprogramming costs (estimated at hundreds of thousands of dollars), should the revised customs Form 7501 be adopted. Further, the number of required data element boxes and columns in this revised form has been reduced to 40 from the 47 data element boxes and columns appearing on the form published in the October 4, 1982, document. This provides further costs benefits. Also, the proposed revision will allow further, as yet unspecified, time and cost savings, because data elements to be collected upon future implementation of the ABI system and the Harmonized System are incorporated in revised Customs Form 7501. Other operational costs are minimized in the revision by requiring data on only one side of the proposed form.

Paperwork Reduction Act

This proposed project is subject to the Paperwork Reduction Act of 1980 (Pub. L. 96-511). Accordingly, this document has been transmitted to the Office of Management and Budget for review.

Drafting Information

The principal author of this document was Charles D. Ressin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects

19 CFR Part 10

Customs duties and inspection,
Wildlife.

19 CFR Part 19 and 144

Customs duties and inspection,
Warehouse.

19 CFR Part 24

Customs duties and inspection,
Accounting.

19 CFR Part 113

Customs duties and inspection, Surety
bonds

19 CFR Part 125

Customs duties and inspection,
Freight forwarders

19 CFR Part 141, 142 and 143

Customs duties and inspection,
imports.

19 CFR Part 146

Customs duties and inspection,
Foreign-trade zones.

Proposed Amendments

It is proposed to amend Parts 10, 19, 24, 113, 125, 141, 142, 143, 144 and 146, Customs Regulations (19 CFR 10, 19, 24, 113, 125, 141, 142, 143, 144, and 146), in the following manner:

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

It is proposed to revise § 10.91(a) to read as follows:

§ 10.91 Importation under item 306.00; entry or withdrawal under bond.

(a) The entry summary for wool or hair of the camel⁸² imported for use in the manufacture of any of the articles enumerated in item 306.00, Tariff Schedules of the United States (TSUS),⁸³ shall be made on Customs Form 7501 and filed with the entry documentation listed in § 142.3(b) of this chapter before the merchandise shall be released. If the merchandise is to be entered for warehouse, the entry summary also shall be made on Customs Form 7501 and filed with the entry documentation listed in § 142.3(b) of this chapter. In either case, Customs Form 7501 shall serve as both the entry and the entry summary

PART 19—CUSTOMS WAREHOUSES CONTAINER STATIONS AND CONTROL OF MERCHANDISE THEREIN

It is proposed to amend § 19.11(b) by removing "7502" and inserting, in its place, "7501".

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. It is proposed to revise the fourth sentence of § 24.5(d) to read as follows:

§ 24.5 Filing identification number.

(d) *Optional additional identification.*
* * * Transactions may be associated with a specific branch office or vessel by reporting the appropriate identification number, including the two-

digit suffix code, on Customs Form 7501 or the request for services.

2. It is proposed to amend the first sentence of § 24.5(e) by removing "5101" and inserting, in its place, "7501".

PART 113—CUSTOMS BONDS

It is proposed to revise § 113.41 to read as follows:

§ 113.41 Entry made prior to production of documents.

When entry is made prior to the production of a required document, the importer shall indicate in the "Missing Documents" box on Customs Form 7501 the missing document, whether the importer gives bond Customs Form 7551 or 7553, or other appropriate form, or stipulates to produce such document.

PART 125—CARTAGE AND LIGHTERAGE OF MERCHANDISE

1. It is proposed to revise § 125.31(b) to read as follows:

§ 125.31 Documents used.

(b) Customs Form 7501, Entry/Entry Summary, annotated "Permit".

2. It is proposed to revise § 125.32 to read as follows:

§ 125.32 Merchandise delivered to a bonded store or bonded warehouse.

When merchandise is carted or lightered to and received in a bonded store or bonded warehouse, the proprietor or his representative shall check the goods against the accompanying delivery ticket, Customs Form 6043, or copy of the permit, Customs Form 7501, and countersign the document acknowledging receipt of the merchandise as listed thereon.

PART 141—ENTRY OF MERCHANDISE

1. It is proposed to revise § 141.61(a)(2) to read as follows:

§ 141.61 Completion of entry and entry summary documentation.

(a) *Preparation.* * * *
(2) An importer may omit from the warehouse withdrawal for consumption, Customs Form 7505 or 7519, the marks and numbers previously provided for packages released or withdrawn.

2. It is proposed to revise § 141.61(d) to read as follows:

§ 141.61 Completion of entry and entry summary documentation.

(d) *Importer number.* The importer number shall be reported on Customs Form 7501 as follows:

(1) *Generally.* Except as provided in paragraph(d)(2) of this section, the importer number of the importer of record and the consignee number of the ultimate consignee shall be reported for each entry summary and for each drawback entry. When the importer of record and the ultimate consignee are the same, the importer number may be entered in both spaces provided on Customs Form 7501, or the importer number may be entered in the space provided for the importer and the word "SAME" may be entered in the space provided for the ultimate consignee.

(2) *Exception.* In the case of a consolidated entry summary covering the merchandise of more than one ultimate consignee, the importer number shall be reported on Customs Form 7501 and the notation "CONSOLIDATED" shall be made in the space provided for the consignee number.

(3) *When refunds, bills, or notices of liquidation are to be mailed to agent.* If an importer of record desires to have refunds, bills, or notices of liquidation mailed in care of his agent, the agent's importer number shall be reported on Customs Form 7501 in the box designated "Reference No." In this case, the importer of record shall file, or shall have filed previously, a Customs Form 4811 authorizing the mailing of refunds, bills, or notices of liquidation to the agent.

(4) *Broker No.* If a broker is used, the broker's number shall be reported in the appropriate location on Customs Form 7501.

3. It is proposed to revise § 141.61(e)(1)(i)(A) to read as follows:

§ 141.61 Completion of entry and entry summary documentation.

(e) *Statistical information.*—(1) *Information required on entry summary or withdrawal form.*—(i) *Where form provides space.*—(A) *Single invoice.* For each class or kind of merchandise subject to a separate statistical reporting number, the applicable information required by the General Statistical Headnotes, Tariff Schedules of the United States Annotated ("TSUSA"), shall be shown on the entry summary, Customs Form 7501; the transportation entry and manifest of goods, Customs Form 7512, when used to document an incoming vessel shipment proceeding to a third country by means of an entry for transportation and exportation, or immediate exportation; the rewarehouse entry, Customs Form 7519; the

manufacturing warehouse entry, Customs Form 7521; the withdrawal form, Customs Form 7505 or 7506, in the space provided.

4. It is proposed to amend § 141.61(e)(1)(ii) by removing paragraph (B) and marking it "Reserved".

5. It is proposed to revise § 141.61(e)(1)(ii)(C)(1) to read as follows:

§ 141.61 Completion of entry and entry summary documentation.

(e) * * *
(1) * * *
(ii) *Where the form does not provide space.* * * *

(C)(1) The charges, transaction value, and equivalent value shall be listed on Customs Form 7501 in column 33. The amounts shall be identified in the following order: C (aggregate cost of freight, insurance and all other charges), P (port of exportation transaction value), and E (equivalent port of exportation value). The charges, transaction value, and equivalent value shall be listed on Custom Forms 7505, 7506, and 7521 in column 4 immediately below the TSUSA reporting numbers. These amounts shall be identified by placing in the following order: C (aggregate cost of freight, insurance, and all other charges), P (port of exportation transaction value) and E (equivalent port of exportation value) in column 4 immediately to the left of each statistical value and charge.

6. It is proposed to revise the last sentence of § 141.61(f)(1)(iv) to read as follows:

§ 141.61 Completion of entry and entry summary documentation.

(f) *Value of each invoice.*—
(1) *Single invoice.* * * *
(iv) * * * The required information shall be shown on a worksheet attached to the form or placed across columns 30 and 31 on Customs Form 7501 and in the same general location on Customs Forms 7505, 7506, 7519, and 7521.

§ 141.68 [Amended]

7. It is proposed to amend the first sentence of § 141.68(h) by removing "7500" and inserting, in its place, "7501".

PART 142—ENTRY PROCESS

§ 142.3 [Amended]

1. It is proposed to amend § 142.3(b)(2) by removing "7502".
2. It is proposed to revise § 142.11(a) to read as follows:

§ 142.11 Entry summary form.

(a) *Customs Form 7501.* The entry summary shall be on Customs Form 7501 unless a different form is prescribed elsewhere in this chapter. Customs Form 7501 shall be used for merchandise formally entered for consumption, formally entered for warehouse, or rewarehouse in accordance with § 144.11 of this chapter, and formally entered under a temporary importation bond under § 10.31 of this chapter. The entry summary for merchandise which may be entered free of duty in accordance with § 10.1 (g) or (h) of this chapter may be on Customs Form 3311 instead of on Customs Form 7501. For merchandise entitled to be entered under an informal entry, see § 143.23 of this chapter.

3. It is proposed to revise the last sentence of § 142.16(a) to read as follows:

§ 142.16 Entry summary documentation.

(a) *Entry summary not filed at time of entry.* * * * The entry summary documentation also shall include any other documents required for a particular shipment unless a bond for missing documents is on file, as provided in § 141.66 of this chapter.

4. It is proposed to revise the last sentence of § 142.16(b) to read as follows:

§ 142.16 Entry summary documentation.

(b) *Entry summary filed at time of entry.* * * * The importer also shall file any additional invoice required for a particular shipment.

PART 143—CONSUMPTION, APPRAISEMENT, AND INFORMAL ENTRIES

1. It is proposed to revise § 143.12 to read as follows:

§ 143.12 Form of entry

Application for an entry by appraisal shall be made in triplicate on the entry summary, Customs Form 7501.

2. It is proposed to revise the heading and text of § 143.24 to read as follows:

§ 143.24 Preparation of Customs Form 7501 and Customs Form 5119-A.

Customs Form 7501 may be prepared by importers or their agents or by Customs officers when it can be presented to a Customs cashier for payment of duties and taxes and for numbering of the entry before the merchandise is examined by a Customs

officer. Where there is no Customs cashier, Customs Form 5119-A must be used, and it shall be prepared by a Customs officer unless the form can be prepared under his control by the importer or agent for immediate use in clearing merchandise under the informal entry procedure. The conditions for the preparation of Customs Form 7501 by importers or their agents, as described in the first sentence of this section, do not apply to the acceptance of these entries for shipments not exceeding \$250 in value released under a special permit for immediate delivery in accordance with Part 142 of this chapter.

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

1. It is proposed to revise § 144.11 (a), (b), and (c) to read as follows:

§ 144.11 Form of entry.

(a) *Entry.* The documentation required by § 142.3 of this chapter shall be filed at the time of entry. If the entry summary, Customs Form 7501, is filed at the time of entry for merchandise to be entered for warehouse, it shall serve as both the entry and the entry summary, and Customs Form 3461 or 7533 shall not be required. If the entry summary is not filed at the time of entry, it shall be filed within the time limit prescribed by § 142.12 of this chapter. If merchandise is released before the filing of the entry summary, the importer shall have a bond on file, as prescribed by § 142.4 of this chapter.

(b) *Customs Form 7501.* The entry summary for merchandise entered for warehouse shall be executed in triplicate on Customs Form 7501, appropriately modified, and shall include all of the statistical information required by § 141.61(e) of this chapter. The district director may require an extra copy or copies of Customs Form 7501, annotated "Permit" for use in connection with delivery of the merchandise to the bonded warehouse.

(c) *Designation of warehouse.* The importer shall designate on the entry summary, Customs Form 7501, the bonded warehouse in which he desires his merchandise deposited.

§ 144.12 [Amended]

2. It is proposed to amend § 144.12 by removing "7502" and inserting, in its place, "7501".

§ 144.14 [Amended]

3. It is proposed to amend the introductory paragraph of § 144.14 by removing "7502" and inserting, in its place, "7501".

§ 144.36 [Amended]

4. It is proposed to amend the first sentence of § 144.36(b) by removing "7502" and inserting, in its place, "7501".

5. It is proposed to revise § 144.41 (b) and (d) to read as follows:

§ 144.41 Entry for rewarehouse.

(b) *Form of entry.* An entry for rewarehouse shall be made in duplicate on Customs Form 7501 and shall contain all of the statistical information as provided in § 141.61(e) of this chapter. The district director may require an extra copy or copies of Customs Form 7501, annotated "Permit," for use in connection with the delivery of the merchandise to the warehouse. No declaration is required on the entry.

(d) *Bond.* A bond on Customs Form 7555 or other appropriate form shall be filed before a permit is issued on Customs form 7501 for sending the merchandise to the bonded warehouse. However, no entry bond shall be required if the merchandise is entered by the consignee named in the original warehouse entry bond filed at the original port of entry, or if it is entered by a transferee who has established his right to withdraw the merchandise and has filed a bond in accordance with subpart C of this part.

PART 146—FOREIGN-TRADE ZONES

§ 146.21 [Amended]

It is proposed to amend § 146.21(c) introductory text by removing "7502" and inserting, in its place, "7501"

William von Raab,
Commissioner of Customs.

Approved: September 21, 1983.

John M. Walker, Jr.,
Assistant Secretary of the Treasury

BILLING CODE 4820-02-M

DEPARTMENT OF THE TREASURY
UNITED STATES CUSTOMS SERVICE

ENTRY/ENTRY SUMMARY CONTINUATION SHEET

① Entry No.

② Line No.	30 A T.S.U.S.A. No. B ADA/CVD Case No.	29 Description of Merchandise		32 Net Quantity in T.S.U.S.A. Units	33 A Entered value B CHGS	34 A T.S.U.S.A. Rate B ADA/CVD Rate C I.R.C. Rate D Visa No.	35 Duty and P. Tax	
		31 A Gross Weight B Manner Qty					Dollars	Cents

Attachment B—Instructions for Form 7501**1. Entry No**

Record the 12 digit numeric code. Always begin with the three digit code assigned to importers and brokers, followed by the last two digits of the fiscal year and the six digit entry number, and finally, the one digit check digit. Importer and broker codes, entry numbers, and check digits are preassigned to importers and brokers by Customs or may be obtained individually from a Customhouse entry unit. The acceptable format is as follows:

NNN NNNNN NNN N

1. Importer/broker code number
2. Fiscal year and entry number
3. Check digit

Note.—A new series of eleven character entry numbers that will incorporate a three digit importer/broker code is planned. Until this series is adopted and due to space limitations in this block, the existing three digit importer/broker code numbers shall be recorded outside and immediately to the left of block #1.

Example:

NNN

1. Entry No.
NNNNNNNN N

2. Entry Type Code

Record the appropriate entry type code by selecting the one digit code for the type of entry summary being filed:

Entry type	Entry type code
Dutiable Consumption	1
Vessel Repair	2
Appraisal (see special instructions)	3
Warehouse, or	4
Rewarehouse	4
Bonded A/C Fuel	6
Free Consumption	7
Informal (see special instructions)	0

For all merchandise constructively transferred into the U.S. Customs territory from a U.S. Foreign Trade Zone (or subzone), the initial FTZ should follow the entry type code number

Note.—A new two digit entry type code is planned which will uniquely identify all entry types including informals, quota, TIB etc.

The new procedures for Entry Number and Entry Type Code discussed above will be the subject of a separate Federal Register document

3. Entry Summary Date.

This block is for Customs use only to record the date the entry/entry summary is filed (6 digit numeric code

showing month, day, and year—MMDDYY).

4. Entry Date

Record the 6 digit numeric code; month, day, and year—MMDDYY. Normally, the date the goods are released except for immediate delivery, quota goods, or where importer/broker requests another date prior to release (see 19 CFR 141.68).

5. Port Code

Record the four digit numeric code of the port where the entry summary is filed. Port codes are to be found in Annex A of the TSUSA. The port code should be shown as follows:

NNNN (no spaces or hyphens)

Note.—Upon final acceptance of these instructions, they will be published in pamphlet form and the schedule D port codes (currently listed as Annex A of the TSUSA) will be reproduced in their entirety as an appendix to the instructions).

6. Bond No

Record the 3 digit numeric code that identifies the surety company on the bond. The code number is obtained from the ADP report entitled "Surety Master File" which is updated periodically. For U.S. Government importations and other entry types not requiring surety, the code 999 should appear in this block.

7. Bond Type Code

Record the 1 digit numeric code as follows:

- 0 U.S. Government or Appraisalment Entry Bond
- 1 Single Entry Bond
- 2 Consumption Term Bond
- 3 Temporary Importation Term Bond
- 4 Vessel Term Bond
- 5 General Term Bond

8. Broker/Importer File No.

This block is reserved for a broker's or importer's internal file number.

9. Ultimate Consignee Name and Address

Record the name and address, including zip code, of the individual or firm for whose account the merchandise is imported (if same as importer of record, record "SAME"), and enter the U.S. Postal Service's standard two-letter state or territory abbreviation in the space provided to identify the ultimate consignee state.

If entry summary represents a consolidated shipment, leave blank.

10. Consignee No.

Record the IRS, Customs assigned, or Social Security number (not required if the same as importer of record).

For consolidated shipments, enter the word "CONSOLIDATED" in capitals in this block.

Only the following formats shall be used:

IRS number NN-NNNNNN
 IRS number with suffix NN-NNNNNNNN
 Customs assigned number NNNN-NNNN
 Social Security number NNN-NN-NNNN

11. Importer of Record Name and Address

Record the name and address, including zip code. The importer of record is the individual or firm liable for payment of all duties and meeting all statutory and regulatory requirements incurred as a result of importation.

12. Importer No.

Record the IRS, Customs assigned, or Social Security number of the importer of record. For format, see instructions under "Consignee No."

13. Exporting Country

Record the exporting country utilizing ISO Alpha-2 country codes specified in the International Standard ISO 3166. (Note: Upon final acceptance of these instructions, they will be published in pamphlet form and the ISO Alpha-2 country codes (International standard ISO 3166) will be reproduced in their entirety as an appendix to the instructions).

The country of exportation shall be the country of origin except when the merchandise while located in a third country is the subject of a new purchase. In which event, the third country shall be regarded as the exporting country.

For merchandise entering the U.S. Customs territory from a U.S. Foreign Trade Zone, leave blank.

14. Export Date

For merchandise exported by vessel record the month, day, and year on which the carrier departed the last port in the exporting country (format: MMDDYY).

For merchandise exported by air, record the month, day and year in which the aircraft departed the last airport in the exporting country (format: MMDDYY).

For overland shipments from Canada or Mexico and shipments where the port of lading is located outside the exporting country (e.g., goods are exported from Switzerland but laden and shipped from Hamburg, West Germany), record the month, day, and year in which the goods crossed the border of the exporting

country (Switzerland in this example) (format: MMDDYY).

For mail shipments, record the date of export as noted on the Customs Form 3509, Notice to Addressee (format: MMDDYY).

For goods entering the U.S. Customs Territory from a U.S. Foreign Trade Zone, leave blank

15. Country of Origin

Record the country of origin utilizing the ISO country codes specified in International Standard ISO 3166. (Note: Upon final acceptance of these instructions, they will be published in pamphlet form and the ISO Alpha-2 country codes (International standard ISO 3166) will be reproduced in their entirety as an appendix to the instructions).

The country of origin is the country of manufacture, production, or growth of any article of foreign origin. Further work or material added to an article in another country must effect a substantial transformation in order to render such other country the "country of origin."

When the merchandise is invoiced in or exported from a country other than that in which it originated, the actual country of origin shall be specified rather than the country of invoice or exportation.

When a single entry summary covers merchandise from more than one country of origin, record the word MULTI in this block and in column 28 directly below the line number, indicate a separate ISO code for the country of origin corresponding to each line item.

16. Missing Documents

Record the appropriate document code number(s) to indicate any documents not available at the time of filing the entry summary.

The following codes shall be used:

- 01. Commercial invoice
- 02. Form A
- 03. CF 3311
- 04. Assembly Declaration (C.F. 10.24 (a)(1))
- 05. Declaration of Foreign Shipper (C.R. 10.1., 10.9(e), 10.84)
- 06. Importer Declaration (C.R. 10.9(f), 10.24(a)(2), 10.84)
- 07. Repair Affidavit (C.R. 10.8)
- 08. CF 4455
- 09. CF 3321 (C.R. 10.43, 10.44, 10.52, 10.75)
- 10. CF 5523 (C.R. 141.89)
- 11. CF 3291 (C.R. 12.41)
- 12. Original Manufacturer's Purchase Order (C.R. 10.84(c))
- 13. Artist's Declaration (C.R. 10.48(b)(1))
- 14. Lease Statement (C.R. 10.108(b))
- 15. Re-melting Certificate (C.R. 54.6(a))

16. Corrected Commercial Invoice (C.R. 141.89, et al)

17. Other Agency Forms (C.R. Part 12)

18. Reserved

19. Reserved

20. Reserved

21. Reserved

22. Reserved

23. Reserved

24. Reserved

25. Reserved

26. Reserved

17. I.T. Number

Record the In Transit Entry number (CF 7512).

18. I.T. Date

Record the date of the In Transit Entry (CF 7512) (format: MMDDYY).

19. B/L or AWB No.

Record the number assigned on the manifest by the international ocean or air carrier delivery the goods to the United States.

For imports by rail or truck or any other means other than sea or air, leave blank.

20. Mode of Transportation

Record the method of transportation by which the imported merchandise entered the first U.S. port from the last foreign country utilizing the following 2 digit numeric codes:

- 10—Vessel (including all cargo at first U.S. port of unloading aboard a vessel regardless of later disposition. Lightered, land bridge, and LASH all included.)
- 20—Rail
- 30—Road (including all cargo via highway. Foot and animal borne are considered road.)
- 40—Air
- 50—Mail
- 60—Not used at this time
- 70—Fixed transport installation (includes pipeline, powerhouse, etc.)
- 80—Not used at this time
- 90—Unknown

For merchandise entering the U.S. territory from a U.S. Foreign Trade Zone, leave blank.

21. Manufacturer I.D.

This block is provided to accommodate a future reporting requirement.

Note.—For future reference, manufacturers will be identified by their telex number or if not available, their telephone number. Country codes used in conjunction with telex and telephone numbers (manufacturer's number) will then uniquely identify each foreign firm.

22. Reference No.

Record the IRS, Customs assigned, or Social Security number of the individual or firm to whom refunds, bills or notices of extension or suspension of liquidation are to be sent.

For correct format of number, see instructions under "Consignee No."

23. Importing Carrier

For merchandise arriving in the U.S. by vessel, record the name of the vessel which transported the merchandise from the foreign port of lading to the first U.S. port of unloading (Note: Vessel identifier codes that are currently acceptable to the Bureau of the Census may be recorded in lieu of vessel name).

For merchandise arriving in the U.S. by air, record the IATA code corresponding to the name of the airline which transported the merchandise from the last airport of lading to the first U.S. airport of unloading.

For merchandise arriving in the U.S. by means of transportation other than by vessel or air, leave blank.

Do not record the name of a domestic carrier transporting merchandise after initial unloading in the U.S.

For merchandise arriving in the U.S. Customs territory from a U.S. Foreign Trade Zone, insert "FTZ" followed by the "FTZ" number.

24. Foreign Port of Lading

For merchandise arriving in the U.S. by vessel, record the 5 digit numeric code listed in the Department of Commerce Schedule K for the foreign port at which the merchandise was actually laden on the vessel that carried the merchandise to the U.S.

For merchandise entering the U.S. Customs territory from a U.S. Foreign Trade Zone, leave blank.

For merchandise transshipped abroad (except Canada and Mexico) in the course of shipment to the U.S. whether or not covered by a through bill of lading, do not record the code number for the foreign port of original lading or any port of lading other than the last foreign port of lading at which the merchandise was laden on the carrier which transported it to the first U.S. port of unloading.

When a single entry summary covers merchandise laden at more than one foreign port, place the word MULTI in this block, and record the foreign port of lading separately in the "Line No." column directly below the line number for each line item (or group of line items) for the merchandise laden at each foreign port (Where there are multiple ports of lading and also multiple countries of origin, see instructions

under block 15). If both code numbers will be required for one line item, place the country of origin code directly below the line number, and place the port of lading code directly under the country of origin code).

25. Location of Goods

Where the entry summary serves as entry/entry summary, record the pier or site where the goods are available for examination.

In the case of merchandise placed in general order record the number assigned by Customs.

In the case of goods placed in a bonded warehouse, record the name of the bonded warehouse where the goods will be delivered (or record the Customs assigned number for the bonded warehouse in this block when available).

26. U.S. Port of Unlading

For merchandise imported by vessel or air, record the four digit numeric Schedule D code which identifies the U.S. port at which the merchandise was unladen from the importing vessel or aircraft. (Note: Upon final acceptance of these instructions, they will be published in pamphlet form and the Schedule D port codes (currently listed as Annex A in the TSUSA) will be reproduced in their entirety as an appendix to the instructions).

When the port of entry differs from the port of unlading, record the code number for the port of unlading and not the code number for the port where the entry is filed (for example, if entry is filed at the Port of Los Angeles for merchandise unladen at Long Beach, California, record code 2709 (Long Beach) as the port of unlading). The same principle applies when goods are unladen at a smaller port within a consolidated port of entry (for example, entry filed at the port of Houston for merchandise unladen at Galveston, record code 5310 (Galveston) as port of unlading).

For merchandise arriving in the U.S. by means of transportation other than vessel or air, leave blank.

For merchandise arriving in the U.S. Customs territory from a U.S. Foreign Trade Zone, leave blank.

27. Import Date

For merchandise arriving in the U.S. by vessel, record the month, day, and year (MMDDYY) on which the importing vessel transporting the merchandise from the foreign country arrived within the limits of the U.S. port with the intent to unlade.

For merchandise arriving in the U.S. other than by vessel, record the month,

day, and year (MMDDYY) in which the merchandise arrived within the limits of the U.S.

For merchandise arriving in the U.S. Customs territory from a U.S. Foreign Trade Zone, leave blank.

28. Line No.

Record the appropriate line item number, in sequence, beginning with the number 001.

A "line item" refers to a commodity from one country, covered by a line which includes a net quantity, entered value, TSUSA number, CHGS, PEXT/EPEX, and rate of duty and tax. However, some line items may actually include more than one TSUSA number and value. For example, many items found in schedule 8 require a dual TSUSA number. Articles assembled abroad with American components require the TSUSA number 807.00 along with the appropriate schedule 1 through 7 TSUSA number. Also, for certain steel products, there are additional duties for chromium, molybdenum, tungsten, and vanadium content which require that the individual TSUSA item numbers for these extra duties be reported in addition to the base TSUSA item number for the iron or steel product containing these alloys. In those cases where two or more TSUSA item numbers are required to be shown for one commodity, these dual reporting numbers shall be treated as one line number.

29. Description of Merchandise A
description of the articles in sufficient detail to permit the classification thereof under the proper statistical reporting number in the TSUSA.

30. A. TSUSA Number

Record the appropriate duty/statistical reporting number under which the article is classified in the Tariff Schedules of the U.S. Annotated.

If more than one TSUSA number is required, follow the reporting instructions in the statistical headnotes in the appropriate TSUSA schedule, part, or subpart.

B. Antidumping/Countervailing Duty Case Number (ADA/CVD)

Record, directly below the TSUSA number, the appropriate ADA/CVD case number(s) as assigned by the Department of Commerce, International Trade Administration.

31. Gross Weight

Record the gross shipping weight in pounds for articles imported in vessels or aircraft (do not report gross weight for merchandise arriving in the U.S. by other modes of transportation). The gross

weight must be reported on the same line with the entered value. Supply separate gross weight information for each TSUSA item number. If the gross weight is not available for each number, approximate shipping weight for each item shall be estimated and reported. The total of these estimated weights should equal the actual gross shipping weight.

In the case of containerized cargo carried in lift vans, cargo vans, or similar substantial outer containers, the weight of such container should not be included in the gross weight of the merchandise covered by each line item.

B. Manifest Qty.

This space is provided to accommodate a future reporting requirement. The instruction will be to enter the manifest quantity and unit.

32. Net Quantity in TSUSA Units

When a unit of quantity is specified in the TSUSA for the item number, report the net quantity in the specified unit, and show the unit after the net quantity figure.

Give quantities in whole units unless fractions of units are required for other Customs purposes. When expressing fractions, decimals only shall be used.

If no unit of quantity is specified in the TSUSA for the item number, net quantity is not required to be reported and an "X" shall be recorded in the net quantity column.

If two units of quantity are shown for the item number in the TSUSA, report the net quantity in both units, with the unit indicated in each case. Insert the quantity in terms of the unit marked in the TSUSA with a superior "v" on the line with the entered value or the line immediately below. Put the quantity in terms of any other unit below the first quantity and enclose it in parentheses. Example: Shipment consists of 50 dozen all white T-shirts, weighing 2 pounds per dozen and valued at \$10 per dozen.

Block 30 379.4010 Block 32 50 doz (100 lbs) Block 33 500

33A. Entered Value

Record the U.S. dollar value in accordance with the definition in Section 402, Tariff Act of 1930, as amended, for all merchandise.

This value shall be shown for each TSUSA item number on the same line with the item number.

Report the value in whole dollars rounded off to the nearest dollar. Dollar signs and commas shall be omitted.

B. CHGS

In accordance with TSUSA general statistical headnote 1(a)(xvi), record the aggregate cost (not including U.S. import duty, if any) in U.S. dollars of freight, insurance and all other costs, charges and expenses incurred in bringing the merchandise from alongside the carrier at the foreign port of lading in the exporting country and placing it alongside the carrier at the first U.S. port of entry.

This value shall be shown for each TSUSA item number beneath the entered value and identified with the letter "C" (e.g. C550).

Record the value in whole dollars rounded off to the nearest dollar. Dollar signs and commas shall be omitted.

In the case of overland shipments (i.e., merchandise transported to the U.S. by means other than vessel or air) originating in Canada or Mexico both the foreign port of lading and the first U.S. port of entry will be the border crossing; and the costs to the border shall be included in the PEXT value.

Expenses incurred in transporting merchandise beyond the Canada-U.S. or Mexico-U.S. borders, by means other than vessel or air (i.e. overland by automobile, truck, train, pipeline, parcel post or mail) are not required to be reported. Consequently, an "X" shall be shown for CHGS.

Immediately below CHGS, the following shall be shown for each line item:

PEXT (P)—In accordance with TSUSA general statistical headnote 1(a)(xiv), record the purchase price, in U.S. dollars, plus, when not included in such price, all charges, costs and expenses incurred in placing the merchandise alongside the carrier at the port of exportation in the country of exportation (or in the case of merchandise not acquired by purchase, the equivalent of such price, charges, costs, and expenses). The legend (P) shall precede the value shown (e.g., (P)5673).

Report the value in whole dollars rounded off to the nearest dollar. Dollar signs and commas shall be omitted.

If the value is estimated, place the legend (E) after the amount of each value (e.g. (P)5673(E)).

EPEX (E)—In accordance with TSUSA general statistical headnote 1(a)(xiv) if the merchandise was acquired in a transaction between related parties, report the equivalent of the arms-length value thereof, in U.S. dollars, plus, when not included in such value, all charges, costs, and expenses incurred in placing the merchandise alongside the carrier at

the port of exportation in the country of exportation.

Record the value for each TSUSA item number immediately beneath PEXT and identified with the legend (E) before the value (e.g., (E)5673).

Record the value in whole dollars rounded off to the nearest dollar. Dollar signs and commas shall be omitted.

If the value is estimated, place and (E) after the amount of each value (e.g. (E)5673(E)).

34. TSUSA, ADA/CVD, and/or I.R.C. Rate

A. TSUSA rate—Record the rate(s) of duty for the classified item as designated in the TSUSA: free, ad valorem, specific, or compound.

B. ADA/CVD rate—Record the antidumping and/or countervailing duty rate(s) as designated by the Department of Commerce, International Trade Administration directly opposite the respective antidumping/countervailing duty case number(s) shown in column 30.

C. I.R.C. rate—Record the tax rate(s) for the classified item as designated in the TSUSA.

D. Visa Number—Record the visa number for each line of merchandise as it appears on the invoice. Visa numbers may currently be up to 9 alpha/numeric characters. Standardization is planned.

In the event there is any other charged or exaction (e.g. fees) not enumerated above, record the rate in this column and identify each charged or exaction immediately to the left of such rate.

35. Duty and I.R. Tax

Record the estimated TSUSA duty, antidumping and countervailing duty, I.R. tax, and other charges calculated by applying the rate times the dutiable quantity or value. The amount shown in this column must be directly opposite the appropriate TSUSA, antidumping, countervailing duty, I.R. tax rate and other charges.

Dollar signs commas shall be omitted.

36. Declaration

Self-explanatory

37. Duty

Record the total estimated duty paid (excluding antidumping or countervailing duty).

When the entry summary consists of more than one page, record on the first page, the total estimated duty paid.

38. Tax

Record the total estimated tax paid.

When the entry summary consists of more than one page, record on the first page, the total estimated tax paid.

39. Other

Record the total estimated antidumping or countervailing duties or other charges or exactions paid.

When the entry summary consists of more than one page, record on the first page, the total amount of antidumping or countervailing duties or other charges or exactions paid.

40. Total

Record the sum of blocks 37, 38, and 39.

41. Signature of Declarant, Title and Date

Record the name and signature of the declarant, the job title of the owner, purchaser or agent who signs the declaration, and the month, day and year when the declaration is signed.

When the entry summary consists of more than one page, the signature of the declarant, title, and date must be recorded on the first page.

Facsimile signatures are acceptable when prior approval has been obtained from the district, area, or port director.

Appraisal Entry

When the CF 7501 is used as an appraisal entry, the same declaration which now appears on the CF 7500, requesting appraisal under Section 498(a) of the Tariff Act of 1930, as amended, should be added to the body of the CF 7501 or stapled on top of it in the left margin as follows:

I hereby request appraisal under Section 498(a)(), Tariff Act of 1930, as amended. I declare, the best of my knowledge and belief, that this entry and the documents presented therewith set forth all the information in my possession, or in the possession of the owner of the merchandise described herein, as to the cost of such merchandise; that I am unable to obtain any further information as to the value of the said merchandise or to determine its value for the purpose of making formal entry thereof; that the information contained in this entry and in the accompanying documents is true and correct; and that the person(s) named above is the owner of the same merchandise.

Signature

Title

To the District Director: The merchandise described above has been examined and the contents and values are noted above.

Examiner

Date

Customs Officer

Date

Informal Entry

Informal entries previously made on the unnumbered CF 5119-A will be made on the CF 7501. The following blocks are to be completed for informal entries: 1, 2, 5, 11, 13, 15, 17, 18, 19, 23, 27, 28, 29, 30A, 31A, 32, 33A, 34A, 34C, 35, 36, 37, 38, 39, 40, and 41.

Block 25, Location of Goods, will be filled in only if merchandise has been placed in a general order warehouse.

Accelerated Drawback

When filing a drawback claim, on the appropriate drawback form, requesting accelerated drawback payment, include with the drawback entry submission, two copies of CF 7501.

Only the following data need be shown as appropriate (block numbers appear in parentheses):

Entry No. (1); Entry Type Code (2); Entry Date (4); Bond No. (6); Bond Type Code (7); Consignee No. (10); Importer No. (12); Duty (37); IR Tax (38); Total (40); Reference No. (22); Signature of Declarant (41).

All information above pertains to the Drawback entry being filed.

Permit Copy

When the entry summary serves as entry/entry summary, an additional copy of the CF 7501 will be provided. The additional copy will be prominently marked in red ink, "PERMIT" by means of a stamp. The stamp will be in block letters and at least three inches by one inch. The CF 7501 will be stamped in the center of the body of the form.

All appropriate CF 7501 information should be provided.

Multiple Data Elements

Except where specific instructions provide, where a data block will involve more than one data element, write in the word "MULTI" and identify and list the data elements on a separate attachment to the CF 7501.

[FR Doc. 83-29601 Filed 10-31-83; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 207, 210, 225, 226, 501, 510, 514, and 558

[Docket No. 77N-0076]

New Animal Drugs for Use in Animal Feeds; Definitions and General Considerations; Revised Procedures re Medicated Feed Applications; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Tentative final rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA) is extending the comment period on the tentative final rule that proposed to revise the current procedures and requirements concerning conditions of approval for the manufacture of animal feeds containing new animal drugs. FDA is extending the comment period because, elsewhere in this issue of the *Federal Register*, the agency is correcting several omissions and editorial errors. This extension will allow interested persons an opportunity to comment on those revisions.

DATE: Written comments by December 1, 1983.

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

FOR FURTHER INFORMATION CONTACT: George Graber, Bureau of Veterinary Medicine (HFV-220), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4438.

SUPPLEMENTARY INFORMATION: In the *Federal Register* of July 29, 1983 (48 FR 34574), FDA published a tentative final rule that proposed to revise the current procedures and requirements concerning conditions of approval for the manufacture of animal feeds containing new animal drugs. After publication of the tentative final rule, the agency discovered that the document included several inadvertent omissions and minor editorial errors. Elsewhere in this issue of the *Federal Register*, the agency is correcting the omissions and minor editorial errors.

FDA has concluded that additional time should be provided to allow interested persons an opportunity to comment on the changes published elsewhere in this issue of the *Federal Register*. Therefore, the agency is extending the comment period on the

tentative final rule until December 1, 1983.

Interested persons may, on or before December 1, 1983, submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 27, 1983.

William F. Randolph,
Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 83-29688 Filed 10-28-83; 11:57 am]

BILLING CODE 4160-01-M

21 CFR Parts 207, 210, 225, 226, 501, 510, 514, and 558

[Docket No. 77N-0076]

New Animal Drugs for Use in Animal Feeds; Definitions and General Considerations; Revised Procedures re Medicated Feed Applications; Correction

AGENCY: Food and Drug Administration.

ACTION: Tentative final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a tentative final rule that proposed to revise the current procedures and requirements concerning conditions of approval for the manufacture of animal feeds containing new animal drugs. This document corrects inadvertent omissions; corrects calculations which were in error, as indicated by an asterisk (*); and makes editorial corrections in the tentative final regulations. Elsewhere in this issue of the *Federal Register*, the agency is extending the comment period on the tentative final rule to allow interested persons the opportunity to comment on these changes. Because a large number of approvals for applications for medicated feeds containing new animal drugs have been granted since the proposal was issued (January 1, 1981; 46 FR 2456) and others are continuing to be granted on a day-to-day basis, Subpart B of 21 CFR Part 558 will be updated to reflect all such approvals at the time a final rule is issued.

FOR FURTHER INFORMATION CONTACT: George Graber, Bureau of Veterinary