§ 465.25 [Corrected]

29. On page 54246, column 3, 465.25 in the table; change: "Mg/m²" to "mg/m²".

§ 465.31 [Corrected]

30. On page 54247, column 1, § 465.31 in the table; remove the closing parenthesis after "mg/m²".

§ 465.32 [Corrected]

31. On page 54247, column 2, § 465.32 in the table; remove the closing parenthesis after "mg/m²".

§ 465.33 [Corrected]

32. On page 54247, column 2, § 465.33 in the table; change: "Mg/m²" to "mg/m²".

33. On page 54247, column 2, § 465.33; For TSS; change: "5.23" to "5.70", and "1.07" to "1.17".

§ 465.34 [Corrected]

34. On page 54247, column 3, § 465.34 in the table; change: "Mg/m²" to "mg/m²".

35. On page 54247, column 3, § 465.34; For Chromium; change: "0.34" to "0.034".

§ 465.35 [Corrected]

36. On page 54247, column 3, § 465.35 in the table; change: "Mg/m²" to "mg/m²".

37. On page 54247, column 3, § 465.35; For Zinc; change: "0.049" to "0.49", and "0.01" to "0.10".

Dated: August 9, 1984.

Henry L. Longest II,

Acting Assistant Administrator for Water.

[FR Doc. 84-22537 Filed 8-23-84; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 704

[OPTS-82012; FRL 2605-5]

Reporting and Recordkeeping Requirements Category of Chemical Substances Known as Chlorinated Naphthalenes; Submission of Notice of Manufacture or Import

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule requires manufacturers and importers of chlorinated naphthalenes (CNs) to notify EPA of current and prospective manufacture or import of CNs. This reporting rule will allow EPA to track the manufacture, import, and end uses of CNs, and to investigate the health and environmental impacts of such activity. Small businesses that manufacture or import CNs are exempt from this rule.

EFFECTIVE DATE: This rule shall be promulgated for purposes of judicial review at 1:00 p.m. eastern time on September 2, 1984. This rule becomes effective on October 8, 1984.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, Toll free: (800-424-9065), In Washington, DC: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: OMB control number 2070-0036.

I. Authority

The Agency is promulgating this rule pursuant to section 8(a) of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2607(a). Section 8(a) authorizes the Administrator to promulgate rules which require each person, (other than a small manufacturer or processor) who manufactures or processes or who proposes to manufacture or process a chemical substance, to submit such reports as the Administrator may reasonably require.

This rule applies to a category of 19 chemical substances known as chlorinated naphthalenes (CNs), and requires current and prospective manufacturers and importers to notify EPA of any current or prospective manufacture or import of CNs. The notice must state whether a person is manufacturing CNs, or is importing or proposing to import CNs as a chemical substance in bulk or as part of a mixture. The notice must also include information on intended or expected uses, production quantities, chemical composition, and wastes.

II. Chemical Substances Subject to This Rule

This notification rule applies to a category of 19 chemical substances known as CNs. EPA is exercising the authority granted by section 26(c) of TSCA which allows EPA to take action with respect to a "group of chemical substances the members of which are similar in molecular structure. . . ." All CNs consist of two fused benzene rings where one or more of the eight hydrogen atoms are replaced with a chlorine atom. For this rule the category includes the 19 CNs listed on the TSCA Inventory of Chemical Substances in Commerce as follows:

CAS Registry Number	Chemical substance
90-13-1	Naphthalene, 1-chloro-
91-58-7	Naphthalene, 2-chloro-
1321-64-8	Naphthalene, pentachloro-
1321-65-9	Naphthalene, trichloro-
1335-87-1	Naphthalene, hexachloro-
1335-88-2	Naphthalene, tetrachloro-
1825-30-5	Naphthalene, 1,5-dichloro-
2050-69-3	Naphthalene, 1,4-dichloro-
2050-72-8	Naphthalene, 1,2-dichloro-
2050-73-9	Naphthalene, 1,7-dichloro-
2050-74-0	Naphthalene, 1,8-dichloro-
2050-75-1	Naphthalene, 2,3-dichloro-
2065-70-5	Naphthalene, 2,6-dichloro-
2196-75-6	Naphthalene, 1,3-dichloro-
2198-77-8	Naphthalene, 2,7-dichloro-
2234-13-1	Naphthalene, octachloro-
25586-43-0	Naphthalene, chloro-
32241-8-0	Naphthalene, heptachloro-
70776-03-3	Naphthalene, chloro derivs

The manufacture or import of CNs not listed on the Inventory requires submission of a premanufacture notice under section 5(a)(1) of TSCA. Accordingly, they are not covered by this rule.

Based on the structural similarity of the members of the category and the available health and environmental effects data on certain CNs, EPA believes there is a reasonable basis for concern about the entire category of CNs. While some category members may present more or less concern for the effects identified, EPA does not believe there is adequate justification for distinguishing between individual category members.

III. Background

During the 1920s about 20 million pounds of CNs were produced annually. Their primary end use was as a cable insulator. Other major past applications include use in: Wood preservatives, engine oil and gasoline additives, electroplating masking compounds, and dye production and dye carriers. Since the 1920s the use of CNs declined steadily. Current use consumes approximately 30,000 pounds of CNs per year; all of these are imported. Domestic production ceased in 1980. CNs are currently used as refractive index oils and as impregnants for capacitors.

In 1978 the Interagency Testing Committee (ITC), pursuant to section 4(e) of TSCA, recommended that the following tests be considered for CNs: Mutagenicity tests, teratogenicity tests, long-term carcinogenicity tests, environmental effects tests and chronic studies to evaluate the other effects of prolonged exposures (43 FR 16684, April 19, 1978). However, because CNs were no longer manufactured in the United States and were imported only in limited volumes, EPA decided not to propose a section 4 test rule (46 FR 54491, November 2, 1981).

Instead, EPA requested comments on several alternatives to testing. These included a significant new use rule

(SNUR) under section 5(a)(2), a section 8(a) reporting rule, and listing CNs pursuant to section 5(b)(4). Comments on these alternatives were received from the Natural Resources Defense Council (NRDC) and the Chemical Manufacturers Association (CMA).

CMA preferred the use of a section 8(a) rule rather than a SNUR. However prior to promulgating a section 8(a) rule, CMA stated that EPA should, independent of the ITC's review, study the available information on CNs and determine that in the event exposure to CNs became significant CNs would be a strong candidate for a testing rule. Section 8(a) does not require such a determination and, even if exposure is anticipated to become significant, EPA is not restricted to regulatory action under section 4.

NRDC recommended that EPA combine a section 8(a) rule with the placement of CNs on the section 5(b)(4) list and a SNUR. NRDC agreed with CMA that a section 8(a) rule would keep EPA apprised of the pattern of production and use of CNs, but was concerned that the section 8(a) small business exclusion would deprive EPA of essential production and use information. By placing CNs on the section 5(b)(4) list and promulgating a SNUR, small manufacturers would not be exempt from section 8(a) reporting requirements (section 8(a)(3)(A)(ii)), and persons engaging in a significant new use of CNs would also be required to report to EPA (section 5(b)(2)(A)).

EPA believed that a section 8(a) rule might not provide notice of all potentially significant exposures to CNs. These chemical substances have the potential to produce adverse human health and environmental effects, and because small businesses are exempt from section 8(a) reporting requirements, significant adverse exposures could occur without EPA's knowledge. Without notification EPA would not initiate an examination of the exposure, the chemical substance, or regulatory action to protect against an adverse exposure. EPA also believed that the use of section 5(b)(4) was not presently needed but that it was possible that CNs would be included on the list at a later date.

EPA proposed in the **Federal Register** of May 6, 1983 (48 FR 20668), a SNUR for CNs that would have required persons to notify EPA at least 90 days prior to any import greater than 100,000 pounds per year or any manufacture of CNs in the United States. The proposed rule set forth EPA's reasoning for utilizing a SNUR rather than the regulatory approaches suggested by the commenters.

Commenters to the proposed SNUR discussed the appropriateness, advantages, and disadvantages of utilizing a SNUR for CNs; and again suggested either promulgating a section 8(a) rule or, in addition to the SNUR, promulgating a rule that combines sections 8(a) and 5(b)(4). These comments are more fully discussed in Unit IV.B of this preamble.

After a careful review of the comments to all the **Federal Register** notices for CNs, the high cost of producing CNs, the impact of section 6(e) of TSCA on the manufacture of CNs, the current and projected uses of CNs, the human exposure to and environmental release of CNs, and the toxicity of CNs, EPA has decided to promulgate this section 8(a) reporting rule.

Even though EPA had proposed a SNUR for CNs, it has decided to adopt one of the alternatives that has been considered by EPA and discussed by commenters—a section 8(a) reporting rule. Since the section 8(a) reporting rule is less burdensome than a SNUR and the issues involved were raised for comment, first during consideration of the ITC designation and subsequently in the SNUR proposal, EPA has decided that no further comment is necessary. The provisions of the rule are very similar to other section 8(a) rules, and the small business exemption is the same exemption used by EPA in other section 8(a) rules. Except for certain exclusions, this final rule requires all manufacturers and importers of CNs to notify EPA of any current or prospective manufacture or import of CNs. There is no longer a 100,000 pound per year exclusion for importers.

The proposed SNUR for CNs made these substances subject to section 12(b) of TSCA, the export reporting requirements. Since EPA is promulgating a section 8(a) rule rather than a SNUR the export reporting requirements no longer apply to CNs.

IV. Reasons for This Rule

A. EPA 's Concerns for Health and Environmental Effects of CNs

1. *Toxicity.* EPA is primarily concerned about the potential for oncogenicity (the capacity to produce or form tumors) in humans exposed to CNs. Although there are no known human studies on oncogenic effects caused by CNs, there are reports showing tissue changes in exposed animals that may indicate a tumorigenic response. EPA is also concerned about the potential for liver degeneration, hyperkeratosis (thickening of the skin), acute dermatitis, and other health effects in humans exposed to this class of chemical substances.

Chloracne is the most commonly reported human health effect from subchronic exposure to CNs. Several other health effects have also been reported in workers exposed for different lengths of time and seem to be linked with the higher CNs, tetra through octa. These effects include yellow atrophy and necrosis of the liver, malaise, anorexia, vertigo, nausea, and jaundice. Other observed human effects include perforating ulcers of the duodenum, varices of the esophagus, swollen gall bladder, gallstones, necrosis and fibrosis of the pancreas, parenchymatous degeneration of adrenal gland cells, and degeneration of the kidney tubules and glomeruli.

There are also potential ecological hazards that may result from a release of CNs into the environment. CNs are highly toxic to marine and freshwater algae, as well as aquatic and terrestrial invertebrates, and appear to be a cumulative toxicant in these organisms. Based on the calculated octanol/water partition coefficients for the eight major CNs, mono- through octa-chloronaphthalene, there is also reason to expect that CNs bioconcentrate and are transported through the food chain. Evidence the CNs may be transported through the aquatic food chain to fish-eating birds is the detection of CNs in plants, fish, and birds. Futhermore, based on analogy to other chlorinated hydrocarbons, EPA believes that CNs have the potential to persist in the environment.

2. *Exposure to and release of CNs* In the past, CNs were produced in large quantities and used in many applications that resulted in significant human exposure to and environmental release of CNs. For example, capacitors were impregnated with CNs by dipping the parts into an open vat. This process provided substantial opportunity for the release of vaporous CNs and their inhalation by workers. Dermal exposure may have occured when coated parts were handled manually. Environmental releases may have occurred from the volatilization of heated CNs, cleaning of process equipment, and disposal of rejected parts and other wastes. CNs have been detected in the air and water near capacitor plants.

Auto mechanics and consumers were frequently exposed dermally and via inhalation to CNs contained in engine oil and gear oil during changes of these fluids. Similarly, workers in the metalworking fluids industry were often exposed dermally and by inhalation to CNs contained in metalworking fluids

during the machining of metal. Use of CNs as feedstocks in the production of dyes for textiles may have resulted in exposing workers to the unreacted chloronaphthalene present in the filter cake or waste material. Environmental releases of potential concern may have also resulted when CNs were used as feedstocks in the production of dyes. Probable releases include airborne emissions from reactor and condenser vents, discharges into liquid waste streams, and bottoms from distillation equipment used to produce CNs.

Today there is less consumption of and therefore less exposure to CNs. Only about 30,000 pounds of CNs are imported and processed annually, the largest percentage of which, 20,000 lbs., is for use in refractive index oils. Monochloronaphthalene is mixed with mineral oils to produce testing oils with various high refractive indices. Exposure to and release of CNs during the preparation of these mixtures are small because only simple mixing of liquids and filling of containers is involved. This operation is conducted under a ventilated hood and workers wear gloves and protective clothing.

These refractive index oils are used in small amounts during the preparation of slides for observation in crime and petrographic laboratories. Dermal exposure may be frequent for the microscopist who manually prepares the slides. The low vapor pressure of monochloronaphthalene and the use of ventilation hoods would limit any inhalation exposures. CNs are still used in some capacitors, (primarily for military applications), and therefore the potential for human exposure to and releases to the environment of CNs continues. However, the exposure to and release of CNs are limited by the small amount of CNs processed for this use, and the expectation that workers are wearing impervious gloves in accordance with Occupational Safety and Health Administration regulations.

EPA would be concerned if previous end uses (i.e. use as a dye intermediate or dye carrier) resumed or if CNs were again produced or imported in large quantities. The domestic production or increased import of CNs would signal a resumption of past end uses, an increase in present uses, and/or the development of new end uses. If the use of CNs increases, exposures to CNs are likely to increase and these exposures may have significant human health or environmental effects.

B. Response to Comments on the Proposed SNUR

On May 6, 1983, EPA proposed a SNUR for CNs that would have required persons to notify EPA at least 90 days prior to any import greater than 100,000 pounds per year or any manufacture of CNS in the United States. The proposed rule would have provided EPA with notice of all potentially significant increases in exposures to CNs, and would have allowed EPA to act quickly to protect against adverse exposures. Commenters questioned EPA's authority to define significant new use as "any manufacture" or "any import greater than 100,000 pounds." Although this final rule does not implement that definition, EPA continues to believe that in appropriate circumstances these activities can be properly determined as significant new uses of a chemical substance.

Commenters also suggested again that EPA either promulgate a section 8(a) rule or, in addition to the SNUR, promulgate a combined sections 5(b)(4) and 8(a) rule. The reasoning for promulgating a rule that incorporates a SNUR, section 5(b)(4), and section 8(a) would be to subject all prospective manufacturers, importers, and processors of CNs to a reporting requirement. Pursuant to this regulatory mechanism small businesses and persons engaging in a significant new use of CNs would be required to report to EPA. EPA believes that for this category of chemical substances, there is only a small probability of generating additional information by combining sections 5(b)(4) and 8(a). Because of the high cost to manufacture CNs, the noted decline in the use of CNs, their rising cost, the availability of substitutes, and the increased awareness of CNs' adverse health and environmental effects, it is unlikely that a small business will manufacture CNs or that a person will engage in a significant new use of CNs.

Most of the cost of producing CNs arises from the need for special processes and equipment. A manufacturer must have glass equipment to distill CNs; because of the risk of combustion when other compounds are combined with CNs, the equipment must be set aside only for distilling CNs; and the distillation process results in residues which must be burned or buried. Another factor that increases the cost of producing CNs is the difficulty of isolating pure compounds. Only mono- and octa-CNs can be made into pure products. Other CN products are complex combinations of various CNs that require carefully controlled reaction and distillation processes to obtain the desired combination.

The manufacture of CNs may be subject to additional costs because this chemical process has a high potential for generating polychlorinated biphenyls (PCBs) (See 48 FR 55076). Section 6(e) of TSCA prohibits the manufacture, processing, distribution in commerce, and use of PCBs. A person may petition for an exemption to this rule, and the Administrator may grant an exemption only if (1) an unreasonable risk of injury to health or environment would not result, and (2) good faith efforts have been made to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for such PCB.

EPA has promulgated a section 6(e) rule that exempts inadvertently generated PCBs from the PCB ban. However, in order to qualify for the exemption, manufacturers of inadvertently generated PCBs must sample for and monitor the PCB concentrations present in their products, in wastes vented to the ambient air, and in wastes discharged to the water. Process wastes containing PCBs must be disposed of according to disposal regulations; records must kept; and compliance to these regulations certified (49 FR 28172).

CNs are also regulated pursuant to rules promulgated under the Clean Water Act and the Resource Conservation and Recovery Act, see (40 CFR Parts 401.15, 403, and 261).

These large production costs have been the primary reason for the increases in the price of CNs and make it unlikely that CNs will be produced in small amounts or by a small manufacturer. The last domestic manufacturer of CNs produced 700,000 pounds in 1978 and only 100,000 pounds in 1980. By 1981, demand had declined to the point where the company found it more economical to import rather than manufacture CNs. This manufacturer believes that no United States manufacturer is currently equipped to produce CNs. Some companies, such as chlorinated paraffin producers, have the necessary chlorination equipment, but none has both the necessary reaction vessels and special distillation equipment.

After reviewing the significant aspects of CNs, EPA believes that a section 8(a) rule is, for this category of chemical substances, a resource efficient regulatory mechanism that will provide EPA with sufficient information to track the manufacture, import, and use of CNs. EPA will be notified when domestic manufacture occurs and can monitor the amount of CNs imported into the United States. Once alerted to possible increases in exposure to CNs,

EPA could reevaluate its decision that a section 4 test rule is not warranted, or initiate other regulatory action.

V. Persons Subject to Reporting Requirements

Persons, as defined in 40 CFR 704.3(n), who are manufacturing or importing CNs on the effective date of this rule, must submit a notice to EPA within 30 days of the effective date. Persons who propose to import CNs on or after the effective date must notify EPA within 30 days of the effective date or within 15 days after making the management decision to import CNs, whichever is later in time. Lastly, persons who manufacture CNs after the effective date must notify EPA within 30 days after the first day of manufacture. In any event, a person is required to report only once for each CN produced or imported by that person.

Prospective importers and manufacturers must report at different times because EPA needs complete and accurate information. EPA believes that 15 days after a management decision to import CNs, importers can completely and accurately file the notice required by this rule. Manufacturers, however, are subject to an additional reporting requirement and are less able to submit the needed quality of information within the time prescribed for importers.

The additional reporting requirement for manufacturers of CNs concerns the wastes generated during the manufacturing process. Because these wastes have the potential to cause health and environmental harm, EPA needs to know the amount and constituents of the wastes, and the method for their disposal. Therefore, if the waste contains CNs the manufacturer must: Report the quantity of CNs present in the waste, identify the other constituents of the waste, state the rate of waste generation, describe where in the manufacturing process the waste is generated, and describe the method for disposal of the waste.

This rule also requires reporting from importers of mixtures containing CNs. Since TSCA defines manufacture as including import, EPA considers an importer of a mixture as the manufacturer of each chemical substance contained in the mixture. Therefore, a person intending to import a mixture containing CNs is required by this rule to submit a notice to EPA. An importer of a mixture may be exempt from reporting if the small business exemption is applicable. Thus, if a person with annual sales of less than $40 million but more than $4 million imports a mixture containing CNs, the importer is a small business and need not submit notice to EPA. However, if the annual import of a CN in a mixture exceeds 45,400 kilograms (not 45,400 kilograms of mixtures containing CNs) then the small business exemption no longer applies and the importer must submit notice.

No reporting is required from small manufacturers, small importers, and persons who manufacture or import CNs solely for research and development, as a byproduct or impurity, or as part of an article. The small business exemption standards were designed to reduce the paperwork burden on small chemical manufacturers while ensuring that EPA will receive sufficient chemical use, production, and exposure information to assess a chemical's risk to human health or the environment. EPA believes that these standards serve the purpose of this rule.

The notice must include company name and address, principal technical contact, and, to the extent that it is known to or reasonably ascertainable by the company, a description of the use or intended use of the CNs; chemical composition information; estimated production volume; and, if appropriate, the proposed date for initiating import.

After receiving notice of current or prospective manufacture or import of CNs, EPA will determine whether the activity presents or may present a risk to human health or the environment that necessitates additional regulatory action to investigate or control the activity.

The codified material following this preamble will appear in Part 704 of Title 40 of the Code of Federal Regulations (CFR). Part 704 was recodified in the **Federal Register** of May 25, 1983 (48 FR 23420). The scope and compliance, general definitions, exemptions, and confidentiality claim sections are now found in Subpart A of the recodified 40 CFR Part 704. Persons should familiarize themselves with Subpart A.

VI. Confidentiality

The procedures for submitting a notice with a confidentiality claim are set forth in 40 CFR Part 704.7. A person submitting a claim of confidentiality attests, among other things, that: my company has taken measures to protect the confidentiality of the information, we intend to continue to take such measures, and the information is not, and has not been, reasonably obtainable by other persons (other than government bodies) without our consent.

VII. Economic Impact

EPA estimates that compliance costs will range from $300–$2,000 for each notice. The cost estimate for data acquisition assumes that the data are known to or reasonably ascertainable by the person submitting the notice and therefore does not include laboratory costs for determining isomeric ratios. Cost include:

Data acquisition	$168–$1,632
Notice preparation (typing)	19–76
Managerial and legal review	111–333
Total	298–2,041

EPA expects to receive few notices under this rule because available information shows that there is only one importer of CNs and no domestic manufacturers. For reasons presented earlier, EPA does not expect this situation to change.

Upon receipt of a notice under this rule, EPA will decide what, if any, further information gathering, testing, or control actions are needed. Estimates of the costs of some possible actions are included in the economic support document that is contained in the public record for this rule. The actual costs of such actions will be assessed by EPA in the development of the appropriate follow-up action.

VIII. Judicial Review

Judicial review of this final rule may be available under section 19 of TSCA in the United States Court of Appeals for the District of Columbia Circuit or the circuit in which the person seeking review resides or has its principal place of business. To provide all interested persons an equal opportunity to file a timely petition for judicial review and to avoid so called "races to the courthouse," EPA has decided to promulgate this rule for purposes of judicial review two weeks after publication in the **Federal Register**, as reflected in **"DATES"** in this notice. The effective date has, in turn, been calculated from the promulgation date.

IX. Public Record

EPA has established a public record for this rulemaking (docket number OPTS–82012) which is available for inspection in Rm. E–107, 401 M St., SW., Washington, D.C. 20460, from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. This record includes basic information considered by the Agency in developing this rule. The following is the list of those documents. EPA requests that it be notified of any omissions from this record within the next 30 days.

1. Second Report of the TSCA Interagency Testing Committee to the Administrator, Environmental Protection Agency, (43 FR 16684).

2. Response to the ITC (46 FR 54491) and all comments received thereon.

3. Economic analysis of proposed significant new use rule on chlorinated naphthalenes.

4. Economic Analysis of Final Section 8(a) Rule on Chlorinated Naphthalenes.

5. Chlorinated Naphthalenes: Workplace Exposure and Release.

6. Exposure assessment for incidentally produced Polychlorinated Biphenyls (PCBs) Volume III. (August 15, 1983).

7. Proposed significant new use rule for CNs (48 FR 20668) and all comments received thereon.

8. OMB comments and EPA's response.

X. Regulatory Assessment Requirements

A. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2070–0036.

B. Regulatory Flexibility Act

This rule will not have a significant economic impact on a substantial number of small entities. There are no domestic manufacturers of CNs and only one importer. This rule also contains a small manufacturer exemption. Therefore, in accordance with the Regulatory Flexibility Act (Pub. L. 95–345), EPA has determined that this rule will not have a significant economic impact on a substantial number of small entities.

C. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this regulation is not major because it will not have an effect of $100 million or more on the economy. It is expected to have an annual cost of less than $2,000. It is not anticipated to have a significant effect on competition, costs, or prices.

This regulation was submitted to OMB for review as required by Executive Order 12291.

XI. List of Subjects in 40 CFR Part 704

Environmental protection, Hazardous materials, Recordkeeping and reporting requirements.

Dated: August 9, 1984.

Alvin L. Alm,

Acting Administrator.

PART 704—[AMENDED]

Therefore, Title 40, Chapter I, is amended by adding § 704.83 to read as follows:

§ 704.83 Chlorinated Naphthalenes.

(a) *Definitions.* (1) "Extent of chlorination" means the percent by weight of chlorine.

(2) "Import" means to import in bulk form or as part of a mixture.

(3) "Isomeric ratio" means the relative amounts of each isomeric chlorinated naphthalene that composes the chemical substance; and for each isomer the relative amounts of each chlorinated naphalene designated by the position of the chlorine atom(s) on the naphthalene.

(4) "Polychlorinated biphenyl" means any chemical substance that is limited to the biphenyl molecule and that has been chlorinated to varying degrees.

(5) "Small manufacturer" means a manufacturer (including importers) who meets either paragraph (a)(5) (i) or (ii) of this section:

(i) A manufacturer of a chemical substance is small if its total annual sales, when combined with those of its parent company (if any), are less than $40 million. However, if the annual production volume of a particular chemical substance at any individual site owned or controlled by the manufacturer is greater than 45,400 kilograms (100,000 pounds), the manufacturer shall not qualify as small for purposes of reporting on the production of that chemical substance at that site, unless the manufacturer qualifies as small under paragraph (a)(5)(ii) of this section.

(ii) A manufacturer of a chemical substance is small if its total annual sales, when combined with those of its parent company (if any), are less than $4 million, regardless of the quantity of the particular chemical substance produced by that manufacturer.

(iii) For imported mixtures containing a chemical substance identified in paragraph (b) of this section, the 45,400 kilograms (100,000 pounds) standard in paragraph (a)(5)(i) of this section applies only to the amount of the chemical substance in a mixture and not the other components of the mixture.

(6) "Waste" means any solid liquid, semisolid, or contained gaseous material that results from the production of a chemical substance identified in paragraph (b) of this section and which is to be disposed.

(b) *Substances subject to reporting.* The chemical substances subject to reporting under this section are:

Chemical substance	CAS registery number
Chloronaphthalene	25586-43-0
1-Chloronaphthalene	90-13-1
2-Chloronaphthalene	91-58-7
1,2-Dichloronaphthalene	2050-69-3
1,3-Dichloronaphthalene	2198-75-6
1,4-Dichloronaphthalene	1825-31-6
1,5-Dichloronaphthalene	2050-72-8
1,6-Dichloronaphthalene	2050-73-9
1,7-Dichloronaphthalene	2050-74-0
1,8-Dichloronaphthalene	2050-75-1
2,3-Dichloronaphthalene	2065-70-5
2,7-Dichloronaphthalene	2198-77-9
Trichloronaphthalene	1321-65-9
Tetrachloronaphthalene	1335-88-2
Pentachloronaphthalene	1321-64-8
Hexachloronaphthalene	1335-87-1
Heptachloronaphthalene	32241-08-0
Octachloronaphthalene	2234-13-1
Naphthalene, chloro derivs	70776-03-3

(c) *Persons who must report.* (1) Persons who are manufacturing or importing a chemical substance identified in paragraph (b) of this section on October 8, 1984.

(2) Persons who propose to import a chemical substance identified in paragraph (b) of this section on or after October 8, 1984.

(3) Persons who manufacture a chemical substance identified in paragraph (b) of this section after October 8, 1984.

(4) A person is required to report only once for each chemical substance identified in paragraph (b) of this section.

(d) *Persons exempt from reporting.* (1) Small manufacturers.

(2) Persons described in § 704.5.

(e) *What information to report.* Persons described in paragraph (c) of this section must notify EPA of current or prospective manufacture or import. The notice must include, to the extent that it is known to or reasonably ascertainable by the person making the report, the following information:

(1) Company name and address.

(2) Name, address, and telephone number of the principal technical contact.

(3) For chemical substances proposed to be imported, the proposed date of import.

(4) A description of the use(s) or intended use(s) for the chemical substance.

(5) A description of the isomeric ratio and extent of chlorination of the chemical substance and the impurity level of polychlorinated biphenyls.

(6) The quantity (by weight) manufactured or imported within 12 months prior to October 8, 1984, if any, and the estimated quantity (by weight)

to be manufactured or imported for the first 3 years following the date of the report or the date of the intended start of import whichever occurs later.

(7) The number of persons exposed to the chemical substance during manufacture, import, processing, distribution in commerce, use, and disposal.

(8) If a manufacturer's waste contains one or more of the chemical substances identified in paragraph (b) of this section, the manufacturer must:

(i) Provide the quantity (by weight) of the chemical substances identified in paragraph (b) of this section present in the waste.

(ii) Identify the constituents of the waste and their concentrations.

(iii) State the rate of waste generation as a percentage of production volume.

(iv) Describe where in the manufacturing process the waste is generated, and

(v) Describe the method for disposal of the waste.

(f) *When to report.* Persons who are manufacturing or importing a chemical substance identified in paragraph (b) of this section on October 8, 1984 must notify EPA by November 6, 1984.

(2) Persons who propose to import a chemical substance identified in paragraph (b) of this section on or after October 8, 1984 must notify EPA by November 6, 1984, or 15 days after making the management decision described in § 704.3(p) whichever is later in time.

(3) Persons who manufacture a chemical substance identified in paragraph (b) of this section after October 8, 1984 must notify EPA within 30 days after the initial date of manufacture.

(g) *Where to send reports.* Reports must be submitted by certified mail to the United State Environmental Protection Agency, Document Processing Center, P.O. Box 2070, Rockville, MD 20852. ATTN: Chlorinated Naphthalene Notification.

[FR Doc. 84-22535 Filed 8-23-84; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 59, 60, 61 and 62

[Docket No. FEMA-FIA]

National Flood Insurance Program Coverage; Sales and Eligibility Provisions

AGENCY: Federal Insurance Administration (FIA), Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This final rule revises the National Flood Insurance Program (NFIP) regulations dealing with flood insurance coverage, the Standard Flood Insurance Policy terms and provisions, the sale of flood insurance in communities participating in the NFIP and the administration, by communities, of community record keeping efforts as part of the NFIP community participation arrangements. The purpose of this rule is, also, to revise the Program regulations to reflect business practices followed in the Flood Insurance Manual used by private sector property insurance agents and brokers in producing flood insurance business, coverage changes in the contract of flood insurance, and the business practices of "Write-Your-Own" companies, which market and service flood insurance coverage under arrangements with the Federal Insurance Administrator (see 48 FR 46789, published October 14, 1983).

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Donald L. Collins, Federal Emergency Management Agency, Federal Insurance Administration, Room 429, 500 "C" Street, SW., Washington, D.C. 20472; telephone number (202) 287-0740.

SUPPLEMENTARY INFORMATION: On April 27, 1984, FEMA published for comment in the **Federal Register** (Vol. 49, Page 18131) a proposed rule containing revisions to the National Flood Insurance Program (NFIP) which were the result of a continuing reappraisal, begun in 1981, of the NFIP from the standpoint of maintaining a business-like approach to the administration of the NFIP by emulating successful property insurance programs in the private sector while, at the same time, supporting the major FEMA goals of achieving greater administrative and fiscal effectiveness in the operation of the NFIP (see "National Flood Insurance Program Coverage Sales and Loss Prevention Provisions," 47 FR 19138, May 4, 1982, and "National Flood Insurance Program Coverage, Sales and Eligibility Provisions, 48 FR 39066, August 29, 1983).

A number of the twenty-six comments received (two of which were from the same organization) were not in regard to the revisions that were proposed. Based on the comments that did address proposed revisions, substantive changes have been made in two areas to the proposed rule.

The first area is the proposal to exempt from the exclusionary language in the Standard Flood Insurance Policy (SFIP), whereby coverage is not provided for finished elements enclosed and contained below the elevated floors of an elevated building, those buildings that were in existence prior to the effective date of the community's initial Flood Insurance Rate Map (FIRM) so long as the building was not substantially improved after issuance of the initial FIRM. While some comments suggested granting the same or a similar exemption from the companion exclusionary language applying to finished basements and their contents, FEMA found the comment of the State official (the Flood Insurance Coordinator of one of the more active States in flood plain management) more cogent. In commenting on this proposed elevated building exemption, he pointed out that this would impact primarily coastal communities and stated, "it seems that by grandfathering in the structures in these areas, the NFIP is taking a step backwards toward achieving fiscal soundness." With the ratio of losses and expenses to premiums for basement buildings and elevated buildings running almost four times that ratio for other buildings, FEMA believes that this State official's view is compelling and that a more equitable distribution of economic burdens between the general taxpaying public and the affected policyholders in this subsidized Program will be achieved by not making this proposed exemption. Therefore, this proposed change has been deleted from this final rule, so that this exclusion of coverage for both Post-FIRM and Pre-FIRM buildings remains in effect.

The second area is the proposal to provide reimbursement for the reasonable expenses incurred, up to the amount of the policy's deductibles, for the purchase of sandbags used in saving the property due to the imminent danger of a flood loss and preserving the property at the premises after a flood loss. A number of comments supported this revision and asked that the material covered include not only the sandbags, but also the sand itself, plastic sheeting, lumber, and similar expenses. FEMA intended that sand be covered and has clarified that in this final rule. FEMA agrees that plastic sheeting and lumber are part of a reasonable measure to save and preserve the property by the use of sandbags, so coverage for those items in connection with the use of sandbags has been provided for in this final rule. Most of the sandbag comments also recommended that the cost of labor be

covered. The proposed rule did provide for the value of the insured's own labor at prevailing Federal minimum wage rates, so this final rule makes no change to the proposed rule in regard to this item. One comment suggested that the evacuation orders required for reimbursement of sandbag expenses not be limited to orders issued by the community, but rather should include such orders issued by any legally authorized official. That suggested change has been made in this final rule. The Supplementary Information section of the proposed rule pointed out that the sandbag provisions had conditions to avoid the speculative stockpiling of costly sandbags. One comment favored stockpiling because of possible availability problems. FEMA continues to believe that the speculative stockpiling of costly sandbags should be avoided and that the conditions in the sandbag provisions are reasonable. Therefore, these conditions remain in this final rule. Because the SFIP currently provides for reimbursement for one way of protecting insured contents, i.e., by removing them to a safe place, with only a $50 deductible, this final rule provides reimbursement for sandbag expenses only under building coverage. This final rule also conforms the provision for reimbursement of contents removal expenses in the SFIP General Property Form to that provision in the SFIP Dwelling Form by adding the condition that removal must be to a place protected from the elements. One other change to the sandbag provisions was made for internal consistency: "used in saving" was changed to "for the purpose of saving."

Two other revisions that were proposed received comments. Both of these revisions were designed to make the NFIP insurance concepts and usage consistent with the flood plain management aspects of the NFIP. One of these comments was on the proposed revision of the definition of "start of construction" to conform the definition for the flood plain management purposes of the NFIP to the definition for insurance purposes of the NFIP. A State official, while concurring with using as the start of construction date, the building permit date, as described in the proposed definition, suggested one modification: using the actual start of construction date if it is known or can be certified. For purposes of consistency, FEMA has decided to make no changes to the proposed rule, so this final rule is the same as the proposed rule in the definition of "start of construction."

The other of these comments was on the proposed revision to the requirements for record keeping by NFIP participating communities in regard to the elevation of a building. The proposed revision would eliminate the requirement for records of a building's lowest *habitable* floor," requiring instead records of a building's "lowest floor," a term which was defined in the proposed rule. The comment from a local government official was that the floor of an unfinished residential garage that did not impede the flow of flood waters by virtue of the opening of its doors should not be considered the lowest floor of the building for either flood plain management requirements of the NFIP or insurance rating purposes of the NFIP. FEMA agrees, and since the proposed rule specifically provides for this in the definition of "lowest floor," the final rule makes no change to the proposed rule in regard to the lowest floor provisions. One other comment was made on the lowest floor issue. A State official recommended that the Elevation Certification Form used by the NFIP to show the elevation of the lowest floor of a building be sent to the community permit official. That recommendation will be held for further study in connection with the possibility of some community rating options FEMA will be considering.

Also to be held for further consideration are comments on some of the NFIP's mobile home provisions received from two trade associations and a comment from a FEMA Regional Office on floodproofing. These comments, which do not concern revisions that were proposed, will be considered for the FY85 NFIP rulemaking process.

Comments on other matters that were not being considered for revision in the proposed rule, such as eliminating the finished basement limitation, eliminating the exclusion for losses from sewer backup or seepage, extending the waiting period for new policies from five to fifteen days, and a complaint about the application of the mandatory purchase requirement to a particular property, are not being dealt with here, and no rule changes in regard to them are being planned.

Editorial revisions have been made to clarify the intent of the changes to the condominium provisions and the provisions for premium refunds for policies having terms of three (3) years. Also, an inadvertent inconsistency between the SFIP Dwelling Form and the SFIP General Property Form earth movement exclusions has been resolved by revising paragraph D of the PERILS EXCLUDED section of the SFIP General Property Form to agree with Article III.A.1 of the SFIP Dwelling Form.

FEMA has determined, based upon an Environmental Assessment, that this rule does not have significant impact upon the quality of the human environment. A finding of no significant impact is included in the formal docket file and is available for public inspection and copying at the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, 500 "C" Street, SW., Washington, D.C. 20472.

These regulations do not have a significant economic impact on a substantial number of small entities and have not undergone regulatory flexibility analysis.

This rule is not a "major rule" as defined in Executive Order 12291, dated February 17, 1981, and, hence, no regulatory analysis has been prepared.

FEMA has determined that this rule does not contain a collection of information requirement as described in section 3504(h) of the Paperwork Reduction Act.

List of Subjects in 44 CFR Parts 59, 60, 61, and 62

Flood insurance.

Accordingly, Parts 59, 60, 61, and 62 of Subchapter B of Chapter 1 of Title 44 are amended as follows:

PART 59—GENERAL PROVISIONS

§ 59.1 [Amended]

1.a. At § 59.1, the definition of "Basement" is added in alphabetical order, as follows:

§ 59.1 Definition.

* * * * *

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

b. At § 59.1, the definition of "Habitable Floor" is deleted.

2. At § 59.1, the definition of "Lowest Floor" is added in alphabetical order, as follows:

* * * * *

"Lowest Floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; *provided* that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of section 60.3.

* * * * *

3. At § 59.1, the definition of "Start of Construction" is amended to read as follows:

* * * * *

"Start of construction" (for other than new construction or substantial improvements under the Coastal Barrier Resources Act [Pub. L. 97-348]), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the "actual start" includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile home park or mobile home subdivision, the "actual start" means the affixing of the mobile home to its permanent site. For mobile homes within mobile home parks or mobile home subdivisions, the "actual start" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

* * * * *

4. Section 59.22(a)(9)(iii) is revised to read as follows:

§ 59.22 Prerequisites for the sale of flood insurance.

(a) * * *

(9) * * *

(iii) Maintain for public inspection and furnish upon request, for the determination of applicable flood insurance risk premium rates within all areas having special flood hazards identified on a FHBM or FIRM, any certificates of floodproofing, and information on the elevation (in relation to mean sea level) of the level of the lowest floor (including basement) of all new or substantially improved structures, and include whether or not such structures contain a basement, and if the structure has been floodproofed, the elevation (in relation to mean sea level) to which the structure was floodproofed;

* * * * *

PART 60—[AMENDED]

5. Section 60.3 (b)(5) and (e)(2) are revised to read as follows:

§ 60.3 Flood plain management criteria for flood-prone areas.

* * * * *

(b) * * *

(5) For the purpose of the determination of applicable flood insurance risk premium rates within Zone A on a community's FHBM: (i) Obtain the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not such structures contain a basement, (ii) obtain, if the structure has been floodproofed, the elevation (in relation to mean sea level) to which the structure was floodproofed, and (iii) maintain a record of all such information with the official designated by the community under § 59.22(a)(9)(iii);

* * * * *

(e) * * *

(2) For the purpose of the determination of applicable flood insurance risk premium rates within Zone V1-30 on a community's FIRM: (i) Obtain the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not such structures contain a basement, (ii) obtain, if the structure has been floodproofed, the elevation (in relation to mean sea level) to which the structure was floodproofed, and (iii) maintain a record of all such information with the official designated by the community under § 59.22(a)(9)(iii);

* * * * *

PART 61—[AMENDED]

6. Section 61.5(h)(2)(ii)(B) is revised to read as follows:

§ 61.5 Special terms and conditions.

* * * * *

(h) * * *

(2) * * *

(ii) * * *

(B) Provided paragraph (h)(2)(ii)(A) of this section does not apply, the insured remits and the insurer receives that additional premium required to purchase for the current policy term and for the previous policy term, if then insured, the limits of coverage for each kind of coverage as was initially requested by the insured within thirty (30) days from the date the insurer gives the insured written notice of additional premium due, in which case the policy shall be reformed, from its inception date, to provide flood insurance coverage to the insured in the amounts of coverage initially requested. Silence or other failure to remit the additional premium required, or nonreceipt of such premium by the insurer within thirty (30) days from the date of notice of premium due, shall be deemed to be refusal to pay the additional premium due and any subsequent payment of the additional premium due shall not reform the policy from its inception date but shall only add the additional amount of coverage to the policy for the remainder of its term, pursuant to 44 CFR 61.11, with any excess of premium paid being returned to the insured. Provided, however, under this subsection "B" as to any mortgagee (or trustee) named in the policy, the insurer shall give a notice of additional premium due and the right of reformation shall continue in force for the benefit only of the mortgagee (or trustee), up to the amount of the insured indebtedness, for thirty (30) days after written notice to the mortgagee (or trustee); provided, further, the insurer is under no obligation to send the insured any written notice of additional premium due or notice of premium due under this subsection "B".

* * * * *

7. Section 61.11(e) is revised to read as follows:

§ 61.11 Effective date and time of coverage under the Standard Flood Insurance Policy—New Business Applications and Endorsements.

* * * * *

(e) With respect to any submission of an application in connection with new business, the payment by an insured to an agent or the issuance of premium payment by the agent, does not constitute payment to the NFIP. Therefore, it is important that an application for Flood Insurance and its premium be mailed to the NFIP (P.O. Box 459, Lanham, Maryland 20706) promptly in order to have the effective date of the coverage based on the application date plus the waiting period. If the application and the premium payment are received at the NFIP within ten (10) days from the date of application, the waiting period will be calculated from the date of application. Also, as an alternative, in those cases

where the application and premium payment are mailed by certified mail within four (4) days from the date of application, the waiting period will be calculated from the date of application even though the application and premium payment are received at the NFIP after ten (10) days following the date of application. Thus, if the application and premium payment are received after ten (10) days from the date of the application or are not mailed by certified mail within four (4) days from the date of application, the waiting period will be calculated from the date of receipt by the NFIP. To determine the effective date of any coverage added by endorsement to a flood insurance policy already in effect, substitute the term "endorsement" for the term "application" in this paragraph (e). With respect to the submission of an application in connection with new business, a renewal of a policy in effect and an endorsement to a policy in effect, the payment by an insured to an agent or the issuance of premium payment to a Write-Your-Own (WYO) Company by the agent, accompanied by a properly completed application, renewal or endorsement form, as appropriate, shall commence the calculation of any applicable waiting period under this section, provided that the agent is acting in the capacity of an agent of a Write-Your-Own (WYO) Company authorized by 44 CFR 62.63, is under written contract to or is an employee of such Company, and such WYO Company is, at the time of such submission of an application in connection with new business or a renewal of or endorsement to flood insurance coverage, engaged in WYO business under an arrangement entered into by the Administrator and the WYO Company pursuant to § 62.63.

Appendix A(1) of Part 61—[Amended]

8. Appendix A(1) of Part 61, referenced at § 61.13, Standard Flood Insurance Policy, is amended, in the following particulars:

a. At "Article III—Losses Not Covered," paragraph B.1 is revised to read as follows:

* * * * *

B. Losses of the following nature:

1. Loss caused by your failure to use means reasonably accessible to you to save the property from loss resulting from a flood and to preserve the property after a flood; however, when the insurance under this policy covers a building, the reasonable expenses incurred by you for the purchase of sandbags, including sand to fill them and plastic sheeting and lumber used in connection with them, for the purpose of saving the building due to the imminent danger of a flood loss and preserving the building at the premises after a flood loss, including the value of your own labor at prevailing Federal minimum wage rates, are a covered loss in an amount up to the amount of the minimum building deductible, without the policy's building deductible amount, as provided for at Article VI, being applied to this reimbursement, but being applied to any other benefits under the policy's building coverage. For reimbursement under this paragraph B.1 to apply, the following conditions must be met:

(i) The insured property must be in imminent danger of sustaining flood damage; and

(ii) The threat of flood damage must be of such imminence as to lead a person of common prudence to apprehend flood damage; and

(iii) a general and temporary condition of flooding in the area must occur, even if the flooding does not reach the insured property, or a legally authorized official must issue an evacuation order or other civil order for the community in which the insured property is located calling for measures to preserve life and property from the peril of flood.

* * * * *

b. "Article IV—Property Covered" is amended by the addition of the following to subparagraph A.1.:

* * * or, as described in the Application as a residence designed for principal use as a dwelling place for no more than one family, we cover your dwelling unit in a condominium building, along with your insurable tenant in common interest in the building's common elements; provided that, should the amount of insurance collectible under this policy for a loss, when combined with any recovery available to you as a tenant in common under any condominium association flood insurance coverage provided under the Act for the same loss, exceed the statutorily permissible limits of building coverage available for the insuring of single-family dwellings under the Act, then the limits of building coverage under this policy shall be reduced in regard to that loss by the amount of such excess;

* * * * *

c. "Article IV—Property Covered" is amended by the addition of the following at the end of paragraph C. Limitation:

* * * In the case of personal property owned by you in a condominium building, as a dwelling unit owner, as well as in common with other dwelling unit owners, should the amount of insurance collectible under this policy for a loss, when combined with any recovery available to you as a tenant in common under any condominium association flood insurance coverage provided under the Act for the same loss, exceed the statutorily permissible limits of contents coverage available for the insuring of single-family dwelling owners under the Act, then the limits of contents coverage under this policy shall be reduced in regard to that loss by the amount of such excess.

* * * * *

d. At Article VIII—General Conditions and Provisions, paragraph C. Other Insurance is revised to read as follows:

* * * * *

C. Other Insurance: We shall not be liable for a greater proportion of any loss, less the amount of deductible, from the peril of flood than the amount of insurance under this policy bears to the whole amount of flood insurance (excluding therefrom any amount of "excess insurance" as hereinafter defined) covering the property, or which would have covered the property except for the existence of this insurance, whether collectible or not.

In the event that the whole amount of flood insurance (excluding therefrom any amount of "excess insurance" as hereinafter defined) covering the property exceeds the maximum amount of insurance permitted under the provisions of the National Flood Insurance Act of 1968, or any acts amendatory thereof, it is hereby understood and agreed that the insurance under this policy shall be limited to a proportionate share of the maximum amount of insurance permitted on such property under said Act, and that a refund of any extra premium paid, computed on a pro rata basis, shall be made by us upon request in writing submitted not later than 2 years after the expiration of the policy term during which such extra amount of insurance was in effect.

"Excess Insurance" as used herein shall be held to mean insurance of such part of the actual cash value of the property as is in excess of the maximum amount of insurance permitted under said Act with respect to such property.

* * * * *

e. At Article VIII—General Conditions and Provisions, paragraph E. Cancellation of Policy By You is amended by the addition of a new subparagraph c, as follows:

* * * * *

c. You cancel a policy having a term of three (3) years, on an anniversary date, and the reason for the cancellation is:

(i) A policy of flood insurance has been obtained or is being obtained in substitution for this policy and we have received a written concurrence in the cancellation from any mortgagee of which the NFIP has actual notice, or (ii) you have extinguished the insured mortgage debt and are no longer required by the mortgagee to maintain the coverage.

Refund of any premium, under this subparagraph "c", shall be on a short-rate basis.

* * * * *

f. At Article VIII—General Conditions and Provisions, subparagraph F(2)(ii)(b) is amended by the addition, after the word "purchase", of the parenthetical phrase "(for the current policy term and the previous policy term, if then insured)"; and, by the deletion of the phrase "or within sixty (60) days of the loss if no notice of premium is received by you"; and, by the deletion of the phrase "or within sixty (60) days of the loss, whichever is sooner"; and, by the addition of the following, at the end of paragraph

(F)(2)(ii)(b), after deletion of the period: "; provided, further, we are under no obligation to send you any written notice of additional premium due or notice of premium due under this subsection."

Appendix A(2) of Part 61—[Amended]

9. Appendix A(2) of Part 61, referenced at § 61.13, Standard Flood Insurance Policy, is amended in the following particulars:

a. At the "PERILS EXCLUDED" section, paragraph D is revised to read as follows:

* * * * *

D. By theft, fire, windstorm, wind, explosion, earthquake, land sinkage, land subsidence, landslide, gradual erosion, or any other earth movement except such mudslides (i.e., mudflows) or erosion as is covered under the peril of flood.

b. At the "PERILS EXCLUDED" section paragraph F is revised to read as follows:

* * * * *

F. Caused directly or indirectly by neglect of the Insured to use all reasonable means to save the property from loss resulting from a flood and to preserve the property after a flood; however, when the insurance under this policy covers a building, the reasonable expenses incurred by the Insured for the purpose of sandbags, including sand to fill them and plastic sheeting and lumber used in connection with them, for the purpose of saving the building due to the imminent danger of a flood loss and preserving the building at the premises after a flood loss, are a covered loss in an amount up to the amount of the minimum building deductible, without the policy's building deductible amount, as provided for herein under "DEDUCTIBLES", being applied to this reimbursement, but being applied to any other benefits under the policy's building coverage. For reimbursement under this paragraph "F" to apply, the following conditions must be met:

(i) The insured property must be in imminent danger of sustaining flood damage; and

(ii) the threat of flood damage must be of such imminence as to lead a person of common prudence to apprehend flood damage; and

(iii) a general and temporary condition of flooding in the area must occur, even if the flooding does not reach the insured property, or a legally authorized official must issue an evacuation order or other civil order for the community in which the insured property is located calling for measures to preserve life and property from the peril of flood. Provided, further, that for contents covered herein and subject to the terms of the policy, including the limits of liability, the Insurer will reimburse the Insured for reasonable expenses necessarily incurred by him for removal or temporary storage (not exceeding 45 days), or both, of insured contents, from the described premises because of the imminent danger of flood if the contents so removed are placed in a fully enclosed building or otherwise reasonably protected from the elements.

* * * * *

c. At the "GENERAL CONDITIONS AND PROVISIONS" section, subparagraph E(2)(ii)(b) is amended by the addition, after the word "purchase", of the parenthetical phrase "(for the current policy term and the previous policy term, if then insured)"; and, by the deletion of the phrase "or within sixty (60) days of the loss if no notice of premium is received by the Insured"; and, by the deletion of the phrase "or within sixty (60) days of the loss, whichever is sooner"; and, by the addition of the following, at the end of subparagraph (E)(2)(ii)(b), after deletion of the period: "; provided, further, the Insurer is under no obligation to send the Insured any written notice of additional premium due or notice of premium due under this subsection."

d. At the "GENERAL CONDITIONS AND PROVISIONS" section, a new subparagraph is added to the end of paragraph "K. Cancellation of Policy or Reduction in Amount of Insurance", as follows:

* * * * *

This policy, if it is a policy for a term of three years, may be cancelled at any of its anniversary dates at the request of the Insured, provided, a policy of flood insurance has been obtained or is being obtained in substitution for this policy and the insurer receives a written concurrence in the cancellation from any mortgagee of which the insurer has actual notice; or the Insured has extinguished the insured mortgage debt and is no longer required by the mortgagee to maintain the coverage. In such event, the premium refund shall be on a short-rate basis.

* * * * *

PART 62—[AMENDED]

10. Section 62.5. "Premium Refund", is amended by the addition of the following:

§ 62.5 Premium refund.

* * * A Standard Flood Insurance Policyholder may cancel a policy having a term of three (3) years, on an anniversary date, where the reason for the cancellation is that a policy of flood insurance has been obtained or is being obtained in substitution for the NFIP policy and the NFIP obtains a written concurrence in the cancellation from any mortgage of which the NFIP has actual notice; or the policyholder has extinguishing the insured mortgage debt and is no longer required by the mortgagee to maintain the coverage. In such event, the premium refund shall be on a short-rate basis.

(National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968), 42 U.S.C. 4001–4128; Reorganization Plan No. 3 of 1978 (43 FR 41943), E.O. 12127, dated March 31, 1979 (44 FR 19367) E.O. 11988, dated May 24, 1977 and 44 CFR 2, Delegation of Authority of Federal Insurance Administrator)

Dated: July 31, 1984.

Issued at Washington, D.C.

Jeffrey S. Bragg,

Federal Insurance Administrator.

[FR Doc. 84-22518 Filed 8-23-84; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 81-496; FCC 84-294]

Revision of Program Policies and Reporting Requirements Related to Public Broadcasting Licensees

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action adopts new rules and policies that relieve noncommercial educational FM and television stations of the obligation to follow formal ascertainment procedures and relaxes program log requirements for these licensees. The Commission found that the existing requirements in these areas were unnecessary to achieve its regulatory goals and that continued imposition of the burdens associated with them was therefore unwarranted.

DATE: Effective September 25, 1984.

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

FOR FURTHER INFORMATION CONTACT: Lane Moten, Mass Media Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television and radio broadcast.

Report and Order (Proceeding Terminated)

In the matter of revision of program policies and reporting requirements related to Public Broadcasting Licensees; BC Docket No. 81-496.

Adopted: June 27, 1984.

Released: August 22, 1984.

By the Commission.

Introduction

1. This proceeding began with the adoption of a *Notice of Proposed Rule Making* on July 30, 1981. 46 FR 55125, published November 6, 1981.[1] The

[1] The proceeding also included a petition for rule making which had been filed by National Public Radio requesting deregulation of various aspects of public radio station operation.

Notice invited comments on deregulatory steps to remove unnecessary or outdated public broadcasting [2] programming and reporting requirements. Proposals were made in three areas: (1) *General Programming Responsibility*, (2) *Ascertainment Requirements* and (3) *Program Logging Requirements*.

2. The proposals were set forth in the context of a series of Commission actions dealing with deregulation. In particular, the *Notice* referred to proceedings leading to the deregulation of commercial radio (BC Docket No. 79–219) [3] and to the proceeding in BC Docket No. 80–253 that led to a major simplification of the procedures to be followed when seeking renewal of a station's license.[4] In addition to these references, the *Notice* also discussed the history of public broadcasting and the evolution of the regulatory strictures applied to it.

The Nature of Public Broadcasting and Its Regulation

3. From its beginning as a primarily instructional service, public broadcasting has evolved into a much broader noncommercial service.[5] Most of the early stations were FM stations connected with educational institutions or school systems. For the most part, they were used as a vehicle for delivering instructional programming, and in many cases they were considered as a training ground for students who operated the station. While there were early exceptions, most of what we now consider as public broadcasting is a relatively new development. The broadened scope of expectations in regard to public broadcast stations and the service they provide were clearly set forth in the House Report 97–82 on H.R. 3238, the Public Broadcasting Amendments Act of 1981 (Pub. L. 97–35):

> [T]he existing Act clearly emphasizes the intent of Congress that diverse programming with sensitivity to the diverse needs, interests and concerns of our Nation's people, which may be underserved by commercial broadcasting, remain central to the unique service provided by Public Broadcasting. [At p. 11.]

4. Over the years the Commission has developed a body of law dealing with the programming obligations of broadcast licensees. The most definitive expression is found in the *1960 Policy Statement*.[6] While the *1960 Policy Statement* accentuated the degree of Commission involvement in the programming area, formal ascertainment, as the term is now understood, was not a part of the process. An applicant for a new station or for renewal was required to be knowledgeable about its community of license and its environs. However, no particular method for obtaining this information was specified.

5. Gradually, the Commission formalized the ascertainment process. Thus, on February 18, 1971, the Commission adopted a *Primer* for new station applicants regarding the ascertainment of community problems and the presentation of programs to meet those problems.[7] Later, separate procedures were developed for renewal applicants. *See Renewal Primer*, 57 F.C.C. 2d 418 (1975), 41 FR 1372. Although these procedures were directly applicable only to commercial stations, the Commission had held that public stations also had a duty to ascertain community needs and to program to meet those needs. Ultimately, the Commission adopted specific procedures for public television and radio applicants and licensees. Public television stations were treated in a fashion similar to commercial stations, but somewhat less formalized ascertainment requirements were applied.

6. Public television stations had to observe four specific requirements designed to show that local needs had been properly ascertained and that programs to respond to those needs had been developed. The public television licensee was required to:

(1) Complete and place in its public file demographic data on its community of license;

(2) Conduct interviews with community leaders representative of all significant groups, following a checklist of leader categories;

(3) Conduct a general public survey, either using the traditional random sample method mandated for commercial stations, or by call-in programs or public meetings;

(4) Compile, place annually in the public file, and submit with each application a problems/programs list such as is required of public radio and commercial licensees.

7. Public radio licensees were allowed more flexibility. They were permitted to ascertain by any reasonable method that was designed to provide them with an understanding of the problems, needs and interests of their service areas. The process was to be documented by an annually prepared narrative report and problems/programs list. The narrative report detailed the sources consulted and the methods followed in conducting the ascertainment. It also summarized the principal needs and interests discovered. In addition, each year radio licensees were required to prepare a list of up to 10 problems ascertained in the past 12 months, together with examples of programs broadcast to meet those problems. The narrative statement and the problems/programs lists were to be placed in the station's public file. They also were to be submitted as part of the next application for license renewal. New applicants were required to file with the Commission a similar narrative report and problems list. However, the programs pertaining to the ascertained problems were listed prospectively rather than retrospectively. Class D FM stations were exempted from all formal ascertainment requirements.[8]

8. When these requirements were adopted, the Commission also adopted new forms with which to implement the changes. Several months later, the program logging rules were changed to bring the program categories specified therein in line with the program categories being used in the renewal form.[9] At that time public licensees were

[2] Although generally referred to as public broadcasting stations, these stations are classified in the Commission's rules as "noncommercial educational FM stations" or "noncommercial educational television stations." "Noncommercial" and "public" broadcasting are used interchangeably in this *Report and Order*.

[3] *Deregulation of Radio*, 84 F.C.C. 2d 968, *recon. granted in part*, 87 F.C.C. 2d 797 (1981), *aff'd in part and remanded in part sub nom. Office of Communication of the United Chruch of Christ* v. *F.C.C.*, 707 F.2d 1413 (D.C. Cir. 1983) (Hereinafter, *UCC* v. *FCC*).

[4] On March 26, 1981, the Commission adopted new and simplified procedures for license renewals which were applied to all broadcast stations, commercial and public, television and radio. 49 RR 2d 740, *recon. denied*, 50 RR 2d 704 (1981), *aff'd Black Citizens for a Fair Media* v. *F.C.C.*, 719 F.2d 407 (D.C. Cir. 1983).

[5] The history of public broadcasting can be traced as far back as 1934. Section 307(c) of the Communications Act of 1934 required the Commission to study the possibility of reserving facilities for noncommercial radio use.

[6] "The confines of the licensee's duty are set by the general standard of the public interest, convenience or necessity * * *. The principal ingredient of such obligation consists of a diligent, positive and continuing effort by the licensee to discover and fulfill the tastes, needs and desires of his service area. If he has accomplished this, he has met his public responsibility." *Report and Statement of Policy re: Commission en Banc Programming Inquiry* (*Policy Statement*), 44 F.C.C. 2303 at 2312 (1960).

[7] 27 F.C.C. 2d 650 (1971), 36 FR 4092 (March 3, 1971).

[8] Class D stations were given special treatment for two reasons. First, they have operated with only 10 watts transmitter output power and thus have had a highly restricted coverage area. In addition, they were often connected with schools or colleges, serving an audience concentrated there. Many were designed to play a special educational function at the school as a training ground for the students rather than being designed to provide a broader service to the public at large.

[9] *Amendment of the Commission's Rules and Regulations Concerning Program Logs for*

Continued

also required to make the logs available for public inspection and to submit them to the Commission upon request.[10]

The Notice of Proposed Rule Making

9. This proceeding was begun to explore the degree to which social and market forces could be relied upon to function as a substitute for governmental regulation of public stations. Another reason compels us to reexamine existing programming regulations governing public stations, particularly those receiving substantial funding through grants from the Corporation for Public Broadcasting and the National Telecommunications and Information Administration. Federal funding for these public broadcasting stations has been substantially reduced, and therefore the costs of meeting unnecessary regulatory burdens may have an adverse effect on the service these stations are able to provide.

10. With these points in mind, the Commission proposed a series of options ranging from ending the requirements entirely (or at least greatly reducing them) to retaining existing requirements. The options were:

General Program Responsibility

(1) Eliminate all Commission programming oversight not based on the "consideration received" [11] rules or specific statutory requirements.

(2) Retain a programming obligation broader than (1) above but rely on licensee good faith as much as possible as to the manner of responding to local needs.

(3) Retain current responsibility to respond to all significantly expressed community needs but permit some specialization.

(4) Retain current requirements in full.

Ascertainment

(1) Eliminate the ascertainment obligation and existing ascertainment procedures.

(2) Retain an ascertainment obligation but allow the use of any reasonable means to fulfill this obligation; no documentation would be required to be filed.

(3) Same as (2) above except that records would be maintained in the public file and/or submitted to the Commission.

(4) Retain the current requirements while eliminating the most costly or least cost effective parts.

(5) Retain the current requirements in full.

Program Logs

(1) Eliminate program logging requirements.

(2) Establish a limited logging obligation as a substitute for the present requirements.

(3) Retain the present logging requirements.

11. Comments and reply comments were received from a wide variety of parties, including licensees, associations, law firms, citizens groups and individuals.[12] The comments ranged from one page letters to voluminous filings examining the pertinent issues in great detail. A summary of these filings is contained in Appendix C.

Discussion

Programming

12. Although the *Notice* raised the matter of the general programming obligations of public licensees, no specific deregulation is indicated in this area in view of the absence of processing guidelines such as those that have been applied to commercial stations. Moreover, even option 1, the broadest proposal in the programming area, did little more than reflect our traditional reliance on public licensees' good faith discretion and judgment in discharging their programming obligation to address community issues.[13] We intended no departure from this successful and minimally intrusive regulatory approach. Accordingly, we do not believe it necessary to discuss in detail the various options raised in the *Notice*. We do believe, however, that a brief review of the special status of public broadcasting and the implications of this status in terms of programming responsibilities is appropriate.

13. Public broadcasting is explicitly encouraged by various Commission rules and policies. Perhaps most notable among these is our spectrum reservation policy whereby noncommercial stations are afforded protected frequency allocations for their exclusive use. Other state and federal governmental entities also accord public stations favored status by various means, including preferential tax treatment and considerable direct financial subsidies. Yet, public broadcast stations are also subject to specific limitations, such as restrictions on their use of commercial matter and advertising and the definitional requirement that they be non-profit, educational entities. Thus, the very definition of the service, the status of its operating stations, and its essentially non-profit, noncommercial programming nature make public broadcasting stations very different, in programming terms, from their commercial counterparts. With this in mind, we expect that as a practical matter the programming of these stations will reflect their special status and that they will provide their communities with significant alternative programming designed to satisfy the interests of the public not served by commercial broadcast stations. We would assume, for example, that in the rare case where the commercial media market appeared to ignore a significant issue in a community, the public stations would be among the first to address it, providing an important alternative and competitive spur to the other local media. Such responsive programming would be entirely consistent with the nature and historical performance of these stations.

14. Against this background, the Commission does not consider it necessary or appropriate to make any significant change in the programming obligation for noncommercial stations relied upon successfully in the past. Moreover, we believe that a more rigorous standard for public stations would come unnecessarily close to impinging on First Amendment rights and would run the collateral risk of stifling the creativity and innovative potential of these stations. Further, we wish to note that the programming formats of these stations, as with many of their commercial counterparts, have become increasingly specialized, particularly in the case of radio, and that we expect this trend to continue. To the extent that this development increases the diversity of programming available to the public, we find it entirely consistent with our traditional programming policies. Meanwhile, of course, we expect that public broadcasters will continue to serve the significant programming needs of their communities. Consistent with this expectation, the Commission will retain the basic issue-oriented programming responsibility of public stations and require that these stations document compliance with this bedrock obligation

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Noncommercial Educational Broadcast Stations, 62 F.C.C. 2d 120 (1976).

[10] *Revision of Application for Renewal of License of Commercial AM, FM and Television Licensees*, 46 FR 26236 (May 11, 1981). Public broadcast stations now utilize the new "short form" renewal application and are subject to the long form audit requirement and to on-site inspection by the Commission's Mass Media Bureau.

[11] Sections 73.503 and 73.621 of the Commission's Rules then barred public radio and television stations, respectively, from receiving consideration for programs or announcements.

[12] Appendix B lists the parties filing comments and reply comments in this proceeding.

[13] As in *Alabama Educational Television Commission*, 50 F.C.C. 2d 461 (1975). Commission action may be taken if a station abuses its discretion and fails to meet its obligations.

by maintaining issues/programs lists as detailed in the logging section below.

Ascertainment

15. The comments establish that the current ascertainment requirements are burdensome and time consuming. Specifically, they note that ascertainment costs can reach over $13,000 and $6,000 per year for public television and radio stations, respectively, and can involve hundreds of yearly hours of staff time. The record in this proceeding contains no allegations or data to dispute the substantial nature of these costs. In fact, the impact of these costs has increased because public radio and television licensees have had to absorb major reductions in federal and other funding. Thus, it has become even more important to relieve these stations of unnecessary burdens. Indeed, Federal agencies are required by the Paperwork Reduction Act of 1980 to reduce such paperwork burdens wherever possible.[14]

16. We conclude that ascertainment requirements are unwarranted, particularly in view of the substantial costs they impose. We recognize the fact that public radio licensees are subject to somewhat less onerous ascertainment requirements than either commercial or noncommercial television licensees.[15] Nevertheless, our finding that ascertainment procedures are unnecessary in light of the special direct contact that public stations have with the public by virtue of their noncommercial status (see para. 18, *infra*), renders any costs incurred in ascertainment unnecessary and therefore overly burdensome. They unnecessarily place the emphasis on the methodology used to determine community needs rather than on the key issue of the station's responsiveness to these needs.[16] Instead of focusing on these formalistic requirements, we believe licensees should be afforded wide discretion to determine how community needs should be ascertained and met.

17. Moreover, as a general proposition, we believe that the Commission should regulate only where social and market forces are unlikely to ensure service in the public interest. The First Amendment makes it all the more important to rely on these forces as much as possible when program related regulation is at issue. Thus, for example, in the radio deregulation proceeding we concluded that the market forces affecting those broadcasters would operate to ensure operation in the public interest. In that case we were referring to a marketplace system that works in the conventional way, one in which businesses respond to public desires. Thus, if the public has an interest in a particular type of program, it makes economic sense for the commercial broadcaster to identify this interest and to present appropriately responsive programming and thereby gather a large audience for which to charge advertisers. Conversely, programming which does not interest the public will not attract the audience and hence will not interest the advertiser.

18. We believe that similar mechanisms are often even more extensive and reliable in the public broadcasting area. Like commercial broadcasters, public broadcasters face the necessity of obtaining funding to support their programming. As found by the congressionally created Temporary Commission on Alternative Financing for Public Telecommunications, public broadcasting stations obtain funding from a diverse mix of sources—including state and local government support, federal grants, corporate underwriting, and individual contributions. The Temporary Commission found that this pluralism among contributors to public broadcast programming "plays a key role in preserving the unique character of this service." *See* Temporary Commission on Alternative Financing for Public Telecommunications, Final Report to Congress, 4–5 (Oct. 1983). While individual public broadcast licensees differ in the degree to which they rely on the various revenue sources available to public broadcasting as a whole, no detailed consideration of the system's financial structure is necessary to recognize that all public stations have a substantial interest in presenting programming that will encourage continued and increased financial support by their varied sponsors.

19. Contributions from individual viewers are a very important source of public broadcast support.[17] In this respect the relationship between the audience and the local public broadcaster is even more direct than in the case of commercial broadcasting because public broadcasting's subscribers pay directly for programming that meets their needs and interests. Failure to discover and repond to audience needs and desires would lead inevitably to a reduction in such contributions. We believe that this essential economic relationship between the public licensee and its audience will ensure that public stations discover and serve local needs. Indeed, to the extent that audiences are unwilling to pay for programming duplicative of that which they receive free from advertiser-supported television, this process will result in public stations adding to diversity by addressing needs unmet by commercial stations.

20. Public funding sources, such as the Corporation for Public Broadcasting (CPB) and state and local governments, also contribute positively to the program service offered by many noncommercial stations. These sources fund specific types of programs they wish to see increased. For instance, CPB has identified children's programming as its chief program objective in its 1983 and 1984 funding programs. Documentaries and special news programs also sometimes receive public funding. While not all noncommercial stations receive government program funding, these sources of funding add to the mix of programs available to noncommercial licensees.

21. Other factors also are likely to serve as a reliable substitute in the public broadcasting area. Here in particular, we believe that social forces are likely to serve as a reliable substitute for the Commission's ascertainment requirements. Many public broadcasters are required to have advisory boards and to hold public meetings when deciding important operating matters. Further, many other licensees such as WNET(TV) have public members on their governing boards. While it is true that stations licensed to state or local jurisdictions are not required to have advisory boards, these stations are often under even more direct public control since state and local officials are accountable for their action or inaction through the electoral process. Other stations licensed to organizations with a primary educational purpose are subject to the direction of these institutions and their governing boards. The station that ignores these representatives does so at its own peril.

22. Accordingly, in light of their not insubstantial costs, misplaced emphasis, doubtful necessity, and our judgment that the various social and market forces referred to above will combine to provide the necessary assurance that public stations will operate in the public

[14] Public Law 96–511, 44 U.S.C. 3501, *et seq.*

[15] *See*, Paras. 6–7, *supra*.

[16] "* * * [A]scertainment was never meant to be an end in and of itself. Rather, it is merely a tool to be used as an aid in the provision of programming." *Radio Deregulation*, 84 F.C.C. 2d 968, 993 (1981).

[17] Public broadcasting as a whole receives about one-sixth its revenue from individual subscribers. See Temporary Commission on Alternative Financing for Public Telecommunications, Final Report to Congress, Figure 1, at 5 (October 1983).

interest, ascertainment obligations will no longer be applied to public stations.

Program Logs

23. As was the case with ascertainment, the comments show that logging requirements are costly and time consuming. In particular, they demonstrate that such costs easily can reach $20,000 yearly for a public television station and $10,000 per year for a public radio station. In addition, the comments establish that the staff of each public station spends hundreds of hours in order to meet the logging requirements. According to a General Accounting Office study, the total logging workload of public stations is more than five and a half million hours of work per year.[18] Given the limited nature of our routine programming oversight responsibilities in connection with noncommercial licensees, we do not believe that these substantial costs are justified.

24. In addition, we note that comprehensive program logs for public radio and television stations do not provide definitive information needed by the Commission to determine whether a public radio or television station has operated in the public interest. Program logs provide statistics on the amount of programming that has been presented in the various program categories. However, these program percentages have not been used by the Commission to determine what action should be taken on the applications filed by public radio and television stations. In this respect, public station applications were treated differently from commercial radio and television applications. In the latter case, program percentages have been used to determine if applications could be granted by Commission staff action pursuant to delegated authority.[19] In addition, the program percentage figures for public broadcast stations were never used for "promise v. performance" purposes as they had been for commercial stations.

25. We have considered the appropriate nature and scope of the program logging obligation for commercial broadcasters in the wake of deregulation and the reduced routine Commission oversight of programming which it entailed. We believe that our analysis of the program logging issue in these proceedings is directly applicable to the question presented here and that we can obtain important guidance in defining that obligation as it applies to noncommercial broadcasting.

26. As stated in the *Second Report and Order* in Radio Deregulation,[20] the logging obligation of commercial radio broadcast licensees now consists of a requirement that they prepare and make available in their public inspection files a quarterly issues/programs list. The list must contain, in narrative form, a brief description of at least 5 to 10 issues which the licensee addressed with responsive programming during the preceding three months, along with a statement of how each issue was treated.[21]

27. In our view, this issues/programs list requirement will provide the information necessary for our regulatory oversight of public broadcasting as well as adequate data to permit the public, potential petitioners to deny and competing applicants to review and evaluate public broadcasters' performance. At the same time, the significant reduction in the costs of compliance for public licensees which this approach permits will enable these entities, already faced with decreasing federal support, to use their resources in a more cost effective manner. Furthermore, the highlighted issues/programs list will be easier for the public to review than the voluminous raw logs stations must currently maintain.

28. In addition, we no longer will subject public broadcasting stations to the long form audit, Form 303–N. This procedure which originated in the short form renewal proceeding, was applied to commercial television and to public radio and television stations. It was not applied to commercial radio because it was seen as inconsistent with the deregulation that had taken place.[22] Now that we have deregulated public licensees as well, this procedure will no longer be utilized in this area either. We emphasize, however, that elimination of the long form audit does not alter the substantive obligation of licensees to serve the public interest. We note as well that the Commission will continue to conduct random FOB technical inspections and to check the public inspection files of noncommercial licensees for completeness.

29. While program logging requirements are being eliminated, a licensee is still required to keep records of political candidate appearances or "uses" [see § 73.1810(f)(1)(v) and § 73.1810(f)(4)(ii) of the Commission's Rules] and a notation that it has performed the required Emergency Broadcast System tests.[23]

30. Regulatory Flexibility Analysis.

I. Need For and Purpose of the Rule

The Commission has concluded that present ascertainment requirements imposed on public radio and television stations can be removed and that program log keeping requirements should be less burdensome. This relaxation in current requirement is based on the conclusion that social and marketplace forces can be relied on to insure operation in the public interest.

II. Summary of Issues Raised by Public Comment in Response to the Initial Regulatory Flexibility Analysis, Commission Assessment, and Changes Made As a Result

A. Issues Raised

(1) Many of the parties favored deregulation in the two areas under consideration: ascertainment and log keeping.

(2) Several parties opposed all of these changes, arguing that these forms of regulatory oversight were needed to insure licensee accountability.

(3) Several filings took a middle position in favor of substantial deregulation along with retention of certain of the old requirements.

B. Assessment

The Commission concluded that deregulation in this area could provide important benefits to public and stations alike. In addition, it could aid these stations in enhancing their ability to raise needed funds and cut excessive costs.

C. Changes Made As a Result

(1) The Commission did not find the arguments in opposition to deregulation to be persuasive. The old requirements were generally found to be burdensome and, for the most, part unnecessary. We now eliminate our ascertainment

[18] *See* Appendix C.

[19] The radio deregulation proceeding deleted these delegation guidelines for commercial radio applications.

[20] 55 RR 2d 1401 (1984). The original statement of the program logging obligation for radio licensees adopted in the initial order in radio deregulation was remanded by court to the Commission for further consideration. *UCC v. FCC, supra* n.3. The *Second Report and Order* amended the obligation in response to the remand order.

[21] Action taken today applies an essentially similar requirement to commercial television licensees.

[22] 46 FR 26236, 26240–1.

[23] Stations also will be required to continue to:

(1) Provide donor identification announcements in accordance with § 73.1212;

(2) Make station identification announcements as required by § 73.1201;

(3) Make required local notice announcements under §§ 73.3580 and 73.3594; and

(4) Announce that material in a program was taped, filmed or recorded (where required by § 73.1203).

requirements and relax our program log requirements.

(2) While concluding that social and marketplace forces could be relied on as a substitute for regulation in most instances, the Commission did find it necessary to retain a generalized program obligation and some reporting requirements.

III. Significant Alternatives Considered and Rejected

No suggestions were offered beyond the range of options raised in the *Notice*. Our reasons for the choices made are described above.

31. Accordingly, it is ordered, That the Commission's Rules are amended, effective September 25, 1984, as set forth in the attached Appendix A.

32. It is further ordered, That FCC Form 303–N is eliminated.[24]

33. It is further ordered, That the Secretary shall cause a copy of this Report and Order to be printed in the FCC Reports.

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

35. This action is taken pursuant to the authority contained in sections 4(i), 303(a), 303(b), 303(g), 303(j), 303(r) and 317(e).

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

PART 73—[AMENDED]

1. 47 CFR 73.295 is amended by revising paragraph (d) to read as follows:

§ 73.295 Use of multiplex subcarriers.

* * * * *

(d) The station identification, delayed recording and sponsor identification announcements required by §§ 73.1201, 73.1208, and 73.1212 are not applicable to material transmitted under an SCA.

* * * * *

§ 73.1210 [Amended]

2. 47 CFR 73.1210, TV/FM dual-language broadcasting in Puerto Rico, is amended by removing paragraph (b)(4) and marking it [Reserved].

§ 73.1212 [Amended]

3. 47 CFR 73.1212, Sponsorship identification; list retention; related requirements, is amended by removing paragraph (g)(2) and marking it [Reserved]

§ 73.1225 [Amended]

4. 47 CFR 73.1225 Station inspections by FCC, is amended by removing paragraphs (d)(2).

5. 47 CFR 73.1800 is amended by revising the section title and paragraphs (a) (c) and (g) to read as follows, and by removing paragraph (f) and marking it [Reserved].

§ 73.1800 General requirements related to the station log.

(a) The licensee of each station must maintain a station log as required by § 73.1820. This log shall be kept by station employees competent to do so, having actual knowledge of the facts required. All entries, whether required or not by the provisions of this Part, must accurately reflect the station operation. Any employee making a log entry shall sign the log, thereby attesting to the fact that the entry, or any correction or addition made thereto, is an accurate representation of what transpired.

* * * * *

(c) Any necessary corrections of a manually kept log after it has been signed in accordance with paragraph (a) of this section shall be made only by striking out the erroneous portion and making a corrective explanation on the log or attachment to it. Such corrections shall be dated and signed by the person who kept the log or the station chief operator, the station manager or an officer of the licensee.

* * * * *

(f) [Reserved]

(g) Application forms for licenses and other authorizations may require that certain technical operating data be supplied. These application forms should be kept in mind in connection with the maintenance of the station log.

§ 73.1810 [Removed]

6. 47 CFR 73.1810, Program logs, is removed in its entirety.

7. 47 CFR 73.1840 is amended by revising paragraph (b)(1) to read as follows:

§ 73.1840 Retention of logs.

* * * * *

(b) * * *

(1) Suitable viewing—reading devices shall be available to permit FCC inspection of logs pursuant to § 73.1226, availability to FCC of station logs and records.

* * * * *

§ 73.1850 [Removed]

8. 47 CFR 73.1850, Public Inspection of Program Logs, is removed in its entirety.

9. 47 CFR 73.3527 is amended by removing paragraphs (b) and (c) and such paragraphs and subdivisions which are a part thereof and marking them [Reserved]; and by revising paragraphs (a)(7), (a)(8) and paragraph (g) to read as follows:

§ 73.3527 Local Public Inspection file of noncommercial educational stations.

(a) * * *

* * * * *

(7) For noncommercial broadcast stations every three months a list of at least 5 to 10 community issues addressed by the station's programming during the preceding 3 month period. The list is to be filed by the tenth day of each calendar quarter (*e.g.*, July 10, October 10, January 10 and April 10) and should include a record of programming for the 3 preceding calendar months (*e.g.*, the list filed by July 10 would be a record of programming from April 1 through June 30). The list shall include a brief narrative describing how each issue was treated. The description of the program should include, but is not limited to, the time, date and duration of each program, the title, and the type of programming in which the issue was treated, (e.g. public service announcements, a call-in program with a public official, etc.). These lists are to be retained for the entire license period.

Note.—The first quarterly filing is to include at least the past three months of a station's programming performance. If the last annual issues/programs list was filed more than three months prior to October 1, 1984, the licensee must place in its public inspection file an issues/programs list encompassing the period of time between its last annual filing and October 1, 1984.

(8) The lists of donors supporting specific programs.

* * * * *

(b) [Reserved]

(c) [Reserved]

* * * * *

(g) *Period of retention.* The records specified in paragraph (a)(4) of this section shall be retained for the periods specified in § 73.1940 (two years). The manual specified in paragraph (a)(6) of this section shall be retained indefinitely. The donor lists specified in paragraph (a)(8) of this section shall be retained for two years. The contracts specified in paragraph (a)(9) shall be retained for the life of the contract(s) between the parties to the contract(s). The records specified in paragraphs

[24] By separate action today we are amending FCC Forms 302, 340, and 341 and have therein incorporated the appropriate changes dictated by our decision in this proceeding.

(a)(1), (2), (3), and (5) of this section must be retained as follows:

* * * * *

10. 47 CFR 73.3580 is amended by revising the introductory text of paragraph (d)(4)(i) and the introductory text of paragraph (d)(4)(ii) to read as follows:

§ 73.3580 Local public notice of filing broadcast applications.

* * * * *

(d) * * *

(4) * * *

(i) *Pre-filing announcements.* During the period and beginning on the first day of the sixth calendar month prior to the expiration of the license, and continuing to the date on which the application is filed, the following announcement shall be broadcast on the 1st and 16th day of each calendar month. Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

On (date of last renewal grant) (Station's call letters) was granted a license by the Federal Communication Commission to serve the public interest as a public trustee until (expiration date).

Our license will expire on (date). We must file an application for renewal with the FCC (date four calendar months prior to expiration date). When filed, a copy of this application will be available for public inspection during our regular business hours. It contains information concerning this station's performance during the last (period of time covered by the application).

Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the FCC by (date first day of last full calendar month prior to the month of expiration).

Further information concerning the FCC's broadcast license renewal process is available at (address of location of the station's public inspection file) or may be obtained from the FCC, Washington, D.C. 20554.

* * * * *

(ii) *Post filing announcements.* During the period beginning of the date on which the renewal application is filed to the sixteenth day of the next to last full calendar month prior to the expiration of the license, all applications for renewal of broadcast station licenses shall broadcast the following announcement on the 1st and 16th day of each calendar month. Stations broadcasting primarily in a foreign language should broadcast the announcements in that language.

On (date of last renewal grant) (Station's call letters) was granted a license by the Federal Communications Commission to serve the public interest as a public trustee until (expiration date).

Our license will expire on (date). We have filed an application for renewal with the FCC.

A copy of this application is available for public inspection during our regular business hours. It contains information concerning this station's performance during the last (period of time covered by application).

Individuals who wish to advise the FCC of facts relating to our renewal application and to whether this station has operated in the public interest should file comments and petitions with the FCC by (date first day of last full calendar month prior to the month of expiration).

Further information concerning the FCC's broadcasat license renewal process is available at (address of location of the station's public inspection file) or may be obtained from the FCC, Washington, D.C. 20554.

* * * * *

§ 73.4020 [Removed]

9. 47 CFR 73.4020, Ascertainment (and annual list of problems and needs), is removed in its entirety.

§ 73.4021 [Removed]

10. 47 CFR 73.4021, Ascertainment evaluations by FCC, is removed in its entirety.

§ 73.4025 [Removed]

11. 47 CFR 73.4025, Ascertainment, noncommercial educational stations, is removed in its entirety.

Note.—This appendix will not appear in the Code of Federal Regulations.

Appendix B

Comments

Action for Children's Television
Alabama Public Television Network
Alaska Public Broadcasting Commission
The California State University & Colleges for the San Diego State University
The Committee to Save KQED (*et al.*) San Francisco, California
Corporation for Public Broadcasting
Curators of University of Missouri Columbia, Missouri
Department of Education Commonwealth of Puerto Rico
Educational Broadcasting Corp. (WNET-TV) Newark, New Jersey
Fresno Free College Foundation
Station WGBY-TV Springfield, Massachusetts
Greater Cincinnati Television Educational Foundation
Becky J. Ingrum Columbia, Missouri
Intercollegiate Broadcasting System, Inc.
Joint Comments 21 Parties (Arizona Board of Regents for Arizona State University (*et al.*)
Joint Comments 19 Parties (Central California Educational Television (*et al.*)
Joint Comments 4 Parties (Ohio Educational Broadcasting Network (*et al.*)
National Association of Broadcasters
National Association of Educational Broadcasters
National Association of Public Television Stations
National Federation of Community Broadcasters
National Public Radio
National Radio Broadcasters Association
National Religious Broadcasters
Radio Station WHJE-FM Carmel, Indiana
The Public Media Center
Dr. Willard D. Rowland, Jr. Research Assistant Professor Institute of Communications, University of Illinois
The State Board of Education of the State of Georgia
West Virginia Board of Regents (WWVU-TV) Morgantown, West Virginia

Reply Comments

National Association of Public Television Stations
Joint Comments 18 Parties Central California Educational Television *et al.*

Note.—This appendix will not appear in the Code of Federal Regulations.

Appendix C

Ascertainment

Comments in Support of Deregulation

1. All of the commenters, except ACT, The Committee to Save KQED, *et al.*, and PMC support a major deregulatory effort in the ascertainment area. These commenters view the ascertainment requirement as an obligation that imposes great costs while providing few, if any, benefits. In addition, many of these parties pointed to other mechanisms which they thought could be relied on to ensure service in the public interest.

2. *Ascertainment requirements impose substantial burdens*—Several parties, including Central California Educational Television, Inc., *et al.*, and the Alaska Public Broadcasting Commission offered information on the costs of meeting current ascertainment requirements. The

Alaska Public Broadcasting Commission estimates that meeting the ascertainment requirement costs each Alaska public television station $13,440 yearly. In addition, it notes that 960 hours of staff time are required, an amount almost equal to half of one employee's work year. For public radio, the respective figures in Alaska are said to be $6,328 and 452 hours yearly. APBC and others are convinced that the money and time involved in this process could be better spent on programming. Moreover, they note that federal funding for public broadcasting is diminishing and that it has thus become all the more important to eliminate unnecessary costs.

3. *Other mechanism provide and effective substitute for ascertainment*—Most of the parties filing comments assert that there are other mechanisms which can be relied on to ensure the responsiveness of the public broadcaster to its community. In particular, they refer to the use of advisory boards and the holding of public meetings by public broadcasters. They also specifically note a station's need to be reponsive in order to generate financial support from its audience. In fact, they argue that the very structure and philosophy of public stations necessarily results in a constant interaction with the audience, even without formal ascertainment obligations. This means that the social and market forces operating on public broadcasters impel them to deliver programming consistent with the public interest. Accordingly, they insist that no benefit attends retention of an ascertainment requirement, only costs that public broadcasters can ill afford.

4. *Alternatives to complete deregulation*—CPB agrees that the Commission should delete existing ascertainment requirements, but it would retain a general requirement that a licensee would need to be aware of and responsive to community needs. CPB prefers this approach because it would free the licensee to use any appropriate method to determine these needs rather than requiring the licensee to follow specific procedures that may be inappropriate to particular situations. CPB states that the licensee is in the best position to determine the appropriate methodology to employ and that the Commission should only be concerned with the responsiveness of the program proposal rather than the ascertainment process itself. Under CPB's approach, a licensee no longer would be required to document its specific ascertainment efforts or to provide narrative statements describing its methods. Instead, each public radio or television licensee would place an issues/programs list in its station file. Nothing more would be required.

5. Ohio Educational Broadcasting Network supports only partial deregulation because it believes that social and marketplace forces alone cannot alone be relied upon to guide licensee performance. The basis for its belief is that these forces focus on needs already recognized by the audience. In Ohio Network's view, the public broadcasting station must take a leadership role in identifying and responding to unrecognized needs which traditional ascertainment will not reveal. Therefore, Ohio Network proposes changing the current ascertainment requirement and substituting for both public radio and television a modification of the approach now used. Under its approach, each licensee would prepare: (1) A yearly narrative statement of the unfilled program needs and the unrecognized problems of the area; (2) a statement as to how these determinations were made; and (3) a list of responsive programs. Pertinent documentation would not be submitted to the Commission but would be placed in the station's public file.

Comments in Opposition To Deregulation

6. *Social and market forces are not appropriate substitutes*—The prinicipal opposition to ending the ascertainment requirement came from three citizens groups, ACT, PMC and the Committee to Save KQED, *et al.* They disagree with the premises on which the Commission relied in proposing deregulation. Thus, for example, they dispute the Commission's observation that public broadcasting has evolved to the point that ascertainment might no longer be required. Rather, they assert that public broadcasting is still evolving, particularly in connection with changes in funding sources, advertising practices and program priorities. Therefore, they do not think it is now possible to be sure that social and marketplace forces would operate as the Commission presumes. Moreover, they dispute the view that increased dependency on audience contributions will aid responsiveness. Likewise, they are not convinced that funding sources for public broadcasting are becoming more diversified. Rather, they are concerned that changes in funding may force public stations to imitate their commerical counterparts, rather than provide the diverse service expected of public stations. Also, in their view, the community advisory board and open meeting requirements of the Public Broadcasting Act are not substitutes for regulation by the Commission. In any event they assert that these requirements were adopted by Congress with full knowledge that accountability mechanisms were already in place at the Commission. Finally, these parties assert that the Commission must do more than say that station costs would be reduced. They insist that the Commission must compare the costs and benefits of the proposal giving full attention to the benefits provided by current program regulation as well as its costs.

7. *Insufficient facts exist to warrant relying on social and market forces*—The Committee to Save KQED states that the Commission has failed to set forth any empirical evidence to establish that marketplace forces would function as suggested.[1] Without such data, it does not believe that any change in policy by the Commission could withstand judicial scrutiny. In support, it cites *United Church of Christ* v. *F.C.C.*, 560 F. 2d 529 (2d Cir. 1977), for the proposition that the considerable leeway usually given an agency in creating a policy is notably circumscribed when the agency attempts to change a policy of long standing. It asserts that in such instances an agency is required to provide a "thorough and comprehensive" statement of its underlying reasons. The Committee believes that such a statement and supporting data are lacking here.

8. *Noncommercial stations require different treatment*—PMC contends that the Commission should not rely on deregulation of commercial broadcasting as a basis for deregulating public broadcasting. Rather, it asserts that the differences between noncommercial and commercial broadcasting are such that different regulatory treatment is required. In particular, the Commission is asked to recognize that public broadcasting was created as a supplement to commercial broadcasting. It was designed to be a means of responding to needs that would not be met by commercial stations operating with a profit motive. As PMC sees it, public broadcasters are not expected to compete in the marketplace. Instead, it insists that a higher level of service is required of public broadcasters to respond to needs

[1] It again states that this evidence could be developed by conducting an experiment to test the Commission's hypothesis that market forces would respond effectively to public needs. This experiment would compare the performance of selected stations exempted from the requirement with the performance of non-exempted stations.

and concerns that are not addressed by profit-oriented commercial broadcasters. PMC points to the legislative history of public broadcasting as indicating a special need for these stations to be responsive to local needs. PMC believes that any elimination of ascertainment requirements thus will undermine the concept of local service, particularly the need for each station to respond to ascertained local needs.

Program Logs

Comments in Support of Deregulation

9. *Log keeping is burdensome*—Many of the comments focus on the costs to the station of maintaining logs. They note that detailed records must be kept and that continuing attention is required to make sure that the logs are accurate and complete. They describe this process as a costly and time consuming effort. For example, APBC states that these costs can easily reach the level of $20,000 and more per year for a public television station and $10,000 per year for a public radio station. In addition, the Educational Broadcasting Corporation refers to a study by the General Accounting Office concerning the impact of Federal paperwork requirements on small businesses, including broadcast licensees.[2] According to this study, literally millions of hours each year were required to comply with Commission log keeping requirements. A significant portion of this burden falls on public broadcasters.[3]

10. Several commenters discuss the practical consequences as well as the dollar costs of log keeping. They point out that the logs are intricate documents which require particular care to maintain. Because of the volume of record keeping involved, they state that the extensive demands are placed on the station's staff. It is asserted that this can be a particular problem at public stations, because the staff is less experienced. In many instances, public stations must rely on untrained volunteers for staff support.

11. *Logs provide few public benefits*—Most of the parties believe that ending program log keeping requirements would not greatly affect the public, because much (if not most) of the same information is available elsewhere. They point to the schedules in *TV Guide* and in newspaper listings which they say provide extensive information on the programming of these stations. This, they say, is all the more true in the case of the program listings for those stations included in *Dial* magazine. In fact, they assert that these listings can contain even more information about the nature of the programs than is available from the logs. Many parties stress the skeletal nature of the program log which they say does not provide much useful information. They contend that all that can be derived from the logs is a statistical tally about programming in various categories. They point out that information about the nature of the program or its content is not included in the logs. Accordingly, they question the value of logs to the public in evaluating station performance. Likewise, they do not believe that logs can be used as a vehicle to ensure compliance with the fairness doctrine or the personal attack rule, since logs do not provide the necessary information to determine such compliance.

12. Several parties question whether program log keeping requirements for public broadcasting stations ever made sense. They point out that logs were designed to have a statistical function so that the Commission and the public could determine the amount of programming a station carried in various categories. For commercial stations, these percentages were thought to provide a measure of station performance and were specifically used for the purpose of comparing a station's "promise v. performance" in the programming area.[4] They assert that this purpose never had an applicability to public broadcasting. In particular, they note that program expectations were never expressed in percentage terms and that the Commission never employed a "promise v. performance" approach to public broadcast applications. Now that the Commission has deregulated commercial radio and deleted their log keeping obligations, they see even less reason to retain the logging requirements for public broadcasters.

Comments in Opposition To Deregulation

13. *Program logs are needed to measure station performance*—The Committee to save KQED questions the premises on which the logging proposal rests and argues that, without the data provided by the logs, the public would lack the information it requres to assure accountability. Although it acknowledges that public broadcasting is undergoing basic changes, it asserts that this makes it all the more important to retain accountability mechanisms so that the public can provide the necessary feedback on how well stations are performing. It further states that logs can assist the public in making sure that promises made in renewal applications are effectuated by the licensee. The Committee also contends that program logs are a crucial ingredient in advancing public dialogue with licensees with regard to programming concerns. Although it admits that there are costs imposed in the log keeping requirements, it believes that these costs are justified since public stations rely in good measure on public funds. Finally, the Committee states that logging information is necessary to test the Commission's assumptions about the operation of social and market forces.[5]

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[2] *Federal Paperwork: Its Impact on Small Business*. General Accounting Office, November 17, 1978.

[3] This report was prepared before the Commission deleted the program logging requirements for commercial radio stations.

[4] "Promise v. performance" refers to a comparison of the programming actually broadcast in a particular category to the amount of such programming previously "promised."

[5] Although the *Notice* referred to the fact that the changes proposed might have an effect on the renewal procedures we employ, most commenters do not address this point directly. Instead, they treat it (if at all) as we had in the *Notice*, as a matter that turns on what we do on the three substantive areas already discussed. However, WNET does ask that public broadcasters be exempted from the "long form" audit procedure as well as on-site inspections.

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

48 CFR Ch. 7

[AIDAR Notice 85-2]

Miscellaneous Amendments to the AIDAR

AGENCY: Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: The AID Acquisition Regulation (AIDAR) is being amended to list information colle ction and recordkeeping systems, and show the OMB Control Number for these systems, as required by the Paperwork Reduction Act; the method for calculation and payment of overseas recruitment incentive is being revised; and several miscellaneous editorial changes are being made.

EFFECTIVE DATE: August 13, 1984.

FOR FURTHER INFORMATION CONTACT: M/SER/CM/SD/POL, Mr. J. M. Kelly. Telephone (703) 235-9107.