U.S. GOVERNMENT INFORMATION GPO

326-250
GSA
16-Vols

6-11-80
Vol. 45 No. 114
Pages 39493-39788

federal register

Wednesday
June 11, 1980

Highlights

39499 **Income Tax** Treasury/IRS publishes changes in deposit requirements for social security and withheld income taxes

39512 **Income Tax** Treasury/IRS proposes rules relating to tax treatment of gain from disposition of certain oil, gas, or geothermal property; comments by 8-11-80

39592 **Federal Aid Programs** OMB issues notice of mandatory information requirements for program announcements

39496 **Banks, Banking** FCA publishes regulations pertaining to loan policies and operations; effective 6-11-80

39712 **Elementary and Secondary Education** ED proposes regulations for Title I of the Act of 1965; comments by 8-11-80 (Part III of this issue)

39708 **Private Schools** ED proposes to amend Education Division General Administrative Regulations (EDGAR) to clarify policy regarding participation of certain students; comments by 8-11-80 (Part II of this issue)

CONTINUED INSIDE



Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $75.00 per year, or $45.00 for six months, payable in advance. The charge for individual copies is $1.00 for each issue, or $1.00 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register.**

Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

39496 **Small Businesses** SBA requires applicants have five year operating history with three years of profitability to assure satisfactory credit applications; effective 6–11–80

39495 **Classified Information** FCA issues regulations relating to handling and use of classified documents; effective 6–11–80

39497 **Natural Gas** DOE/FERC amends agricultural curtailment rule; effective 6–3–80; comments by 7–3–80; and hearing 6–30–80

39530 **Energy** DOE/ERA issues inquiry concerning the development, production, and marketing of high-cost gas supplies; comments by 8–1–80

39766 **Air Pollution Control** EPA proposes standards regarding organic solvent cleaners; comments by 8–25–80 (Part IV of this issue)

39590, 39591 **Controlled Substances** Justice/DEA issues proposed 1980 aggregate production quotas for Lysergic acid methylpropylamide and Hydromorphone (2 documents)

39493 **Agriculture** USDA/CCC provides determinations and regulations concerning loan programs for 1980—Crop gum naval stores; effective 6–11–80

39522 **Boycotts** Commerce/ITA releases notification of response and justification procedure to interested parties concerning potential disclosure of reports; requests and justifications by 7–7–80

39611 **Sunshine Act Meetings**

Separate Parts of This Issue

39708 **Part II, ED**
39712 **Part III, ED**
39766 **Part IV, EPA**
39786 **Part V, DOE/SOLAR**

Contents

Federal Register
Vol. 45, No. 114
Wednesday, June 11, 1980

Agricultural Marketing Service
PROPOSED RULES
39507 Filberts, imported; extension of time
NOTICES
39521 Peanut Administrative Committee; 1980 crop year, expenses and rate of assessment

Agriculture Department
See Agricultural Marketing Service; Commodity Credit Corporation.

Air Force Department
RULES
Military training and schools:
39502 Delayed enlistment program; obsolete CFR Part removed
39502 Ready reserve unit programs; enlistment of nonprior service personnel; CFR Part removed

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Meetings; advisory committees:
39541 June; Minority Advisory Committee, cancellation

Alcohol, Tobacco and Firearms Bureau
NOTICES
39609 Firearms, granting of relief

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
39589 Halifax Hospital Medical Center and Volusia County Medical Society, Inc.

Army Department
RULES
Reserve Officers' Training Corps:
39502 Senior ROTC program; organization, administration, and training
NOTICES
Meetings:
39529 Science Board

Arts and Humanities, National Foundation
NOTICES
Meetings:
39591 Humanities Panel
39591 Theatre Advisory Panel

Commerce Department
See International Trade Administration; National Bureau of Standards; National Oceanic and Atmospheric Administration; National Technical Information Service.

Commodity Credit Corporation
RULES
Loan and purchase programs:
39493 Gum naval stores

Commodity Futures Trading Commission
NOTICES
39611 Meetings; Sunshine Act

Conservation and Solar Energy Office
PROPOSED RULES
Electric and hybrid vehicle program:
39520 Equivalent petroleum-based fuel economy calculation; hearing cancellation

Customs Service
NOTICES
Trade name recordation applications:
39609 Florasynth, Inc.

Defense Department
See Air Force Department; Army Department.

Drug Enforcement Administration
NOTICES
Schedules of controlled substances; production quotas:
39591 Hydromorphone
39590 Lysergic acid methylpropylamide

Economic Regulatory Administration
NOTICES
39530 Gas, high cost; incentives for development, production, and marketing; inquiry
Natural gas; fuel oil displacement certification applications:
39529 Mississippi Power & Light Co.
Powerplant and industrial fuel use; prohibition orders, exemption requests, etc.:
39534 Puget Sound Power & Light Co.
Public Utility Regulatory Policies Act of 1978 and National Energy Conservation Policy Act of 1978:
39786 Gas and electric utilities covered in 1980; list; deletions

Education Department
PROPOSED RULES
39708 Direct grant programs, State-administered programs (EDGAR); participation by private school children
39712 Financial assistance to local and State agencies for children with special educational needs

Educational Research, National Council
NOTICES
39613 Meetings; Sunshine Act

Energy Department
See Conservation and Solar Energy Office; Economic Regulatory Administration; Federal Energy Regulatory Commission.

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
39503 New Hampshire

Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
39503 Oxamyl
PROPOSED RULES
Air pollution; standards of performance for new stationary sources:
39765 Organic solvent cleaners
NOTICES
Air quality implementations plans; approval and promulgation:
39537 Prevention of significant air quality deterioration; permit approvals (Alabama)
Pesticides; emergency exemption applications:
39538 Acephate
39538 Oxyflourfen
39539 Trifluralin

Environmental Quality Council
NOTICES
39611 Meetings; Sunshine Act

Farm Credit Administration
RULES
Loan policies and operations:
39496 Farm Credit System; supervisory reports; confidential use
39495 National security information program; implementation
PROPOSED RULES
39507 Internal controls; Farm Credit bank and association operations

Federal Communications Commission
NOTICES
39540 FM broadcast applications accepted for filing and notification of cut off date (2 documents)
39611 Meetings; Sunshine Act (2 documents)
39541 Television broadcast applications accepted for filing and notification of cut off date

Federal Deposit Insurance Corporation
NOTICES
39611 Meetings; Sunshine Act

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act of 1978:
39497 Curtailment rules; essential agricultural users; interstate pipeline filing dates for draft index of entitlements, etc.; interim
NOTICES
Hearings, etc.:
39535 Louisiana; first use of tax in pipeline rate cases

Federal Mine Safety and Health Review Commission
NOTICES
39611 Meetings; Sunshine Act

Federal Reserve System
RULES
Credit restraint:
39495 Noncommercial banks; special deposit ratio decrease; correction
Reserves of member banks (Regulation D):
39494 Marginal reserve requirements; ratio decrease, etc.; correction

General Accounting Office
NOTICES
39541 Regulatory reports review; proposals, approvals, violations,etc. (NRC)

General Services Administration
RULES
Procurement:
39504 Subcontracting with women's business enterprises; inclusion of contract clauses; temporary; correction

Geological Survey
NOTICES
Outer Continental Shelf; oil, gas, and sulphur operations; development and production plans:
39544 Chevron U.S.A., Inc.
39545 Exxon Co., U.S.A.
39545 Gulf Oil Exploration & Production Co.
39545 Pennzoil Co.

Health, Education, and Welfare Department
See Health and Human Services Department.

Health and Human Services Department
See also Alcohol, Drug Abuse, and Mental Health Administration.
NOTICES
Meetings:
39542 Mental Retardation, President's Committee
Organization, functions, and authority delegations:
39544 Human Development Services Office; Aging Administration, Commissioner
39542 National Heart, Lung, and Blood Institute
39542 Refugee Resettlement Office

Interior Department
See also Geological Survey; Land Management Bureau; National Park Service; Water and Power Resource Service.
RULES
Procurement:
39504 Office list update, titles of officials, procuring activity definition, etc.

Internal Revenue Service
RULES
Employment taxes:
39499 Social security and withheld income taxes; deposit requirements
PROPOSED RULES
Income taxes:
39512 Oil, gas, or geothermal property disposition; treatment of gain

International Convention Advisory Commission
NOTICES
39578 Meetings

International Trade Administration
RULES
Antidumping:
39498 Potassium chloride, otherwise known as muriate of potash, from Canada
NOTICES
Antidumping:
39521 Picker sticks from Mexico; adminsitrative review of finding and tenative determination to revoke

Meetings:
39522 Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee
Restrictive trade practices or boycotts:
39522 Reports of boycott requests; court-ordered disclosure; inquiry

International Trade Commission
NOTICES
Import investigations:
39578 Adjustable window shades and components
39580 Chlorofluorohydrocarbon drycleaning process, machines and components
39581 Electric golf cars from Poland
39579 Inclined-field acceleration tubes and components
39578 Steel wire nails from Korea
39580 Turning machines and components

Interstate Commerce Commission
PROPOSED RULES
Tariffs and schedules:
39519 Credit regulations for motor carriers, rail carriers, water carriers, freight forwarders; proposed repeal; extension of time
NOTICES
Motor carriers:
39547 Temporary authority applications
39578 Railroad applications for long and short haul relief; correction

Justice Department
See Antitrust Division; Drug Enforcement Administration.

Land Management Bureau
NOTICES
39544 Coal leases, exploration licenses, etc.: Colorado; correction
Meetings:
39544 Socorro District Grazing Advisory Board
Sale of public lands:
39544 Nevada

Legal Services Corporation
NOTICES
39612 Meetings; Sunshine Act

Management and Budget Office
NOTICES
39592 Federal assistance program announcements; mandatory information requirements; republication

National Bureau of Standards
NOTICES
Meetings:
39523 Weights and Measures National Conference

National Oceanic and Atmospheric Administration
PROPOSED RULES
Marine sanctuaries:
39507 Gray's Reef, Ga.
39511 Gray's Reef, Ga.; availability of public participation funds and hearing

National Park Service
NOTICES
Environmental statements; availability, etc.:
39546 Lowell National Historical Park, Mass.; draft general management plan and meeting

National Science Board
NOTICES
39612 Meetings; Sunshine Act

National Technical Information Service
NOTICES
39523, 39525 Inventions, Government-owned; availability for licensing (2 documents)

Nuclear Regulatory Commission
PROPOSED RULES
Radioactive material packing and transportation:
39519 Industrial radiography licensees; exemption from general licensing requirements; rulemaking petition
NOTICES
Meetings:
39592 Reactor Safeguards Advisory Committee (2 documents)
39612 Meetings; Sunshine Act

Occupational Safety and Health Review Commission
NOTICES
39612 Meetings; Sunshine Act

Postal Rate Commission
NOTICES
39612 Meetings; Sunshine Act

Securities and Exchange Commission
NOTICES
Hearings, etc.:
39593 Constitution Fund, Inc., et al.
39595 Freedom Fund, Inc., et al.
39598 Independence Fund, Inc., et al.
39600 Investors Life Insurance Co. of North America et al.
39604 IPM Technology, Inc.
39604 Massachusetts Fund for Income et al.
39608 Panhandle Eastern Pipe Line Co.
Self-regulatory organizations; proposed rule changes:
39606, 39608 National Association of Securities Dealers, Inc. (2 documents)
Self-regulatory organizations; unlisted trading privileges:
39593 Boston Stock Exchange, Inc.

Small Business Administration
RULES
Pollution control:
39496 Credit merits of applications
NOTICES
Applications, etc.:
39609 First B.D.J. Financial Services, Inc.

State Department
RULES
Visas:
39499 Nonimmigrants, documentation; technical change

Textile Agreements Implementation Committee
NOTICES
Cotton textitles:
39527 Macau
Man-made textiles:
39526 Columbia
39528 Malaysia
39528 Romania

Treasury Department
See Alcohol, Tobacco and Firearms Bureau; Customs Service; Internal Revenue Service.

Water and Power Resources Service
NOTICES
Contract negotiations:
39547 Westlands Water District; 1981 temporary water service
Environmental statement; availability, etc:
39546 New Melones Lake, Central Valley Project, Calif.

MEETINGS ANNOUNCED IN THIS ISSUE

ARTS AND HUMANITIES, NATIONAL FOUNDATION
39591 Humanities Panel, 6–30–80 and several July meetings
39591 Theatre Panel, 6–26 and 6–27–80

COMMERCE DEPARTMENT
International Trade Administration—
39522 Computer Peripherals, Components and Related Test Equpment Technical Advisory Committee, 7–29–80
National Bureau of Standards—
39523 National Conference on Weights and Measures, 6–22 through 6–27–80

DEFENSE DEPARTMENT
Department of the Army—
39529 Army Science Board, 6–30 and 7–1–80

HEALTH AND HUMAN SERVICES DEPARTMENT
Office of the Secretary—
39542 President's Committee on Mental Retardation, 6–24–80

INTERIOR DEPARTMENT
Land Management Bureau—
39544 Socorro District Grazing Advisory Board, 7–10–80

INTERNATIONAL CONVENTION ADVISORY COMMISSION
39578 Meeting, 6–25–80

NUCLEAR REGULATORY COMMISSION
39592 Reactor Safeguards Advisory Committee, Safeguards and Security Subcommittee, 6–26–80
39592 Reactor Safeguards Advisory Committee, Waste Management and Fuel Cycle Subcommittees, 6–26 and 6–27–80

CANCELLED MEETING

HEALTH AND HUMAN SERVICES DEPARTMENT
Alcohol, Drug Abuse, and Mental Health Administration—
39541 Minority Advisory Committee, 6–18 through 6–20–80

HEARINGS

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
39511 Designation of Gray's Reef, Georgia as a marine sanctuary, 7–7 and 7–8–80

ENERGY DEPARTMENT
Economic Regulatory Administration—
39534 Exemptions from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978, Puget Sound, pre-hearing conference, 6–30–80
Federal Energy Regulatory Commission—
39535 Amendment to the regulation for the implementation of section 401 of the Natural Gas Policy Act, 6–30–80

ENVIRONMENTAL PROTECTION AGENCY
39766 Standards of performance for new stationary sources, organic solvent cleaners, 7–24–80

INTERIOR DEPARTMENT
Water and Power Resources Service—
39546 Draft supplement to final environmental statement for Basin alternatives, water allocations, and reservoir operations, New Melones Lake, Central Valley Project, California, 7–16 and 7–17–80

CANCELLED HEARING

ENERGY DEPARTMENT
39520 Electric and hybrid vehicle research, development, and demonstration program; equivalent petroleum-based fuel economy calculation, 6–10–80

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
1438 39493
Proposed Rules:
999 39507

10 CFR
Proposed Rules:
71 39519
474 39520

12 CFR
204 39494
229 39495
605 39495
614 39496
Proposed Rules:
618 39507

13 CFR
111 39496

15 CFR
Proposed Rules:
938 (2 documents) 39507, 39511

18 CFR
281 39497

19 CFR
353 39498

22 CFR
41 39499

26 CFR
31 39499
Proposed Rules:
1 39512

32 CFR
562 39502
888a 39502
907 39502

40 CFR
52 39503
180 39503
Proposed Rules:
60 39766

41 CFR
Ch. 1 39504
14 39504

45 CFR
Proposed Rules:
100b 39708
116 39712
116a 39712

49 CFR
Proposed Rules:
1056 39519
1320 39519
1321 39519
1322 39519
1323 39519
1324 39519

Rules and Regulations

Federal Register
Vol. 45, No. 114
Wednesday, June 11, 1980

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

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1438

Naval Stores; 1980 Gum Naval Stores Loan Program

AGENCY: Commodity Credit Corporation.

ACTION: Final rule.

SUMMARY: This rule provides the Commodity Credit Corporation's (CCC) determinations and regulations concerning a loan program for the 1980-crop gum naval stores, which is authorized by the Agricultural Act of 1949, as amended. The loan program stabilizes market prices and protects producers, processors, and consumers. The program enables producers to obtain price support on 1980 crop gum naval stores.

EFFECTIVE DATE: Effective June 11, 1980.

ADDRESS: Producer Association Division, Agricultural Stabilization and Conservation Service, P.O. Box 2415, U.S. Department of Agriculture, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Dallas Smith, ASCS, (202) 447–5988.

SUPPLEMENTARY INFORMATION: The Final Impact Statement describing the considerations involved and impact of the regulation is available upon request from Dallas Smith. This action has been reviewed under USDA procedures established in Secretary's Memorandum 1955 to implement Executive Order 12044, and has been classified not significant. On December 12, 1979, CCC published a notice in the **Federal Register** (44 FR 71839) that CCC proposed to make determinations and issue regulations concerning a loan program for 1980-crop naval stores. No purchase program was under consideration. All comments received from the American Turpentine Farmers Association and producers were favorable.

Final Rule

Accordingly, the regulations at 7 CFR 1438.1636 through 1438.1645 and the title of the subpart, are revised to read as follows, effective as to 1980-crop gum naval stores. The material previously appearing in this subpart remains in full force and effect as to the crop years to which it was applicable.

Subpart—1980 Gum Naval Stores Loan Program

Sec.

1438.1636 General Statement and administration.
1438.1637 Definitions.
1438.1638 Loan to ATFA.
1438.1639 Advances to producers.
1438.1640 Rate of advance to producers.
1438.1641 Maturity of loan.
1438.1642 Redemption by ATFA.
1438.1643 Net gains.
1438.1644 Right of CCC upon maturity.
1438.1645 Personal liability.

Authority: Sec. 4(d), 63 Stat. 1070 (15 U.S.C. 714b); sec. 5(a) 62 stat. 1072 (15 U.S.C. 714 c) and sec. 301, 401, 63 Stat. 1053, 1054 (7 U.S.C. 1421, 1447).

§ 1438.1636 General statement and administration.

CCC will make loans available to producers of gum naval stores during the calendar year 1980 through the American Turpentine Farmers Association (herein referred to as ATFA), under the terms and conditions described in these regulations. The Producer Associations Division, ASCS, will supervise the administration of the program.

§ 1438.1637 Definitions.

(a) "Eligible producer" means, a producer who: (1) is a member of ATFA in good standing under membership requirements approved by CCC (no producer who is otherwise eligible may be excluded from membership in ATFA), (2) is a participant in the Naval Stores Conservation Program for 1980 or otherwise follows one or more forestry conservation practices established by State and Federal Forestry services, as determined by ATFA, (3) has made satisfactory arrangements to pay an indebtedness to the U.S. Department of Agriculture or any of its agencies, as evidenced by the debt records maintained by the Agricultural Stabilization and Conservation County Committees of the U.S. Department of Agriculture, and (4) has executed, and has not breachd his obligations under, the Producer's Marketing Agreement (ATFA Form 1), or any other similar agreement.

(b) "Eligible oleoresin" means oleoresin (1) which was produced in 1980 in the United States by an eligible producer, (2) which is free and clear from all liens and encumbrances, (3) the rosin content in which has not been previously pledged for a loan under this or any similar program, and in which the beneficial interest is and always has been in the producer, and (4) which will yield rosin of the grades and quality prescribed in paragraph (d) of this section.

(d) "Eligible rosin" means gum rosin which (1) was processed by the Olustee or similar method from eligible oleorosin, (2) grades "K" or better, (3) is free and clear from all liens and encumbrances, (4) has not previously been pledged for a loan under this or any similar program, and in which the beneficial interest is and always has been in the producer: *Provided,* That, when a producer's eligible oleoresin was commingled in the processing operation with oleoresin produced in the United States by other producers, the rosin tendered by the producer for advances, as representing the processed equivalent of the producer's eligible oleoresin, will be deemed to be, if otherwise eligible, rosin produced by such producer, (5) is packed to a net weight of 517 pounds, in eligible metal drums, (6) is transparent, (7) is free from visible foreign materials and contains no extraneous matter resulting from chemical or other treatment of the rosin, or of the oleoresin or the trees from which it came, and (8) conforms as to softening point to not less than Federal Specifications LLL–R–626b, wit: 158° Fahrenheit (American Society for Testing Materials No. E–28–67). Rosin must be federally graded, inspected and weighed or the weights checked by Federal Inspectors employed or licensed by CCC.

(e) "Eligible metal drums" means drums conforming to the specifications approved by CCC for metal drums for storing rosin. These specifications are obtainable from and on file in the office of ATFA.

§ 1438.1638 Loan to ATFA.

Under a Loan Agreement, CCC will make a loan to ATFA which will enable ATFA to make loan advances to eligible producers on eligible naval stores. As security for such loan, ATFA will pledge such naval stores to CCC; CCC has the right to establish a maximum aggregate disbursement at any time upon written notice to ATFA, but no such limitation shall apply with respect to naval stores tendered to ATFA by producers prior to such notice. The loan will be in an amount equal to (a) the amount of the loan advances made by ATFA to producers, except that the loan will be made only on full drums of eligible naval stores, (b) the administrative and operating expenses, approved by CCC, incurred by ATFA in making advances available to producers, and in the handling, preservation, and redemption of pledged naval stores, and (c) storage charges or other charges on pledged naval stores up to the time of aquisition of title thereto by CCC. The loan by CCC to ATFA shall bear interest at the rate announced by CCC for 1980 crops.

§ 1438.1639 Advances to producers.

ATFA will make advances to eligible producers on eligible naval stores only when such naval stores have been (a) processed (except where CCC and ATFA determine that unprocessed rosin content in oleoresin may be offered for advance), (b) placed in storage in the custody of an approved warehouseman who has entered into and is fully complying with a Warehouse Agreement (ATFA Form 2) with ATFA, or in the custody of ATFA acting under a Storage Agreement with CCC, and (c) offered for an Advance on Producer's Offer (ATFA Form 4), the date of which, unless a first offer and dated not later than September 1, 1980, shall be not later than thirty days from the date of delivery of eligible oleoresin to a processor, but in no event later than December 31, 1980, by the producer of the oleoresin, the rosin content of which or processed rosin from which has been so placed in storage. No warehouseman will be authorized to store pledged unprocessed rosin except upon approval by CCC of ATFA's written recommendation therefor and written demonstration by ATFA that there exists an immediate and substantial need for such storage. If there are any liens or encumbrances on the naval stores offered for advance, proper waivers are required on a Lienholder's Waiver and Agreement (ATFA Form 3). All processing charges, including the cost of eligible metal drums for rosin, and storage and other warehouse charges to the date of tender for advance, will be borne by the producer.

§ 1438.1640 Rate of advance to producers.

ATFA will make advances to eligible producers on eligible rosin or rosin content only, based on the support level of $76.00 per standard barrel (435 lbs. net weight each) of oleoresin (crude pine gum), processed basis. Although no advance is made on turpentine, an allowance is made for the estimated 1980 market value of the turpentine content in a barrel of oleoresin in determining the advance rate for rosin or rosin content. The loan rates on rosin are $24.99 for grade WG, $25.74 for grades X and WW, $24.59 for Grade N, $24.19 for Grade M, and $23.74 for Grade K, per hundred pounds net, packed in eligible metal drums. CCC reserves the right to reduce rosin loan rates, if the actual turpentine market price during 1980, when added to such rosin loan rates, results in a support level for crude pine gum in excess of 90 percent of parity. Also, CCC may increase or decrease grade premiums and discounts whenever market conditions warrant. ATFA will make advances to any eligible producer on the basis of the applicable advance rates in effect on the date of the applicable Producer's Offer.

§ 1438.1641 Maturity of loan.

The loan made by CCC to ATFA will be due and payable upon demand.

§ 1438.1642 Redemption by ATFA.

ATFA's right to redeem naval stores pledged by ATFA to CCC shall be subject to the terms and conditions of the Loan Agreement and any amendments thereto.

Redemption shall be made upon payment of the redemption cost. The redemption cost will be determined by CCC and will be the amount outstanding under the Loan Agreement, including any unpaid accured expenses and charges, plus interest applied ratably to the naval stores to be redeemed. Any naval stores redeemed will not be thereafter eligible for loan.

§ 1438.1643 Net gains.

ATFA will disburse in cash on a fair and equitable basis to participating producers all net gains, less cost of disbursement, resulting from ATFA's sale of redeemed naval stores, unless a disposition other than cash disbursement has been approved by CCC. For example, when net gains are insufficient to justify disbursement expenses, ATFA may upon request to and approval of CCC, utilize such net gains for and in behalf of all of its producer members.

§ 1438.1644 Right of CCC upon maturity.

Upon maturity and nonpayment of the loan, CCC will take title to any unredeemed naval stores, without a sale thereof, and CCC will have no obligation to pay or account to ATFA for any market value which such naval stores may have in excess of the amount of the loan, plus interest and charges.

§ 1438.1645 Personal liability.

Any fraudulent representation in the program documents by ATFA or the producer will render ATFA or the producer subject to criminal prosecution under applicable law, and personally liable for the amount by which the proceeds received upon the disposition of the naval stores involved are less than the amount of indebtedness incurred by ATFA with respect to such naval stores.

Signed at Washington, D.C. on June 6, 1980.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 80-17666 Filed 6-10-80; 8:45 am]

BILLING CODE 3410-05-M

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Reg. D; Docket No. R-0304]

Member Banks; Marginal Reserve Requirements; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule, correction.

SUMMARY: This document corrects a previous FR Doc. (FR Doc. 80-16770) on marginal reserve requirements, beginning at page 37410 of the issue for Tuesday, June 3, 1980.

EFFECTIVE DATE: This action is effective for marginal reserves required to be maintained during the seven-day period beginning June 12, 1980, against total managed liabilities outstanding during the seven-day period beginning May 29, 1980.

FOR FURTHER INFORMATION CONTACT: Paul S. Pilecki, Attorney (202/452-3281) or Daniel L. Rhoads, Attorney (202/452-3711), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On page 37412, first column, in the flush

paragraph appearing after § 204.5(f)(3)(i)(B) the beginning phrase should read:

* * * "outstanding during any computation period beginning after May 28, 1980, is lower than the lowest daily average of such loans and balances outstanding during any computations period between March 6, 1980, and May 28, 1980, for which data were reported on form FR 2414d." * * *

Board of Governors of the Federal Reserve System, June 3, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-17620 Filed 6-10-80; 8:45 am]

BILLING CODE 6210-01-M

---

12 CFR Part 229

[Docket No. R-0302]

Credit Restraint; Nonmember Commercial Banks; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; correction.

SUMMARY: This document corrects a previous **Federal Register** document (FR Doc. 80-16767) on nonmember commercial banks, beginning at page 37413 of the issue for Tuesday, June 3, 1980.

EFFECTIVE DATE: For the special deposit required to be maintained by nonmember commercial banks for the seven-day period beginning June 12, 1980, for the computation period beginning May 29, 1980.

FOR FURTHER INFORMATION CONTACT: Paul S. Pilecki, Attorney (202/452-3281) or Daniel L. Rhoads, Attorney (202/452-3711), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: In § 229.24(b)(1) on page 37414, third column, the phrase beginning on the first line should read:

* * * "outstanding during any computation period beginning after May 28, 1980, is lower than the lowest daily average amount of such loans and balances outstanding during the base period for any computation period between March 20, 1980 and May 28, 1980." * * *

Board of Governors of the Federal Reserve System, June 3, 1980.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 80-17621 Filed 6-10-80; 8:45 am]

BILLING CODE 6210-01-M

FARM CREDIT ADMINISTRATION

12 CFR Part 605

Information Security

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: As required in Executive Order 12065 and Interagency Security Oversight Office Directive No. 1, the Farm Credit Administration is publishing a new Part 605 regarding the handling and use of classified documents. Since this Part reflects only agency policy, procedure, and practices concerning national security information in the possession of the Farm Credit Administration, it is found that notice of proposed rulemaking is not required nor necessary to the public interest.

EFFECTIVE DATE: June 11, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Larry H. Bacon, Acting Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza, East, S.W., Washington, DC 20578 (202) 755-2181.

Chapter VI of Title 12 of the Code of Federal Regulations is revised by adding a new Part 605 to read as follows:

PART 605—INFORMATION

Sec.

605.500 Policy.
605.501 Federal Emergency Preparedness Officer.
605.502 Program and Procedures.

Authority: Sec. 5.9, 5.12, 5.18, 85 Stat. 619, 620, 621.

§ 605.500 Policy.

It is the policy of the Farm Credit Administration to act in matters relating to national security information in accordance with Executive Order 12065 and directives issued thereunder by the Interagency Security Oversight Office (ISOO)

§ 605.501 Federal Emergency Preparedness Officer.

(a) The Federal Emergency Preparedness Officer of the Farm Credit Administration shall be responsible for implementation and oversight of the information security program and procedures adopted by the Agency pursuant to the Executive order. Such officer shall be the recipient of questions, suggestions, and complaints regarding all elements of this program and shall be solely responsible for changes to it and for the assurance that it is at all times consistent with the Executive order and ISOO directive.

(b) The Federal Emergency Preparedness Officer shall be the Farm Credit Administration's official contact for requests for declassification of materials submitted under the Executive order, regardless of the point of origin of such requests, and shall assure that such requests are acted upon within 60 days of receipt. Such officer shall also assure that requests for declassification submitted under the Freedom of Information Act are handled in accordance with that Act.

§ 605.502 Program and Procedures.

(a) The Farm Credit Administration has no authority for the original classification of information for national security purposes. Only those agencies described in the Executive order may so classify information.

(b) *Derivative Classification.* "Derivative Classification" means a determination that information is in substance the same information that is currently classified under a designated level of classification. Derivative application of classification markings shall be the responsibility of the Federal Emergency Preparedness Officer who shall assure that the use of this authority is in accordance with ISOO directives.

(c) *Mandatory Review.* All requests for review under the mandatory review provisions of the Executive order shall be handled by the Federal Emergency Preparedness Officer or his/her designee. Under no circumstances shall such official refuse to confirm the existence or non-existence of a document requested under the Executive order or the Freedom of Information Act unless the fact of its existence or non-existence would itself be classified under the Executive order.

(d) *Handling of Classified Documents.* All documents bearing the terms "Top Secret", "Secret", and "Confidential" shall be delivered to the Federal Emergency Preparedness Officer or his/her designee immediately upon receipt. All potential recipients of such documents shall be advised of the names of such designees and updated information as necessary. In the event that the Federal Emergency Preparedness Officer or his/her designee is not available to receive such documents, they shall be turned over to the Director of Personnel, Office of Administration, FCA and secured, unopened, in the combination safe located in the Personnel Division until the Federal Emergency Preparedness Officer is available. Should the Director of Personnel not be available, the document shall be delivered to the Director of the Administrative Division, Office of Administration, FCA, for deposition in the combination safe located in the Budget and Accounts Section. All materials not immediately

deliverable to the Director of the Administrative Division shall be redelivered to the Agency at the earliest opportunity. Under no circumstances shall classified materials that cannot be delivered to the alternate designees be stored other than in the two designated safes.

(e) *Reproduction.* Reproduction of classified materials shall take place only in accordance with Section 4–4 of the Executive order and any limitations imposed by the originator. Should copies be made, they shall be subject to the same controls as the original document. Records showing the number and distribution of copies shall be maintained by the Federal Emergency Preparedness Officer and the log stored with the original documents. These measures shall not restrict reproduction for the purposes of Mandatory Review.

(f) *Storage.* All classified documents shall be stored in the combination safes located in the Office of Governor, Farm Credit Administration, Washington, DC. The combination shall be changed as required by directives issued by the ISOO. The combination shall be known only to the Federal Emergency Preparedness Officer and his/her designees who have appropriate security clearances.

(g) *Employee Education.* All employees who have been granted a security clearance and who have occasion to handle classified materials shall be advised of handling, reproduction and storage procedures and shall be required to review the Executive order and appropriate ISOO directives. This shall be effected by a memorandum to all affected employees in accordance with procedures published in the Administrative and Personnel Handbook of the Farm Credit Administration.

(h) *Agency Terminology.* No official of the Farm Credit Administration shall use the terms "Top Secret", "Secret", or "Confidential" except in relation to materials classified for national security purposes.

As a Federal regulatory agency the Farm Credit Administration maintains certain internal documents which relate to its examination and supervision of the institutions of the Farm Credit System. Such documents are limited in use and distribution. The terminology to be used in marking these items for control purposes shall be in accordance with provisions of the Administrative and Personnel Handbook of the Farm Credit Administration.

Donald E. Wilkinson,

Governor.

[FR Doc. 80–17672 Filed 6–10–80; 8:45 am]

BILLING CODE 6705–01–M

---

12 CFR Part 614

Loan Policies and Operations

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration publishes a new section to its regulations pertaining to the loan policies and operations of the banks of the Farm Credit System. The new section will govern the use of supervisory reports which are issued to bank boards of directors to assist the board in discharging its responsibilities.

EFFECTIVE DATE: June 11, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Larry H. Bacon, Acting Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza, East, SW., Washington, DC 20578 (202) 755–2181.

SUPPLEMENTARY INFORMATION: By notice published in the **Federal Register** on February 14, 1980, interested persons were afforded the opportunity to file written comments or suggestions on the proposed amendment. Since no comments were received pursuant to the notice, the regulation was adopted as proposed.

Part 614 is amended by adding a new § 614.4015 to read as follows:

PART 614—LOAN POLICIES AND OPERATIONS

* * * * *

§ 614.4015 Supervisory Reports.

Supervisory reports issued by the Farm Credit Administration to the respective bank board of directors are the property of the Farm Credit Administration. They are furnished to the Farm Credit institution for its confidential use. Such reports may be disclosed with the consent of the Governor of the Farm Credit Administration or his designee.

(Secs. 5.9, 5.12, 5.18, 85 Stat. 619, 620, 621)

Donald E. Wilkinson,

Governor.

[FR Doc. 80–17673 Filed 6–10–80; 8:45 am]

BILLING CODE 6705–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 111

Pollution Control; Amendment to Permit Greater Flexibility in Determining Credit Merits of Applications

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: Section 111.4(d) requires an Applicant to have a five year operating history with three years of profitability. This rule was designed to assure the receipt of applications only from small concerns with satisfactory credit. This credit standard is not relaxed by this amendment. The amendment will allow SBA to consider evidence that an application presents the equivalent of the specified history without the rigidity of the literal five-year rule.

EFFECTIVE DATE: June 11, 1980.

FOR FURTHER INFORMATION CONTACT: Vincent A. Fragnito, Chief, Pollution Control Guarantees, Office of Special Guarantees, Magazine Building, Rosslyn, Virginia 22209, (703) 235–2902.

SUPPLEMENTARY INFORMATION: This amendment appeared in proposed form on page 14869 of the **Federal Register** of March 7, 1980. No comments were received on the proposal. The rule will permit consideration of complex applications involving multiple concerns when only one of the concerns is in need of the pollution control facility, but lacks the five-year operating history. The rule will also permit the consideration of applications by new concerns which have been formed with assets of predecessor concerns whose former owners preferred to sell the business rather than install needed pollution control facilities. These applications must present evidence from which SBA can make a determination that the small concern has the equivalent of at least a five-year history of operations with any three of the last five years being profitable.

Inasmuch as the amendment, as proposed, did not completely reflect the intention of accepting applications from multiple entities it is necessary to make technical adjustments in the language of the definition of "Small Concern" in § 111.3 and in the first paragraph of § 111.4, and to capitalize the initial letters of the words "Small Concern" wherever they appear.

Pursuant to the authority of Section 308(c) of the Small Business Investment Act, as amended, 15 U.S.C. 687(c), Part

111 of Chapter I, Title 13 of the Code of Federal Regulations is hereby amended as set forth below:

1. § 111.3 is amended by revising the definition of "Small Concern" to read as follows:

§ 111.3 Definitions.

* * * * *

"Small Concern," including its affiliates (as defined in § 121.3–2(a) of this chapter), means a concern which qualifies as a small business under § 121.3–16 of this chapter. The usage of the singular "small concern" includes the plural.

* * * * *

2. § 111.4 is revised to read as follows:

§ 111.4 Eligibility.

In order to be eligible for a guarantee under this part the Small Concern must:

(a) Be independently owned and operated and not dominant in its field and must be eligible under SBA loan policy, as defined in Part 120 of this chapter.

(b) Together with its affiliates (as defined in § 121.3–2(a) of this chapter) qualify as a small business as defined in § 121.3–16 of this chapter.

(c) Be at an operational or financial disadvantage with other business concerns with respect to the planning, design, or installation of pollution control facilities, or the obtaining of financing therefor, or likely to suffer such disadvantage;

(d) Have been in operation for at least five years, and have a history of profitable operations during any three of the last five years preceding the date of the application, or provide evidence to support a determination by SBA that the equivalent of such operation exists.

(e) Provide evidence from a local, State or Federal environmental regulatory authority that the Facility meets the terms of the definition above.

* * * * *

3. The initial letters of the words "Small Concern" shall be capital letters wherever these words appear in this Part 111.

(Catalog of Federal Domestic Assistance Programs No. 59.031, Small Business Pollution Control Financing Guarantee)

Dated: June 5, 1980.

William H. Mauk, Jr.,

Acting Deputy Administrator.

[FR Doc. 80–17697 Filed 6–10–80; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 281

[Docket No. RM79–15]

Amendment to the Regulation for the Implementation of Section 401 of the Natural Gas Policy Act

Issued: June 3, 1980.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Interim rule.

SUMMARY: The Federal Energy Regulatory Commission is amending 18 CFR Part 281, the agricultural curtailment rule, to establish new filing dates for interstate pipelines to serve a draft index of entitlements on their customers and for customers to file protests to such drafts. The new filing dates are those which were applicable in 1979: September 14 and September 21. If the Commission had not amended the rule, pipelines would have had to serve these documents before they received necessary information from essential agricultural users. The amendment allows pipelines to serve these documents after they have received all information necessary to prepare the document.

EFFECTIVE DATE: June 3, 1980.

DATES: Written comments by July 3, 1980. Request to participate in hearing by June 20, 1980. Hearing date: June 30, 1980.

ADDRESS: Written comments and request to participate to: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (Reference Docket No. RM79–15).

HEARING LOCATION: Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Robert F. Christin, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8432.

Before Commissioners: Georgiana Sheldon, Matthew Holden, Jr., and George R. Hall.

In the matter of amendment to the regulation for the implementation of Section 401 of the Natural Gas Policy Act.

I. Background

In order No. 29, which was issued on May 2, 1979 (44 FR 26855, May 8, 1979) in this proceeding, the Commission established a final rule to ensure that natural gas for essential agricultural uses will not be curtailed unless curtailment is needed to protect certain enumerated high priority users, as provided in Section 401 of the Natural Gas Policy Act (NGPA).[1] Section 281.212(d) of the rule promulgated in Order No. 29 provides that for years subsequent to 1979, an interstate pipeline is required to serve draft tariff sheets and a draft index of entitlements on all customers and the Data Verification Committee by August 1. Section 281.213(c) of the rule provides that for years subsequent to 1979, written protests concerning the index of entitlements shall be filed no later than 30 days after a draft index of entitlements is served.

II. Discussion

Contemporaneously with this rule, the Commission is issuing, in Docket No. RM79–40, a notice of proposed rulemaking. The proposal would establish a final rule for the determination of alternative fuels for essential agricultural users pursuant to Section 401(b) of the NGPA.[2] Section 281.305 of the proposed rule would require an essential agricultural user to reduce its essential agricultural requirements to reflect the exclusion of volumes for which it has alternative fuel.

Comments on the rule proposed in Docket No. RM79–40 are due on July 3, 1980. Because of the time required for consideration of the comments and promulgation of a final rule, the Commission believes that a final rule may not be promulgated in Docket No. RM79–40 before the pipelines have completed the work necessary to meet the filing deadline contained in Section 281.212(d). Therefore, to avoid uncertainty and unnecessary duplication of effort by the pipelines, the Commission is issuing a rule, effective immediately, to provide that under Subpart B of Part 281, the filing and service dates for 1980 shall be the same as for 1979.

III. Effective Date

The Commission hereby adopts and makes effective this interim rule without prior notice and opportunity of comment and without publication thirty days before its effective date. The interim rule

[1] Order 29 was amended in Order Nos. 29–A, June 15, 1979 (44 FR 37499, June 27, 1979), 29–B, July 20, 1979 (44 FR 45922, August 6, 1979) and 29–C, October 22, 1979 (44 FR 61338, October 25, 1979).

[2] An interim rule was issued in Order No. 55 Docket No. RM79–15, October 26, 1979 (44 FR 62484, October 31, 1979).

amending the 1980 filing dates previously established in this proceeding is procedural in nature. Section 553 of the Administrative Procedure Act (5 U.S.C. § 553) does not require prior notice and opportunity to comment or publication thirty days before the effective date for procedural rules.

IV. Comment Procedures

A. *Written Comments.* Interested persons are invited to submit written comments, data, views, or arguments with respect to this interim rule. Comments should be submitted to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should reference Docket No. RM79–15. An original and 14 copies should be filed. All comments received prior to 4:30 p.m. EDT, July 3, 1980, will be considered by the Commission prior to promulgation of a final regulation. All written submissions will be placed in the public file which has been established in this docket and which is available for public inspection in the Commission's Office of Congressional and Public Affairs, Division of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426, during regular business hours.

B. *Public Hearing.* A public hearing concerning this interim rule and the proposal set forth in the Notice of Proposed Rulemaking in Docket No. RM79–40 on June 3, 1980, will be held in Washington, D.C. on June 30, 1980, beginning at 10:00 a.m. at the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The exact location will be posted at the Commission on the morning of the hearing.

Requests to participate should be directed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, no later than June 20, 1980. Requests should reference Docket No. RM79–15 and should indicate the amount of time required for the oral presentation, and the telephone number at which the person making the presentation can be reached. Persons participating in the public hearing should, if possible, bring 50 copies of their testimony to the hearing. A list of participants in the hearing will be available at the hearing on the morning it is convened.

Members of the hearing panel will be designated by the Chairman of the Commission. The hearing will not be of a judicial or evidentiary type. There will be no cross-examination of persons presenting statements. However, the panel may question such persons and any interested person may submit questions to the presiding officer to be asked of persons making statements. The presiding officer will determine whether the question is relevant and whether the time limitations permit it to be presented. Any further procedural rules will be announced by the presiding officer at the hearing. Transcripts of the hearing will be available through the Commission's Division of Public Information, Office of Congressional and Public Affairs.

(Natural Gas Act amended, 15 U.S.C. §§ 717–717w; Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301–3432; Department of Energy Organization Act, 42 U.S.C. §§ 7101–7352; E.O. 12009, 3 CFR 142 (1978))

In consideration of the foregoing, Part 281, Chapter I of Title 18, Code of Federal Regulations is amended to read as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

Part 281 is amended by adding a new § 281.216 to read as follows:

§ 281.216 Filing and service dates for 1980.

Notwithstanding anything in §§ 281.212(d) or 281.213(c) to the contrary, the filing and service dates under Subpart B for the year 1980 shall be the same as for 1979.

[FR Doc. 80–17619 Filed 6–10–80; 8:45 am]

BILLING CODE 6450–85–M

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 353

Potassium Chloride, Otherwise Known as Muriate of Potash, From Canada; Modification of Dumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Modification of dumping finding.

SUMMARY: This notice is to inform the public that Central Canada Potash Co., Ltd. is excluded from the finding of dumping applicable to muriate of potash from Canada, published as T.D. 69–265 in the **Federal Register** of December 19, 1969 (34 FR 19904). CF Industries, Inc. was excluded from the finding by T.D. 74–157, which was published in the **Federal Register** on May 22, 1974 (39 FR 17944). Prior to that modification CF Industries, Inc. and Central Canada Potash Co., Ltd., due to their relationship, were treated as one and the same for antidumping purposes. Therefore, any entries of potassium chloride from Central Canada Potash Co., Ltd., entered, or withdrawn from warehouse, for consumption on or after May 22, 1974, are not liable for dumping duties. The table in section 353, Annex I of the Commerce Regulations is being amended.

EFFECTIVE DATE: June 11, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Robert J. Marenick, U.S. Department of commerce, International Trade Administration, Office of Compliance, Washington, D.C. 20230 telephone (202) 377–2496.

SUPPLEMENTARY INFORMATION: On December 19, 1969, a finding of dumping with respect to potassium chloride, otherwise known as muriate of potash, from Canada was published in the **Federal Register** (34 FR 19904). On May 22, 1974, T.D. 74–157 was published in the **Federal Register** (39 FR 17944), modifying the finding to exclude CF Industries, Inc. Central Canada Potash Co. Ltd., is the Canadian supplier of CF Industries, Inc., because of this relationship, the two companies are treated as one and the same for antidumping purposes. In order to clarify the record, it is appropriate to modify this finding to show that, in addition to CF Industries, Inc., its related Canadian supplier, Central Canada Potash Co., Ltd., is also excluded from the finding of dumping.

Section 353, Annex I [Amended]

Accordingly, Section 353, Annex I, Commerce Regulations (19 CFR 353, Annex I), is amended to exclude potassium chloride, otherwise known as muriate of potash, from Canada produced and sold by Central Canada Potash Co. Ltd., from T.D. 69–265, as modified by T.D. 74–157, T.D. 76–219, T.D. 77–202 and T.D. 80–18. The current entry for potassium chloride, otherwise known as muriate of potash, from Canada should be amended by adding, after the last entry therefor, the following:

Product	Country	T.D.	Modified by
Same as above, except that produced and sold by Central Canada Potash Co., Ltd.	do	do	80–

This notice is published pursuant to § 353.54(f) of Commerce Regulations (19 CFR 353.54(f), 45 FR 8206).

John D. Greenwald,

Deputy Assistant Secretary for Import Administration, U.S. Department of Commerce.

May 23, 1980.

[FR Doc. 80-17676 Filed 6-10-80; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 41

[Dept. Reg. 108.791]

Issuance of Nonimmigrant Visas

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: Section 41.124 of Title 22 is amended to change the wording of one of the inserts used in the issuance of certain nonimmigrant visas. Under present regulations either the word "Bearer" or the words "Bearer and dependents named in passport" are inserted on nonimmigrant visas, when authorized by the Department, in lieu of the name of the alien or the names of accompanying family members included in the principal alien's passport. It has been found that issuance of nonimmigrant visas would be greatly expedited by the use of the single word "Bearer(s)" instead of the two alternative current inserts.

EFFECTIVE DATE: June 9, 1980.

FOR FURTHER INFORMATION CONTACT: Cornelius D. Scully, III, Director, Office of Legislation, Regulations and Advisory Assistance, Visa Services, Bureau of Consular Affairs. (202) 632-1980.

Because the amendment involved in this order is technical and administrative in nature, the provisions of the Administrative Procedure Act (80 Stat. 383; 5 U.S.C. 553) relative to Notice of Proposed Rulemaking are not applicable.

In paragraph (d)(1) of § 41.124 lines 13 through 18 are amended to read:

§ 41.124 Procedures in issuing visas.

* * * * *

(d) *Insertion of name; petition and derivative status notations.* (1) * * * the word "Bearer(s)" in lieu of the name of the alien and in lieu of the names of accompanying family members, if any, who are included in the alien's passport, in visas * * *

* * * * *

(Section 101, 84 Stat. 116; 8 U.S.C. 1101)

Dated: June 3, 1980.

Barbara M. Watson,

Assistant Secretary for Consular Affairs.

[FR Doc. 80-17678 Filed 6-10-80; 8:45 am]

BILLING CODE 4710-06-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[T.D. 7701]

Employment Taxes; Applicable on and After Jan. 1, 1955; Changes in the Deposit Requirements for Social Security and Withheld Income Taxes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the requirements with regard to depositing social security and withheld income taxes. The regulations affect certain employers with undeposited amounts of those taxes, and provide necessary guidance to such employers.

DATES: The regulations are generally effective with respect to wages paid after December 31, 1980. However, the "safehaven" provision for large employers will be effective with respect to wages paid after December 31, 1981.

FOR FURTHER INFORMATION CONTACT: John A. Tolleris of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3294).

SUPPLEMENTARY INFORMATION:

Background

On February 8, 1980, the Federal Register published proposed amendments to the Employment Tax Regulations (26 CFR Part 31) under section 6302 of the Internal Revenue Code of 1954 (45 FR 8666). The amendments were proposed to balance the administrative burden of the deposit requirements for social security and withheld income taxes against the benefits of more rapid deposits of those taxes. In addition, the amendments were proposed to reduce the administrative burdens for small- and medium-sized employers. After consideration of all comments received in response to the notice of proposed rulemaking and at the public hearing on the proposed amendments which was held on April 16, 1980, those amendments are adopted as modified by this Treasury decision.

Explanation of Provisions

Section 6302(c) of the Internal Revenue Code of 1954 authorizes the Secretary to prescribe the manner, times, and other conditions with which employers must comply in depositing social security and withheld income taxes in authorized depositaries. These amendments establish new deposit requirements pursuant to that authorization.

Among the modifications made to the proposed rules after consideration of the public comments received is the reduction to $500 (from the $1,000 level proposed in the notice) in the end-of-month level of accumulated employment taxes which subjects an employer to the monthly deposit requirement. This amendment was made as a result of the concern expressed at the public hearing that the proposal allowing small employers to defer payment of up to $1,000 of accumulated employment taxes until the end of a calendar quarter could cause compliance difficulties for these employers. The rule adopted represents a relaxation of the currently applicable $200 threshold for the monthly deposit requirement. Employers with aggregate taxes of under $500 during a calendar quarter may remit them with their quarterly returns, effective on January 1, 1981.

After review of the comments regarding the difficulties medium-sized employers would face in making monthly deposits of at least 95 percent of the taxes within 7 days after the end of the month, this Treasury decision revises the proposed rule to provide that such employers must deposit the full amount of the undeposited taxes within 15 days after the end of the month. This is generally the same as the presently applicable rule, except that the deposit with respect to the final month of a return period will also be due on the 15th day of the following month rather than, as under current rules, on the last day of the following month.

In view of the generally unfavorable comments on the proposal to permit employers with under $13,000 of employment taxes in each of the 4 preceding calendar quarters to make monthly deposits of such taxes during the current calendar quarter, this provision is not adopted by the Treasury decision. Instead, the Treasury decision eases the deposit requirement for a number of medium-sized employers by providing that those employers with less than $3,000 (instead of the present $2,000) of aggregate taxes with respect to wages paid at the end of a month will, effective on January 1, 1981, be permitted to make a monthly deposit. In

lieu of the $13,000 "safe haven", the Treasury decision also provides that most employers who can establish to the Commissioner's satisfaction that they had not been required to make any quarter-monthly or eighth-monthly deposit during the previous 4 calendar quarters or during earlier months of the current quarter may make a monthly deposit for the first month in which they have accumulated $3,000 or more by the end of the month. Such employers thus would not be penalized for failure to make a 3-banking-day deposit for the first month in which they otherwise would be required to comply with the eighth-monthly deposit provision.

After consideration of the adverse comments regarding administrative burdens caused by the acceleration from the present quarter-monthly deposit schedule to the proposed eighth-monthly deposit schedule, it was determined that the eighth-monthly rule should be adopted but revised to provide that an employer will be required to make a deposit with respect to an eighth-monthly period only when the aggregate undeposited taxes with respect to the period (and any prior eighth-monthly period with respect to which no deposit was made) reaches or exceeds $3,000, thus relaxing the proposed $1,000 rule as well as the currently applicable $2,000 threshold for 3-banking-day deposits. This change will substantially reduce (as compared with the proposed rule) the number of employers who will be required to make more than 4 deposits a month. In addition, the Treasury decision does not adopt the proposed rule which would have required aggregating any undeposited "safe-haven" amount for purposes of determining when the first eighth-monthly deposit after the 15th day of the following month must be made.

A number of commentators criticized the proposal to reduce the "safe haven" for deposits by large employers from 90 percent to 95 percent; this change, they argued, would make even more difficult those employers' task in correctly estimating the amount of deposit required without risking a penalty for an underdeposit. Upon consideration of these comments, it was determined that a 5 percent margin is sufficient for purposes of estimating deposit amounts. Therefore, the Treasury decision adopts the proposed requirement that, effective on January 1, 1982, employers deposit at least 95 percent of the taxes with respect to wages paid during an eighth-monthly period.

A number of commentators expressed confusion regarding whether large employers would be required to make 8 deposits per month, even if they paid their employees less frequently, such as on a weekly or semi-monthly schedule. As is the case under the current quarter-monthly deposit requirements, an eighth-monthly deposit will only be required when aggregate taxes with respect to wages actually paid during the eighth-monthly period (and earlier periods with respect to which no deposit was made) equal or exceed the threshold amount. Taxes with respect to wages earned by but not yet paid to employees are not aggregated for purposes of determining the frequency or amount of deposits.

Following is a table which summarizes the rules provided by this decision:

Payment Schedule for Withheld Income Tax and FICA Tax Liabilities

[Effective January 1, 1981]

If the accumulated unpaid liability is:	*Then the payment requirement is:*
$3,000 or more at end of any eighth-monthly period (eighth-monthly periods end on the 3rd, 7th, 11th, 15th, 19th, 22nd, 25th, and the last day of each month)	Employer must deposit accumulated liability within 3 banking days after close of eighth-monthly period. No penalty imposed provided employer deposits at least 95 percent (90 percent in 1981) of liability within 3 banking days, with remainder paid by specified dates. Exception provided for most first-time 3-banking-day depositors.
$500 or more at the end of any month (unless an eighth-monthly deposit was required during the month pursuant to above rule)	Employer must deposit the accumulated liability by the 15th of the following month.
Less than $500 at the end of the calendar quarter.	Employer must pay the accumulated liability by the end of the following month (the due date of the quarterly return). Liability may be paid with the return or deposited.

Office of the Secretary of the Treasury:
Office of Tax Analysis.

May 29, 1980.

Evaluation of the effectiveness of these regulations will be based on comments received from offices within the Treasury and the Internal Revenue Service, other governmental agencies, the Congress, State and local governments, and the public. Although these regulations will impose no new reporting requirement, they may impose additional recordkeeping and administrative burdens for certain large employers due to the acceleration of deposits provided by this Treasury decision.

Drafting Information

The principal author of these proposed regulations is John A. Tolleris of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department developed the substance of the regulations.

Adoption of Amendments to the Regulations

Accordingly, the regulations proposed to be prescribed as final Employment Tax Regulations (26 CFR Part 31) published as a notice of proposed rulemaking in the **Federal Register** for February 8, 1980 (45 FR 8666), are hereby adopted as proposed subject to the following revisions:

Subparagraph (1)(i) of § 31.6302(c)–1(a) as set forth in the notice of proposed rulemaking is revised to read as follows:

§ 31.6302(c)—1 Use of Government depositaries in connection with taxes under Federal Insurance Contributions Act and income tax withheld.

(a) *Requirement*—(1) *In general.* (i) In the case of a calendar month which begins after December 31, 1980—

(*a*) Except as provided in paragraph (b) of this section and hereinafter in this subdivision (i), if at the close of any calendar month the aggregate amount of undeposited taxes (as defined in subdivision (iii) of this subparagraph) is $500 or more, the employer shall deposit the undeposited taxes in a Federal Reserve bank or authorized financial institution within 15 calendar days after the close of such calendar month. However, this (*a*) of subdivision (i) shall not apply if the employer was required to make a deposit of taxes pursuant to (*b*) of this subdivision (i) with respect to an eighth-monthly period which occurred during the calendar month.

(*b*) Except as provided in paragraph (b) of this section and except in the case of first-time 3-banking-day depositors, if at the close of any eighth-monthly period the aggregate amount of undeposited taxes is $3,000 or more, the employer shall deposit the undeposited taxes in a Federal Reserve bank or authorized financial institution within 3 banking days after the close of such eighth-monthly period. For purposes of determining the amount of undeposited taxes at the close of an eighth-monthly period, undeposited taxes with respect to wages paid during a prior eighth-monthly period shall not be taken into account if the employer has made a deposit with respect to such prior eighth-monthly period. An employer will be considered to have complied with the requirements of this subdivision (i)(*b*) for a deposit with respect to the close of an eighth-monthly period if—

(*1*) His deposit is not less than 95 percent (90 percent before January 1, 1982) of the aggregate amount of the taxes with respect to

wages paid during the period for which the deposit is made, and

(2) If such eighth-monthly period occurs in a month other than the last month of a period for which a return is required to be filed (hereinafter in this subparagraph referred to as a return period), he deposits any underpayment with his first deposit which is otherwise required by this subdivision (i)(*b*) to be made after the 15th day of the following month.

For purposes of this subdivision (i)(*b*), a "first-time 3-banking-day depositor" is an employer who establishes to the satisfaction of the Commissioner that he was not required (but for this exception) to make a deposit pursuant to this subdivision (i)(*b*) (or pursuant to subdivsion (ii)(*b*) of this subparagraph) with respect to each period in any preceding month of the current calendar quarter and with respect to each period in the 4 calendar quarters preceding the current calendar quarter. An employer may in no event qualify as a "First-time 3-banking-day depositor" with respect to any eighth-monthly period if the undeposited taxes at the close of that period are $10,000 or more. The excess (if any) of a deposit over the actual taxes for a deposit period shall be applied in order of time to each of the employer's succeeding deposits with respect to the same return period, until exhausted, to the extent that the amount by which the taxes for a subsequent deposit period exceed the deposit for such subsequent deposit period. For purposes of this subdivision (i), "eighth-monthly period" means the first 3 days of a calendar month, the 4th day through the 7th day of a calendar month, the 8th day through the 11th day of a calendar month, the 12th day through the 15th day of a calendar month, the 16th day through the 19th day of a calendar month, the 20th day through the 22nd day of a calendar month, the 23rd day through the 25th day of a calendar month, or the portion of a calendar month following the 25th day of such month.

* * * * *

This Treasury decision is issued under the authority contained in sections 6302 and 7805 of the Internal Revenue Code of 1954 (68A Stat. 775, 917; 26 U.S.C. §§ 6302, 7805).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: June 6, 1980.

Donald C. Lubick,

Assistant Secretary of the Treasury.

Subparagraph (1)(i) of § 31.6302(c)–1 (a) as set forth in the notice of proposed rulemaking is revised to read as follows:

§ 31.6302(c)–1 Use of Government depositaries in connection with taxes under Federal Insurance Contributions Act and income tax withheld.

(a) *Requirement*—(1) *In general.* (i) In the case of a calendar month which begins after December 31, 1980—

(*a*) Except as provided in paragraph (b) of this section and hereinafter in this subdivision (i), if at the close of any calendar month the aggregate amount of undeposited taxes is $500 or more, the employer shall deposit the undeposited taxes in a Federal Reserve bank or authorized financial institution (see subparagraph (3)(iii) of this paragraph) within 15 calendar days after the close of such calendar month.

However, this (*a*) of subdivision (i) shall not apply if the employer was required to make a deposit of taxes pursuant to (*b*) of this subdivision (i) with respect to an eighth-monthly period which occurred during the calendar month.

(*b*) Except as provided in paragraph (b) of this section and except in the case of first-time 3-banking-day depositors, if at the close of any eighth-monthly period the aggregate amount of undeposited taxes is $3,000 or more, the employer shall deposit the undeposited taxes in a Federal Reserve bank or authorized financial institution within 3 banking days after the close of such eighth-monthly period. For purposes of determining the amount of undeposited taxes at the close of an eighth-monthly period, undeposited taxes with respect to wages paid during a prior eighth-monthly period shall not be taken into account if the employer has made a deposit with respect to such prior eighth-monthly period. An employer will be considered to have complied with the requirements of this subdivision (i)(*b*) for a deposit with respect to the close of an eighth-monthly period if—

(*1*) His deposit is not less than 95 percent (90 percent before January 1, 1982) of the aggregate amount of the taxes with respect to wages paid during the period for which the deposit is made, and

(*2*) If such eighth-monthly period occurs in a month other than the last month of a period for which a return is required to be filed (hereinafter in this subparagraph referred to as a return period), he deposits any underpayment with his first deposit which is otherwise required by this subdivision (i)(*b*) to be made after the 15th day of the following month.

For purposes of this subdivision (i)(*b*), a "first-time 3-banking-day depositor" is an employer who establishes to the satisfaction of the Commissioner that he was not required (but for this exception) to make a deposit pursuant to this subdivision (i)(*b*) (or pursuant to subdivision (ii)(*b*) of this subparagraph) with respect to each period in any preceding month of the current calendar quarter and with respect to each period in the 4 calendar quarters preceding the current calendar quarter. An employer may in no event qualify as a "first-time 3-banking-day depositor" with respect to any eighth-monthly period if the undeposited taxes at the close of that period are $10,000 or more.

The excess (if any) of a deposit over the actual taxes for a deposit period shall be applied in order of time to each of the employer's succeeding deposits with respect to the same return period, until exhausted, to the extent that the amount by which the taxes for a subsequent deposit period exceed the deposit for such subsequent deposit period. For purposes of this subdivision (i), "eighth-monthly period" means the first 3 days of a calendar month, the 4th day through the 7th day of a calendar month, the 8th day through the 11th day of a calendar month, the 12th day through the 15th day of a calendar month, the 16th day through the 19th day of a calendar month, the 20th day through the 22nd day of a calendar month, the 23rd day through the 25th day of a calendar month, or the portion of a calendar month following the 25th day of such month.

(ii) In the case of a calendar month which begins after January 31, 1971, and before January 1, 1981—

(*a*) Except as provided in paragraph (b) of this section and hereinafter in this subdivision (ii), if at the close of any calendar month other than the last month of a period for which a return is required to be filed, the aggregate amount of taxes (as defined in subdivision (iii) of this subparagraph) is $200 or more, the employer shall deposit the undeposited taxes in a Federal Reserve bank or authorized financial institution within 15 days after the close of such calendar month. However, the preceding sentence shall not apply if the employer has made a deposit of taxes pursuant to (*b*) of this subdivision (ii) with respect to a quarter-monthly period which occurred during such month; or

(*b*) If at the close of any quarter-monthly period the aggregate amount of undeposited taxes is $2,000 or more, the employer shall deposit the undeposited taxes in a Federal Reserve bank or authorized commercial bank within 3 banking days after the close of such quarter-monthly period. For purposes of determining the amount of undeposited taxes at the close of a quarter-monthly period, undeposited taxes with respect to wages paid during a prior quarter-monthly period shall not be taken into account if the employer has made a deposit with respect to such prior quarter-monthly period. An employer will be considered to have complied with the requirements of this subdivision (ii)(*b*) for a deposit with respect to the close of a quarter-monthly period if—

(*1*) His deposit is not less than 90 percent of the aggregate amount of the

taxes with respect to wages paid during the period for which the deposit is made, and

(2) If such quarter-monthly period occurs in a month other than the last month of a return period, he deposits any underpayment with his first deposit which is otherwise required by this subdivision (ii) to be made after the 15th day of the following month.

The excess (if any) of a deposit over the actual taxes for a deposit period shall be applied in order of time to each of the employer's succeeding deposits with respect to the same return period, until exhausted, to the extent that the amount by which the taxes for a subsequent deposit period exceed the deposit for such subsequent deposit period. For purposes of this subdivision (ii), "quarter-monthly period" means the first 7 days of a calendar month, the 8th day through the 15th day of a calendar month, the 16th day through the 22nd day of a calendar month, or the portion of a calendar month following the 22nd day of such month.

* * * * *

(iv) If the aggregate amount of taxes reportable on a return (other than a return on Form 942) for a return period exceeds the total amount deposited by the employer pursuant to subdivision (i) or (ii) of this subparagraph for such return period (*a*) by $500 or more in the case of a return period which ends after December 31, 1980, or (*b*) by more than $200 in the case of a return period which ends after December 31, 1970, and before January 1, 1981, the employer shall, on or before the last day of the first calendar month following the return period, deposit with a Federal Reserve bank or authorized financial institution an amount equal to the amount by which the taxes reportable on the return exceed the total deposits (if any) made pursuant to subdivision (i) or (ii) of this subparagraph for such period. As used in this subdivision, the term "taxes" shall have the meaning assigned to such term in subdivision (iii) of this subparagraph, except that the term shall include the taxes referred to in (*a*), (*b*), and (*c*) of such subdivision (iii) of this subparagraph with respect to any wages for domestic service in a private home of the employer which the employer elects to report on a quarterly return other than a quarterly return made on Form 942.

* * * * *

[FR Doc. 80-17658 Filed 6-9-80; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 562

[AR 145-1]

Reserve Officers' Training Corps; Senior ROTC Program-Organization, Administration, and Training

AGENCY: Department of the Army, DoD.

ACTION: Final rule.

SUMMARY: The regulation prescribing the policies for administering the Senior Reserve Officers' Training Corps (ROTC) Progress has been amended. The Army Advisory Panel for ROTC Affairs (AAP) is added. This action is necessary to conform with Army regulations. Notice of proposed rulemaking and the procedures applicable thereto are considered unnecessary.

EFFECTIVE DATE: June 11, 1980.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel James P. Hunt, U.S. Army, Chief, Procurement and Accessions Branch, U.S. Army Military Personnel Center, 200 Stovall Street, Alexandria, VA 22332 (202-325-0596). Dated: June 2, 1980.

James P. Hunt,

LTC, U.S. Army, Chief, Procurement and Accessions Branch, MILPERCEN.

In consideration of the above, 32 CFR 562 is amended by adding § 562.8 to read as follows:

§ 562.8 Army Advisory Panel on ROTC Affairs.

(a) The Army Advisory Panel on ROTC Affairs (AAP) was established on April 28, 1952. The AAP provides for a continuous exchange of views between the U.S. Army Training and Doctrine Command, the Department of the Army, and the academic community.

(b) Membership is drawn from national educational associations, faculty members and administrators from ROTC host institutions and nationally prominent individuals.

(c) The AAP meets as required, but not less than once annually and the meetings are open to the public.

[FR Doc. 80-17613 Filed 6-10-80; 8:45 am]

BILLING CODE 3710-08-M

Department of the Air Force

32 CFR Part 888a

Enlistment of Nonprior Service Personnel in Ready Reserve Unit Programs; Deletion of Part

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending Title 32, Chapter VII of the CFR by deleting Part 888a, Enlistment of Nonprior Service Personnel in Ready Reserve Unit Programs. This rule is deleted because the basic document has been rescinded. The intended effect of this amendment is to improve 32 CFR, Chapter VII, by removing unnecessary material.

EFFECTIVE DATE: June 2, 1980.

FOR FURTHER INFORMATION CONTACT: Mrs. Carol M. Rose, Air Force Federal Register Liaison Officer, AS/DASJR, Pentagon, Washington, DC 20330, Phone: (202) 697-1861.

SUPPLEMENTARY INFORMATION: Accordingly, 32 CFR is amended by deleting Part 888a.

PART 888a—[DELETED]

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80-17407 Filed 6-10-80; 8:45 am]

BILLING CODE 3910-01-M

32 CFR Part 907

Delayed Enlistment Program (DEP); Deletion of Part

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending Title 32, Chapter VII of the CFR by deleting Part 907, Delayed Enlistment Program (DEP). This rule is deleted because the source document is obsolete. Information on the Delayed Enlistment Program is now contained in Part 888 of Chapter VII. The intended effect of this amendment is to improve 32 CFR, Chapter VII, by removing unnecessary material.

EFFECTIVE DATE: June 2, 1980.

FOR FURTHER INFORMATION CONTACT: Mrs. Carol M. Rose, Air Force Federal Register Liaison Officer, AS/DASJR, Pentagon, Washington, DC 20330, Phone: (202) 697-1861.

SUPPLEMENTARY INFORMATION: Accordingly, 32 CFR is amended by deleting Part 907.

PART 907—[DELETED]

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80-17406 Filed 6-10-80; 8:45 am]

BILLING CODE 3910-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1511-8]

Approval and Promulgation of Implementation Plans—New Hampshire; Receipt of Implementation Plan Revisions: Ozone Attainment Plan for AQCR 121

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Receipt of Submittal to Satisfy Conditions of Plan Approval.

SUMMARY: This notice is to announce the receipt of State Implementation Plan (SIP) revisions for New Hampshire. The revisions were submitted on May 2, 1980 to satisfy a condition of EPA's recent approval of New Hampshire's Attainment Plan SIP revisions which were required under Part D of the Clean Air Act. New Hampshire's submittal includes operating permits for volatile organic compound sources which include schedules requiring compliance with emission limitations as expeditiously as practicable.

ADDRESSES: Copies of the New Hampshire submittal are available for public inspection during normal business hours at the Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460; and New Hampshire Air Resources Agency, State Laboratory Building, Hazen Drive, Concord, New Hampshire 03301.

FOR FURTHER INFORMATION CONTACT: Peter Hagerty, Air Branch, Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203, (617) 223-5630.

SUPPLEMENTARY INFORMATION: EPA published a final rulemaking notice in the **Federal Register** on April 11, 1980 (45 FR 24869), conditionally approving New Hampshire's Attainment Plan SIP revisions submitted on May 29, 1979. These SIP revisions were found to be in substantial compliance with the requirements of Part D of the Clean Air Act, since they implement new measures for controlling air pollution which will result in attainment of the primary National Ambient Air Quality Standards by December 31, 1982. However, one of the conditions for approval of the Attainment Plan was that by April 15, 1980, the state must submit operating permits for sources of volatile organic compounds in Air Quality Control Region 121 with schedules requiring compliance with emission limitations as expeditiously as practicable and no later than December 31, 1982. Compliance schedules which exceed the length of time recommended in EPA guidance must include supporting information to justify the additional time.

New Hampshire has submitted SIP revisions, adding the necessary permits and schedules. EPA is presently reviewing the state's submittal to determine compliance with Clean Air Act requirements, and intends to publish a final rulemaking notice in the **Federal Register** by June 15, 1980.

Dated: May 29, 1980.

William R. Adams, Jr.,

Regional Administrator, Region I.

[FR Doc. 80-17667 Filed 6-10-80; 8:45 am]

BILLING CODE 6560-01-M

40 CFR Part 180

[PP 9E2148/R251; FRL 1512-4]

Oxamyl; Tolerances and Exemption From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide and nematocide oxamyl on bananas at 0.1 part per million (ppm), for which not more than 0.02 ppm shall be present in the pulp after the peel is removed. This regulation was requested by E.I. du Pont de Nemours & Co., Inc. This rule establishes a maximum permissible level for residues of oxamyl on bananas.

EFFECTIVE DATE: Effective on June 11, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Mitchell, Product Manager (PM) 12, Registration Division (TS-767), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, 202/755-2526.

SUPPLEMENTARY INFORMATION: On April 25, 1980, notice was given (44 FR 27958) that E.I. du Pont de Nemours & Co., Inc., Wilmington, DE 19898, had filed a pesticide petition (PP 9E2148) with the EPA under the provisions of the Federal Food, Drug, and Cosmetic Act. The petition proposed that 40 CFR 180.303 be amended to establish a tolerance for residues of the insecticide and nematocide oxay (methyl *N'N*-dimethyl-*N*-[(methylcarbamoyl)oxy]-1-thiooxamimidate) in or on the raw agricultural commodity bananas at 0.1 ppm (of which not more than 0.02 ppm shall be present in the edible pulp after the peel is removed). No comments were received in response to this notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance included a two-year rat feeding/oncogenicity study and a two-year dog feeding study with no-observed-effect levels (NOEL) of 50 ppm and 100 ppm, respectively; a three-generation rat feeding reproduction study with a NOEL of 50 ppm. Using the NOEL of 50 ppm in the two-year rat feeding study and using a safety factor of 100, the acceptable daily intake (ADI) for man is 0.025 milligram (mg)/kilogram (kg) of body weight (bw)/day. The theoretical maximum residue contribution (TMRC) in the human diet from the previously established tolerances at levels ranging from 0.1 ppm to 10.0 ppm and the proposed tolerances do not exceed ADI.

Desirable data that are lacking from the petition are a second oncogenicity study and a second teratology study. In a letter of February 8, 1980, the petitioner indicated that the oncogenicity study would be submitted to the Agency in the third quarter of 1980 and that the teratology study scheduled for March 1980 is to be completed in late 1980.

Although the evaluation of the oncogenic potential of oxamyl is not complete, it is concluded that based on the available data, the risks are acceptable since the absence of an oncogenic potential is adequately shown in the two-year rat feeding study.

The metabolism of oxamyl is adequately understood, and an adequate analytical method (gas chromatography using a flame photometric detector) is available for enforcement purposes. No actions are currently pending against continued registration of oxamyl, nor are there any other relevant considerations involved in establishing the proposed tolerance. There is no reasonable expectation of secondary residues in eggs, meat, milk, or poultry since bananas are not a feed item.

The pesticide is considered useful for the purpose for which a tolerance is sought, and it is concluded that the tolerance of 0.1 ppm on bananas (of which not more than 0.02 ppm shall be present in the edible pulp after the peel is removed) established by amending 40 CFR 180.303 will protect the public health. It is proposed, therefore, that the tolerance be established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication in the **Federal Register**, file written objections with the Hearing Clerk, EPA, Room M-3708 (A-110), 401 M Street, SW, Washington, D.C. 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other "specialized". This regulation has been reviewed and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on June 11, 1980. 40 CFR 180.303 is amended as set forth below.

(Sec. 404(d)(2), 68 Stat. 512, (21 U.S.C. 346a(d)(2))

Dated: June 5, 1980.

James M. Colon,

Acting Deputy Assistant Administrator of Pesticide Programs.

PART 180—TOLERANCES AND EXEMPTION FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Part 180, Subpart C, § 180.303 is amended by alphabetically inserting bananas at 0.1 ppm in the table to read as follows:

§ 180.303 Oxamyl; tolerances for residues.

* * * * *

Commodity:	Parts per million
* * * * *	
Bananas	0.1

(NMT 0.02 ppm shall be in the pulp after peel is removed)

* * * * *

[FR Doc. 80-17617 Filed 6-10-80; 8:45 am]

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 1

[FPR Temp. Reg. 54]

Women's Business Enterprise Program

Correction

In the issue of Wednesday, May 28, 1980, in FR Doc. 80-16318 appearing at page 35814, please make the following corrections:

1. On page 35815, in the second column, in the paragraph designated (3), immediately following the ninth line, the following line should appear: ". . . as to facilitate the participation of . . ."

2. In the same column, in paragraph "(c)", in the seventh line, following the word "above", the word "at" should be added.

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

41 CFR Chapter 14

Miscellaneous Amendments

AGENCY: Department of the Interior.

ACTION: Final rule.

SUMMARY: This rule makes miscellaneous amendments to the Interior Procurement Regulations. The amendments are required to update lists of offices, make editorial changes, change the titles of designated officials, revise a definition, delete inapplicable sections, add entries to the Table of Contents, implement regulations issued by the Small Business Administration, and implement amendments to 41 CFR Chapter 1.

EFFECTIVE DATE: The amendments are effective July 11, 1980.

FOR FURTHER INFORMATION CONTACT: William Opdyke, (202) 343-5914.

SUPPLEMENTARY INFORMATION:

Explanation

(a) Section 14-1.006-1 is amended by revising the list of bureaus and offices that are assigned codes to identify procurement regulations issued by them and to make minor editorial changes.

(b) Sections 14-1.006-1 and 14-1.010 are amended to change the name of the Bureau of Reclamation to the Water and Power Resources Service pursuant to Secretarial Order No. 3042 dated November 6, 1979.

(c) Section 14-1.006-2 is amended to more clearly describe how Interior Procurement Regulations (IPR) are published and issued and include Interior Procurement Bulletins (IPB) which are temporary IPR.

(d) The introductory paragraph of § 14-1.008(c) is amended to change the title of an official, and to add a colon at the end.

(e) Section 14-1.009-2 is amended by deleting the designation (a), by changing the title of an official, and by making editorial changes.

(f) Section 14-1.010 is amended by changing the title of an official, by making editorial changes and by revising the list of bureaus and offices that are represented on the Interior Procurement Regulations Committee.

(g) Section 14-1.205 is amended by changing the definition for "procuring activity" to coincide with the requirements of the Departmental Manual.

(h) Section 14-1.206 is amended by changing the definition for "head of the procuring activity" to include the assistant head of a bureau or office who has responsibility for supervision and direction of procurement functions.

(i) Section 14-1.701-50 is amended to revise the definition of a small business for the purpose of surety bond assistance as currently defined by the Small Business Administration and published at 43 FR 36052-36053, August 15, 1978.

(j) Sections 14-2.201 and 14-2.201-50 are deleted and reserved because the sections to which they refer have been deleted and reserved.

(k) The Table of Contents for Subpart 14-2.2 is amended by adding new entries for § 14-2.205 and § 14-2.205-1 which were not added when the sections were added as published at 43 FR 39788, September 7, 1978.

(l) Section 14-3.150(f) is amended by revising subparagraph (1), by revising subparagraph (2) and renumbering it subparagraph (3), and by adding a new subparagraph (2).

Primary Author

The primary author of this rule is William Opdyke, Division of Acquisition and Grants, Office of Acquisition and Property Management, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240, telephone (202) 343-5914.

Waiver

It is the general policy of the Department of the Interior to allow time for interested parties to participate in the rulemaking process. However, the amendments contained herein are entirely administrative in nature and public participation would be

meaningless. Therefore, the public rulemaking process is waived in this instance in accordance with 5 U.S.C. 553.

Impact

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Accordingly, pursuant to the authority of the Secretary of the Interior contained in 5 U.S.C. 301, 41 CFR Chapter 14 is amended as stated below.

Dated: June 5, 1980.

Larry E. Meierotto,

Assistant Secretary of the Interior.

PART 14–1—GENERAL

Subpart 14–1.0—Regulation System

1. Sections 14–1.006–1 and 14–1.006–2 are amended to read as follows:

* * * * *

§ 14–1.006 Issuance.

§ 14–1.006–1 Code arrangement.

IPR are issued in the Code of Federal Regulations as Chapter 14 of Title 41, Public Contracts and Property Management. Regulations which may be issued by the bureaus and offices of Interior shall be kept to a minimum. These regulations will be identified by alphabetical designations immediately following the Department code (14) as follows:

14A—Office of the Secretary
14B—Office of Administrative Services
14C—(Reserved)
14D—Fish and Wildlife Service
14E—Bureau of Mines
14F—Geological Survey
14G—(Reserved)
14H—Bureau of Indian Affairs
14I—(Reserved)
14J—Bureau of Land Management
14K—National Park Service
14L—Office of Territorial Affairs
14M—(Reserved)
14N—Heritage Conservation and Recreation Service
14O—(Reserved)
14P—Office of Surface Mining Reclamation and Enforcement
14Q—(Reserved)
14R—Office of Water Research and Technology
14S—Water and Power Resources Service
14T—(Reserved)
14U—(Reserved)
14V—(Reserved)
14W—(Reserved)
14X—(Reserved)
14Y—Office of Aircraft Services
14Z—(Reserved)

§ 14–1.006–2 Publication.

(a) Permanent IPR are published in Title 41 in the daily issue of the **Federal Register**, in cumulative form in the Code of Federal Regulations, and in separate loose-leaf form reproduced on a distinctive light blue paper. IPR in loose-leaf form will be transmitted as 401 DM Addition to the FPR.

(b) Temporary IPR will be issued as numbered memoranda identified as Interior Procurement Bulletins. They will be issued in loose-leaf form reproduced on a distinctive light blue paper.

2. The introductory paragraph of § 14–1.008(c) and §§ 14–1.009–2 and 14–1.010 is amended to read as follows:

* * * * *

§ 14–1.008 Agency implementation.

(a) * * *

(c) The Assistant Secretary—Policy, Budget, and Administration and bureaus and offices may implement and supplement FPR and IPR by prescribing procurement regulations and instructions for internal guidance which are essential for the efficient performance of procurement functions. Regulations shall: * * *

* * * * *

§ 14–1.009 Deviation.

§ 14–1.009–2 Procedure.

Deviations from FPR and IPR shall be kept to a minimum and controlled. Deviations in both individual cases and classes of cases must be approved in advance by the Department. Requests for approval of such deviations shall be submitted by the heads of bureaus and offices to the Assistant Secretary—Policy, Budget, and Administration. The requests shall cite the specific part of the FPR or IPR from which it is desired to deviate, shall set forth the nature of the deviations, and shall give the reasons for the action requested.

§ 14–1.010 Interior Procurement Regulations Committee.

For the purpose of proposing and developing procurement policies and procedures and assisting in the implementation of these policies and procedures, a committee, to be known as the Interior Procurement Regulations Committee and to be chaired by the Office of Acquisition and Property Management, is hereby established. It shall be comprised of representatives of the following organizations:

Office of Acquisition and Property Management
Fish and Wildlife Service
Bureau of Mines
Geological Survey
Bureau of Indian Affairs
Bureau of Land Management
National Park Service
Heritage Conservation and Recreation Service
Office of Surface Mining Reclamation and Enforcement
Office of Water Research and Technology
Water and Power Resources Service
Office of the Solicitor
Office of Administrative Services
Office of Small and Disadvantaged Business Utilization

Subpart 14–1.2—Definition of Terms

3. Sections 14–1.205 and 14–1206 are amended to read as follows:

§ 14–1.205 Procuring activity.

"Procuring activity" means each bureau and other departmental office (as defined in the Departmental Manual under 105 DM2 and 111DM1. and amendments thereto) which has been redelegated authority to contract for the procurement of personal property and nonpersonal services (including construction). Wherever the terms "bureau and office" or "bureau or office" or similar terms are used in these regulations, the terms shall mean "procuring activity."

§ 14–1.206 Head of the procuring activity.

"Head of the procuring activity" means the Assistant Secretary—Policy, Budget, and Administration; Director, Office of Water Research and Technology, or head (e.g., commissioner, director) of a bureau or other Departmental office who has overall responsibility for the management and direction of a procuring activity under Part 205, Chapter 11 (205 DM11), of the Departmental Manual. The term shall include the next highest ranking official (e.g., Deputy Assistant Secretary—Policy, Budget, and Administration, Assistant Commissioner, Assistant or Associate Director) who has responsibility for management and direction of procurement functions within a procuring activity. Wherever the terms "heads of a bureau or office" or "head of each bureau and office" or similar terms are used in these regulations, the terms shall mean "head of the procuring activity."

Subpart 14–1.7—Small Business Concerns

4. Section 14–1.701–50 is amended to read as follows:

§ 14–1.701 Definitions.

§ 14–1.701–50 Definition of small business for the purpose of surety bond guarantee assistance.

As provided in 13 CFR 121.3–15, a small business concern for the purpose

of surety bond guarantee assistance is a concern that qualifies as small under the definition of a small business for SBA loans (13 CFR 121.3–10), except any construction concern (general and special trade) is small if its annual receipts for its preceding three fiscal years do not exceed $3.5 million.

PART 14–2—PROCUREMENT BY FORMAL ADVERTISING

5. The Table of Contents for Subpart 14–2.2 is amended by deleting and reserving §§ 14–2.201 and 14–2.201–50 as follows:

Subpart 14–2.2—Solicitation of Bids

Sec.
14–2.201 [Reserved]
14–2.201–50 [Reserved]
* * * * *

6. Sections 14–2.201 and 14–2.201–50 are deleted and reserved as follows:

§ 14–2.201 [Reserved]

§ 14–2.201–50 [Reserved]

7. The Table of Contents of Subpart 14–2.2 is amended by adding the following entries:

Subpart 14–2.2—Solicitation of Bids

Sec.
* * * * *

§ 14–2.205 Bidders mailing lists.

§ 14–2.205–1 Establishment of lists.
* * * * *

PART 14–3—PROCUREMENT BY NEGOTIATION

Subpart 14–3.1—Use of Negotiation

8. Paragraph (f) of § 14–3.150 is amended to read as follows:
* * * * *

§ 14–3.150 Justification for noncompetitive procurement.
* * * * *

(f) * * *

(1) For new procurements or contract modifications (see § 14–3.150(b)) which (i) do not exceed $10,000 and (ii) do not exceed $200,000 for procurement of electric power or energy, gas (natural or manufactured), water or other utility services under § 1–3.210 of this title and procurement of educational services from nonprofit institutions, the justification shall be approved by the contracting officer.

(2) For new procurements or contract modifications (see § 14–3.150(b)) which exceed $10,000 but do not exceed $200,000 (excluding procurement of electric power or energy, gas (natural or manufactured), water or other utility services under § 1–3.210 of this title and procurement of educational services from nonprofit institutions) the justification shall be approved by the contracting officer after concurrence at a level higher than the contracting officer has been obtained to ensure compliance with § 1–3.101(d) of this title.

(3) For new procurements or contract modifications (see 14–3.150(b)) which exceed $200,000, the justification shall be approved by the contracting officer after review and concurrence by the head of the procuring activity.

[FR Doc. 80–17670 Filed 6–10–80; 8:45 am]
BILLING CODE 4310–10–M

Proposed Rules

Federal Register
Vol. 45, No. 114
Wednesday, June 11, 1980

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 999

Amendment of Filbert Import Regulation; Extension of Time for Filing Comments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of time for filing comments.

SUMMARY: At the request of several persons, the time for filing comments regarding proposed changes in the filbert import regulation is extended from June 16 to July 1.

DATES: Written comments must be received by July 1, 1980.

ADDRESS: Written comments should be submitted in duplicate to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:
J. S. Miller, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, Agricultural Marketing Service, Washington, D.C. 20250 (202) 447-5053.

SUPPLEMENTARY INFORMATION: Notice was published in the April 9, 1980, **Federal Register** (45 FR 24167) to revise the grade requirements for shelled filberts [§ 999.400 Exhibit A] as required by section 8e (7 U.S.C. 608e-1) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601.674). This action to extend the time for filing comments is based on the requests of several persons to give them additional time to review the April 9 proposal.

Dated: June 6, 1980.

D. S. Kuryloski,
Acting Director, Fruit and Vegetable Division.

[FR Doc. 80-17643 Filed 6-10-80; 8:45 am]
BILLING CODE 3410-02-M

FARM CREDIT ADMINISTRATION

12 CFR Part 618

General Provisions

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration, by its Federal Farm Credit Board, has under consideration a proposed amendment to its regulation pertaining to internal controls for the operations of the Farm Credit banks and associations. The existing regulation contains specific provisions as to how this function, including internal auditing, is to be performed by the institutions. By eliminating these specific requiremeents, the proposed will provide the district Farm Credit boards greater flexibility to establish policies for assuring the effective control over and accountability for the operations, programs and resources of these institutions.

DATES: Written comments must be received on or before August 11, 1980.

ADDRESSES: Submit any comments or suggestions in writing to Donald E. Wilkinson, Governor, Farm Credit Administration, Washington, DC 20578. Copies of all communications received will be available for examination by interested persons in the Office of Director, Public Affairs Division, Office of Administration, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:
Larry H. Bacon, Acting Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza, East, S.W., Washington, DC 20578 (202) 755-2181.

Title 12, Chapter VI is proposed to be amended by revising § 618.8430 as follows:

PART 618—GENERAL PROVISIONS

* * * * *

Subpart I—Internal Controls

§ 618.8430 Internal Controls

(a) General. The district board shall adopt an internal control policy designed to provide direction to banks and associations in establishing effective control over and accountability for operations, programs, and resources. Board policy should include:

(1) Direction to management which ensures the fixation of responsibility for the internal control function (financial and administrative) in an officer (or officers) of the bank.

(2) Requirements that the bank adopt internal audit and control procedures, evidencing responsibility in the review and maintenance of a comprehensive and effective internal control operation.

(b) The Farm Credit Administration shall include a review and analysis of the internal control function of each bank in its supervisory and examination effort, including the reporting of policy and management weaknesses.

(Secs. 5.9, 5.12, 5.18, 85 Stat. 619, 620, 621)

Donald E. Wilkinson,
Governor.

[FR Doc. 80-17671 Filed 6-10-80; 8:45 am]
BILLING CODE 6705-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 938

Gray's Reef Marine Sanctuary; Designation

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Proposed rule.

SUMMARY: The National Oceanic and Atmospheric Administration proposes the designation by the Secretary of Commerce of the Gray's Reef Marine Sanctuary 17.5 nmi east of Sapelo Island, Georgia. Presidential approval of the designation is required. After designation, the Secretary of Commerce must promulgate necessary and reasonable regulations to control activity within the sanctuary. These proposed regulations define permissible activities within the Sanctuary, the procedures by which persons may obtain permits for prohibited activities, and the penalties for committing prohibited acts without a permit.

DATE: Comments due August 11, 1980.

ADDRESS: Send comments to: Director, Sanctuary Programs Office, Office of

Coastal Zone Management, NOAA, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Dr. Nancy Foster, Deputy Director, Sanctuary Programs Office, Office of Coastal Zone Management, NOAA, 3300 Whitehaven Street, NW., Washington, D.C. 20235 (202) 634–4236.

SUPPLEMENTARY INFORMATION: Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, 16 U.S.C. 1431–1434 (the Act) authorizes the Secretary of Commerce, with Presidential approval, to designate ocean waters as far seaward as the outer edge of the Continental Shelf as marine sanctuaries to preserve or restore distinctive conservation, recreational, ecological, or aesthetic values. Section 302(f) of the Act directs the Secretary to issue necessary and reasonable regulations to control any activities permitted within a designated marine sanctuary. The authority of the Secretary to administer the provisions of the Act has been delegated to the Assistant Administrator for Coastal Zone Management within the National Oceanic and Atmospheric Administration, U.S. Department of Commerce (the Assistant Administrator).

The Office of Coastal Zone Management proposes to designate a 16.68 square nautical mile (sq nmi) marine sanctuary 17.5 nmi east of Sapelo Island, Georgia. The proposed area is a biologically productive live bottom reef on the South Atlantic Continental Shelf which supports representatives of Virginian, Carolinian and West Indian biota, including an array of invertebrates, fish and turtles.

In 1978 the Georgia Department of Natural Resources recommended the Gray's Reef area as a marine sanctuary. In July 1979, NOAA distributed the Gray's Reef nomination for review and comment among Federal and State authorities, regional fishery management councils, environmental and special interest groups and interested individuals. Most responses to the nomination were favorable. On October 12, 1979, based on information obtained through consultation and on criteria stated in NOAA's General Marine Sanctuary Regulations (15 CFR Part 922, 44 FR 44831, July 31, 1979), NOAA determined that Gray's Reef would be eligible for its initial List of Recommended Areas when published and, at the same time, selected the site as an Active Candidate for sanctuary designation (44 FR 58938) and announced its intent to prepare an issue paper and to schedule public workshops in areas affected by the proposed designation. Shortly afterwards, NOAA distributed an Issue Paper which described the Gray's Reef resources, major issues and a range of boundary, regulatory and management alternatives related to the proposed action. In November 1979, NOAA held a public workshop on the proposal in Brunswick and Savannah, Georgia. Scientists, environmentalists, educators, and resource managers testified in favor of the proposal, citing as beneficial impacts, initiation of a comprehensive management framework for the coordination of uses and conservation of live bottom resources and habitats, development of research and education programs and implementation of appropriate regulations. Local fishermen and divers took issue with the possible regulation of spearfishing, arguing that at Gray's Reef spearfishing is a low-intensity, non-impacting sport. A few commentors, while not opposed to the proposed action, questioned the purpose and need for a marine sanctuary, citing management authority of the regional fisheries management councils as an alternative.

NOAA evaluated all comments, issues and available information and decided to prepare a Draft Environmental Impact Statement (DEIS) for a proposed Gray's Reef Marine Sanctuary in December 1979 and conducted a scoping meeting in January 1980 concerning development of the DEIS.

After consultation with other Federal agencies, State agencies, the Gulf and South Atlantic Regional Fishery Management Councils, and local interest groups and individuals, NOAA prepared a DEIS which is being published concurrently with these regulations (a copy can be obtained by writing to the contact identified above), which describes the impacts of the marine sanctuary proposal including its ability to focus on this particularly valuable marine area and to provide comprehensive planning. It discusses marine sanctuary management including research and monitoring of the conditions of the site and the resources to assure long-term protection and maximum safe use and enjoyment and the educational element of the program to increase public awareness of the value of the resources. The rationale for designation and for the proposed regulatory system as well as alternative approaches, both regulatory and nonregulatory, are more fully set forth in the DEIS.

OCZM will receive public comments on the proposal, hold public hearings in Brunswick and Savannah, Georgia, and prepare a final EIS and regulations which incorporate and respond to the comments received. Only after final consultation with Federal agencies, and with Presidential approval, can the Secretary designate the sanctuary and promulgate regulations.

NOAA's Marine Sanctuary Regulations provide that the regulatory system for a marine sanctuary will be established by two documents, a Designation document and the regulations issued pursuant to Section 302(f) of the Act. The Designation will serve as a constitution for the Sanctuary, establishing among other things the purposes of the Sanctuary, the types of activities that may be subject to regulation within it, and the extent to which other regulatory programs will continue to be effective.

As proposed, the Gray's Reef Marine Sanctuary Designation document, would provide as follows:

Draft Designation Document
Designation of the Gray's Reef Marine Sanctuary

Preamble

Under the authority of the Marine Protection, Research and Sanctuary Act of 1972, Pub. L. 92–532 (the Act), the waters at Gray's Reef, South Atlantic Bight off the coast of Georgia, are hereby designated a Marine Sanctuary for the purposes of: (1) Protecting and enhancing the quality of this unique and fragile ecological community; (2) promoting scientific understanding of this live bottom ecosystem; and (3) enhancing public awareness and wise use of this significant regional resource.

Article 1. Effect of Designation

Within the area designated as The Gray's Reef Marine Sanctuary) the Sanctuary) described in Article 2, the Act authorizes the promulgation of such regulations as are reasonable and necessary to protect the values of the Sanctuary. Article 4 of the Designation lists those activities which may require regulation, but the listing of any activity does not my itself prohibit or restrict it. Restrictions or prohibitions may be accomplished only through regulation, and additional activities may be regulated only by amending Article 4.

Article 2. Description of the Area

The Sanctuary consists of a 16.68 square nautical miled (sq nmi) area of the high seas waters located 17.5 nmi due east of Sapelo Island, Georgia. The precise boundaries are defined by regulations.

Article 3. Characteristics of the Area

The Sanctuary consists of submerged limestone rock "reefs" and contiguous shallow-buried hardlayer and soft sedimentary regime which support rich and diverse marine plants, invertebrates, finfish, turtles and occasional marine mammals in an otherwise relatively barren expanse of ocean. The area attracts multiple human use, including recreational fishing and diving, research and educational use.

Article 4. Scope of Regulation

Section 1. *Activities Subject to Regulation.* To ensure the protection and preservation of the Sanctuary's marine features and the ecological, recreational, and aesthetic value of the area, the following activities within the Sanctuary may be regulated to the extent necessary:

a. Dredging or alteration of, or construction on, the seabed;

b. Discharging or depositing any substance or object;

c. Vessel operations, including anchoring;

d. Wire trap fishing;

e. Bottom-trawling and specimen-dredging;

f. Spearfishing;

g. Marine specimen collecting;

h. Removing or otherwise harming cultural or historical resources.

Section 2. *Consistency with International Law.* The regulations governing the activities listed in Section 1 of this Article will apply to foreign flag vessels and persons not citizens of the United States only to the extent consistent with recognized principles of international law, including treaties and international agreements to which the United States is signatory.

Section 3. *Emergency Regulations.* Where essential to prevent immediate, serious, and irreversible damage to the ecosystem of the area, activities other than those listed in Section 1 may be regulated within the limits of the Act on an emergency basis for an interim period not to exceed 120 days, during which an appropriate amendment of this Article will be proposed in accordance with the procedures specified in Article 6.

Article 5. Relation to Other Regulatory Programs

Section 1. *Defense Activities.* The regulation of activities listed in Article 4 shall not prohibit any Department of Defense activity that is essential for national defense or because of emergency. Such activities shall be consistent with the regulations to the maximum extent practicable.

Section 2. *Other Programs.* All applicable regulatory programs will remain in effect, and all permits, licenses and other authorizations issued pursuant thereto shall be valid within the Sanctuary unless authorizing any activity prohibited by any regulation implementing Article 4. The Sanctuary regulations will set forth any necessary certification procedures.

Article 6. Alterations to This Designation

This Designation can be altered only in accordance with the same procedures by which it has been made, including public hearings, consultation with interested Federal and State agencies and the South Atlantic Regional Fishery Management Council, and approval by the President of the United States.

[End of Designation]

Only those activities listed in Article 4 are subject to regulation in the Sanctuary. Before any additional activities may be regulated, the Designation must be amended through the entire designation procedure including public hearing and approval by the President. Spearfishing is listed in Article 4 because of the potential for damage. However, no additional regulation of this activity is proposed at this time.

The primary purpose of the proposed regulations is to protect and to preserve the live bottom reef ecosystem, including many reef dwelling organisms. Accordingly, all activities which would adversely impact live bottom resources are prohibited, except those permitted by the Assistant Administrator in accordance with § 938.8. Such activities include: alteration of or construction on the seabed (§ 938.6(a)(1)); wire trap fishing (§ 938.6(a)(4)); bottom trawling and specimen dredging (§ 938.6(a)(5)); and marine specimen collecting (§ 938.6(a)(7)). Similarly, activities harming cultural or historical artifacts in the area are prohibited, except by permit (§ 937.6(a)(6)). Anchoring in such a way as to injure live bottom habitat areas or living marine resources is prohibited (§ 938.6(a)(3)). Finally, discharge and dumping of polluting materials which could damage the natural values of the area are prohibited (§ 938.6(a)(2)). Spearfishing is listed in the Designation document but no regulations are proposed at this time.

Except with respect to the removal or deliberate damage of live bottom resources, anchoring, the use of certain fishing methods, and discharges, fishing activities are not subject to regulation and remain the responsibility of the Regional Fishery Management Council(s).

Public Review and Comment

NOAA invites public review and comment on these proposed regulations. Written comments should be submitted to: Director, Sanctuary Programs Office, Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW., Washington, D.C. 20235, on or before August 5, 1980.

Dated: June 4, 1980.

Michael Glazer,

Assistant Administrator for Coastal Zone Management.

Accordingly, Part 938 is proposed as follows:

PART 938—THE GRAY'S REEF MARINE SANCTUARY REGULATIONS

Sec.

938.1 Authority.
938.2 Purpose.
938.3 Boundaries.
938.4 Definitions.
938.5 Allowed activities.
938.6 Prohibited activities.
938.7 Penalties for Commission of prohibited acts.
938.8 Permit procedures and criteria.
938.9 Certification of other permits.
938.10 Appeals of administrative action.
938.11 Amendments.

Authority: Sec. 302 (a), (f), (9) and 303 of Title III of the Marine Protection, Research and Sanctuaries Act of 1972 (16 U.S.C. 1431–1434).

§ 938.1 Authority.

The Sanctuary has been designated by the Secretary of Commerce pursuant to the authority of Section 302(a) of Title III of the Marine Protection, Research and Sanctuaries Act of 1972, 16 U.S.C. 1431–1434 (the Act). The following regulations are issued pursuant to the authorities of sections 302(f), 302(g) and 303 of the Act.

§ 938.2 Purpose.

The purpose of designating the Sanctuary is to protect and preserve the live bottom ecosystem, and other natural resources of the waters of Gray's Reef, and to ensure the continued availability of the area as an ecological, research, and recreational resource.

§ 938.3 Boundaries.

The Sanctuary consists of an area of 16.68 square nautical miles of high seas waters off the coast of Georgia. The Sanctuary boundary includes all waters within a rectangle starting at coordinate 31°21′45″ N, 80°55′17″ W, commencing to coordinate 31°21′15″ N, 80°49′42″ W, thence to coordinate 31°25′15″ N, 80°55′17″ W, thence to coordinate

31°21'45" N, 80°49'42" W, thence back to the point of origin.

§ 938.4 Definitions.

(a) "Administrator" refers to the Administrator of the National Oceanic and Atmospheric Administration.

(b) "Assistant Administrator" refers to the Assistant Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.

(c) "Person" is any private individual, partnership, corporation, or other entity; or any officer, employee, agent, department, agency or instrumentality of the Federal government or any State or local unit of government.

§ 938.5 Allowed activities.

All activities except those specifically prohibited by § 938.6, may be carried within the Sanctuary subject to all prohibitions, restrictions and conditions imposed by any other authority.

§ 938.6 Prohibited activities.

(a) Except as may be necessary for national defense in accordance with Article 5, Section 2 of the Designation or as may be necessary to respond to an emergency threatening life, property or the environment, the following activities are prohibited within the Sanctuary unless permitted by the Assistant Administrator in accordance with Section 938.8. All prohibitions must be applied consistently with international law.

(1) *Alteration of or construction on the seabed.* No person shall dredge, drill or otherwise alter the seabed in any way nor construct any structure other than a navigation aid without a permit.

(2) *Discharge of substances.* No person shall deposit or discharge any materials or substances of any kind except:

(i) Fish or parts, bait and chumming materials;

(ii) Effluent from marine sanitation devices; and

(iii) Non-polluted cooling waters from vessels.

(3) *Operation of Watercraft.* (i) All watercraft shall be operated in accordance with Federal rules and regulations that would apply if there were no Sanctuary.

(ii) No person shall place any rope, chain, or anchor in such a way as to damage the live bottom formation or attached living marine resources anywhere within the Santuary. Anchors shall be dropped on sand flats off the rock outcrops and placed so as not to drift into the live bottom formations. When anchoring dive boats, the first diver down shall inspect the anchor to ensure that it is placed on sand bottom and will not shift in such a way as to impact the live bottom outcrops. No further diving is permitted until the anchor is placed in accordance with these requirements.

(4) *Wire trap fishing.* No person shall use or place wire fish traps within the sanctuary without a permit.

(5) *Bottom-trawling and specimen-dredging.* No person shall use a botton-trawl, specimen-dredge or similar vessel-towed botton sampling device within the Sanctuary without a permit.

(6) *Marine specimen collecting.* (i) No person shall break, cut or similarly damage, take or remove any bottom formation, any marine invertebrate or any marine plant without a permit.

(ii) No person shall take without a permit any tropical fish which is a fish of minimal sport and food value, usually brightly colored, often used for aquaria purposes and which lives in a direct interrelationship with the live bottom community.

(iii) There shall be a rebuttable presumption that any items listed in this paragraph found in the possession of a person within the Sanctuary have been collected or removed from the Sanctuary.

(iv) No person shall use poisons, electric charges, explosives or similar methods to take any marine animal or plant.

(7) *Removing or damaging historic or cultural resources.* (i) No person shall tamper with, damage or remove any historic or cultural resources without a permit.

(ii) All activities currently carried out by the Department of Defense within the Sanctuary are essential for the national defense and, therefore, not subject to these prohibitions. The exemption of additional activities having significant impacts shall be determined in consultation between the Assistant Administrator and the Department of Defense.

(iii) The prohibitions in this section are not based on any claim of territoriality and will be applied to foreign persons and vessels only in accordance with recognized principles of international law, including treaties, conventions and other international agreements to which the United States is signatory.

§ 938.7 Penalties for commission of prohibited acts.

Section 303 of the Act authorizes the assessment of a civil penalty of not more than $50,000 against any person subject to the jurisdiction of the United States for each violation of any regulation issued pursuant to the Act, and further authorizes a proceeding in rem against any vessel used in violation of any such regulation.

§ 938.8 Permit procedures and criteria.

(a) Any person in possession of a valid permit issued by the Assistant Administrator in accordance with this section may conduct any activity in the Sanctuary including any activity specifically prohibited under § 938.6, if such activity is (1) research related to the resources of the Sanctuary, (2) to further the educational value of the Sanctuary, or (3) for salvage or recovery operations.

(b) Permit applications shall be addressed to the Assistant Administrator for Coastal Zone Management, Attn: Office of Sanctuary Programs, Division of Operations and Enforcement, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20235. An application shall provide sufficient information to enable the Assistant Administrator to make the determination called for in paragraph (c) of this section and shall include a description of all activities proposed, the equipment, methods, and personnel (particularly describing relevant experience) involved, and a timetable for completion of the proposed activity. Copies of all other required licenses or permits shall be attached.

(c) In considering whether to grant a permit, the Assistant Administrator shall evaluate (1) the general professional and financial responsibility of the applicant, (2) the appropriateness of the methods envisioned to the purpose(s) of the activity, (3) the extent to which the conduct of any permitted activity may diminish or enhance the value of the Sanctuary, (4) the end value of the activity and (5) other matters as deemed appropriate.

(d) In considering any application submitted pursuant to this section, the Assistant Administrator may seek and consider the views of any person or entity, within or outside of the Federal Government, and may hold a public hearing, as deemed appropriate.

(e) The Assistant Administrator may, at his or her discretion, grant a permit which has been applied for pursuant to this section, in whole or in part, and subject to such condition(s) as deemed appropriate. The Assistant Administrator or a designated representative may observe any permitted activity and/or require the submission of one or more reports of the status or progress of such activity. Any information obtained will be made available to the public.

(f) The permit granted under paragraph (e) of this section may not be transferred.

(g) The Assistant Administrator may amend, suspend or revoke a permit granted pursuant to this section, in whole or in part, temporarily or indefinitely, if the permit holder (the Holder) has violated the terms of the permit or applicable regulations. Any such action will set forth in writing to the Holder, and will include the reason(s) for the action taken. The Holder may appeal the action as provided for in Section 938.10.

§ 938.9 Certification of other permits.

(a) All permits, licenses and other authorizations issued pursuant to any other authority are hereby certified and shall remain valid if they do not authorize any activity prohibited by § 938.6. Any interested person may request that the Assistant Administrator offer an opinion on whether an activity is prohibited by these regulations.

(b) The Assistant Administrator may amend, suspend, or revoke the certification made under this section whenever continued operation would violate any term or conditions of the certification. Any such action shall be forwarded in writing to both the holder of the certified permit and the issuing agency and shll set forth reason(s) for the action taken. Either the holder or the issuing agency may appeal the action as provided for in § 938.10.

§ 938.10 Appeals of administrative action.

(a) Any interested person (the Appellant) may appeal the granting, denial, or conditioning of any permit under § 938.8 to the Administrator of NOAA. In order to be considered by the Administrator, such appeal must be in writing, must state the action(s) appealed, and the reason(s) therefore, and must be submitted within 30 days of the action(s) by the Assistant Administrator. The Appellant may request an informal hearing on the appeal.

(b) Upon receipt of an appeal authorized by this section, the Administrator will notify the permit applicant, if other than the Appellant, and may request such additional information and in such form as will allow action upon the appeal. Upon receipt of sufficient information, the Administrator will decide the appeal in accordance with the criteria defined in § 938.8(c) as appropriate, based upon information relative to the application on file at OCZM and any additional information, the summary record kept of any hearing, and the Hearing Office's recommended decision, if any, as provided in paragraph (c) of this section, and such other considerations as deemed appropriate. The Administrator will notify all interested persons of the decision, and the reason(s) for the decision, in writing, within 30 days of receipt of sufficient information, unless additional time is needed for a hearing.

(c) If a hearing is requested or if the Administrator determines one is appropriate, the Administrator may grant an informal hearing before a designated Hearing Officer after first giving notice of the time, place, and subject matter of the hearing in the **Federal Register.** Such hearing must normally be held no later than 30 days following publication of the notice in the **Federal Register** unless the Hearing Officer extends the time for reasons deemed equitable. The Appellant, the Applicant (if different) and other interested persons (at the discretion of the Hearing Officer) may appear personally or by counsel at the hearing and submit such material and present such arguments as determined appropriate by the Hearing Officer. Within 30 days of the last day of the hearing, the Hearing Officer shall recommend in writing a decision to the Administrator.

(d) The Administrator may adopt the Hearing Officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Administrator shall notify interested persons of the decision, and the reason(s) for the decision (in writing) within 30 days of receipt of the recommended decision of the Hearing Officer. The Administrator's action will constitute final action for the Agency for the purposes of the Administrative Procedures Act.

(e) Any time limit prescribed in this section may be extended for a period not to exceed 30 days by the Administrator for good cause upon written request from the Appellant or Applicant stating the reason(s) for the extension.

[FR Doc. 80-17367 6-10-80; 8:45 am]

BILLING CODE 3510-08-M

---

15 CFR Part 938

Designation of Gray's Reef, Ga., as a Marine Sanctuary; Availability of Funds for Public Participation; Public Hearings

AGENCY: Office of Coastal Zone Management, (OCZM), National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Announcement of public hearings and availability of funds for public participation.

SUMMARY: Pursuant to Title III of the Marine Protection, Research and Sanctuaries Act of 1972, 16 U.S.C. 1431–1434, the OCZM is considering the designation of certain waters known as Gray's Reef, Georgia as a Marine sanctuary. A draft environmental statement (DEIS) discussing this proposal was published in May 1980. This document announces the dates for two public hearings to be held to discuss these issues. Also, in order to promote a full and fair determination of the issues involved, the document announces the availability of $5,000 to compensate persons eligible under the criteria set forth in NOAA regulations (15 CFR Part 904) for their participation in this proceeding.

DATES: The public hearings will be held on July 7, and July 8, 1980, beginning at 7:00 p.m. both days.

The closing date for the receipt of applications for compensation is June 25, 1980.

Comments on the DEIS will be accepted until August 5, 1980.

ADDRESSES: The July 7 hearing will be held at the Brunswick-Glynn County Regional Library, 208 Gloucester Street, Brunswick, Georgia.

The July 8 hearing will be held at the Savannah Science Museum, 4405 Paulsen Street, Savannah, Georgia.

Applications for compensation must be filed with the Director, Sanctuary Programs Office, Office of Coastal Zone Management, NOAA, 3300 Whitehaven Street, N.W., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Dr. Nancy Foster, Deputy Director, Sanctuary Programs Office, (202) 634–4236.

SUPPLEMENTARY INFORMATION: In June 1978, the Georgia Department of Natural Resources submitted to NOAA a recommendation to designate Gray's Reef, South Atlantic Continental Shelf, as a marine sanctuary. In July 1979, NOAA consulted with other Federal agencies, Fishery Management Councils, State and local government officials and interested groups and individuals. In October 1979, NOAA distributed an Issue Paper on the proposed site and, in November 1979, held public workshops on the proposed action. Based on written and oral input, NOAA proposed a DEIS on which comment is solicited. NOAA will hold public hearings in Brunswick on July 7, and in Savannah on July 8, 1980 to receive comments on the proposal and on the DEIS.

Issues Involved: The basic issues which will be considered at the public hearings are analyzed in the DEIS and include:

(a) Conservation, recreational, ecological, and esthetic resources found in the proposed area; and

(b) Management, boundary and regulatory alternatives considered within the proposed area to ensure protection and proper management.

Available Fund: A total fund of $5,000 is available to compensate eligible applicants. This fund may be distributed among one or more applicants, or, at the discretion of the Administrator, not distributed at all.

Eligible Persons: In accordance with the criteria of 15 CFR 904.3, persons who represent an interest, the presentation of which can reasonably be expected to contribute substantially to a fair determination of the issues described above may be eligible for compensation from these funds. In determining eligibility and the amount of compensation, the Administrator may take into account:

(a) Whether the interest will be adequately represented otherwise;

(b) The need to encourage participation by segments of the public who may have little economic incentive to participate;

(c) The importance of the representation to a fair balance of interests;

(d) The number and complexity of the issues presented;

(e) The importance of public participation; and

(f) The applicant's resources available for participation.

Eligible Costs: The Administrator may compensate eligible persons for some or all of the reasonable costs incurred in participating including:

(1) Salaries for participants or employees of participants;

(2) Fees for consultants, experts, contractual services, and attorneys;

(3) Travel and travel related costs such as lodging, meals, tipping, telephone calls, etc.; and

(4) Document reproduction, postage, etc.

Procedures for applying: Applications must be filed with the Director, Sanctuary Programs Office, Office of Coastal Zone Management, NOAA, no later than June 25, 1980, and shall contain the information required by and be filed in accordance with NOAA's financial participation regulations, 43 FR 17806 (April 26, 1978).

Dated: June 4, 1980.

Michael Glazer,

Assistant Administrator for Coastal Zone Management.

[FR Doc. 80-17368 Filed 6-10-80; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-276-76]

Treatment of Gain From Disposition of Certain Oil, Gas, or Geothermal Property; Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the tax treatment of gain from the disposition of certain oil, gas, or geothermal property. Changes to the applicable tax law were made by the Tax Reform Act of 1976 and the Energy Tax Act of 1978. This document also proposes several minor technical changes to the regulations to conform them to the Act of September 12, 1966 (Pub. L. 89-570) and the Tax Reform Act of 1969. The regulations will provide the public with the guidance needed to comply with the changed tax laws.

DATES: Written comments and requests for a public hearing must be delivered by August 11, 1980. The amendments are proposed to be effective in the case of a disposition of oil or gas property in taxable years ending after December 31, 1975, with respect to intangible drilling and development costs paid or incurred after December 31, 1975. In the case of a disposition of geothermal property, the amendments are proposed to be effective with respect to intangible drilling and development costs for wells commenced on or after October 1, 1978, in taxable years ending on or after such date.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-276-76), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: William E. Mantle of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3294).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 170, 301, 312, 341, 453, 751, 1254, and 1502 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 205 (a), (b), and (c) (1) and (2) of the Tax Reform Act of 1976 (90 Stat. 1533) and section 402(c) of the Energy Tax Act of 1978 (92 Stat. 3202) and to make certain other technical amendments to the regulations to conform them to section 1(c) of the Act of September 12, 1966 (Pub. L. 89-570, 80 Stat. 762), section 211(b)(6) of the Tax Reform Act of 1969 (83 Stat. 570), and sections 1042(c)(2), 1101(d)(2), 1901(a)(93), and 2110(a) of the Tax Reform Act of 1976 (90 Stat. 1637, 1658, 1780, 1905). The amendments are to be issued under the authority contained in sections 1254(b) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1534, 26 U.S.C. 1254(b); 68A Stat 917, 26 U.S.C. 7805).

Technical Amendments

Paragraphs 1 through 6 and paragraph 8 of this document contain amendments to certain of the regulations under sections 170 (relating to charitable, etc., contributions and gifts), 301 (relating to distributions of property), 312 (relating to effect on earnings and profits), 341 (relating to collapsible corporations), 453 (relating to installment method of accounting), 751 (relating to unrealized receivables and inventory items) and 1502 (relating to tax liability of an affiliated group of corporations). These paragraphs make only technical and conforming amendments necessary because of the addition of section 1254 to the Code and because of the amendments made by section 1(c) of the Act of September 12, 1966 (Pub. L. 89-570) and section 211(b)(6) of the Tax Reform Act of 1969.

Explanation of Section 1254 Provisions

The proposed regulations under section 1254 are contained in paragraph 7 of this document.

Proposed § 1.1254-1 provides for recapture of certain intangible drilling and development costs upon a disposition of oil or gas property in a taxable year ending after December 31, 1975, and upon disposition of geothermal property if the well was commenced on or after October 1, 1978, in taxable years ending on or after such date. The amount subject to recapture is the lower of two amounts. The first amount is the adjusted intangible drilling and development costs with respect to the

property. The second amount is the amount, if any, by which the amount realized on the sale, exchange, or involuntary conversion, or the fair market value of the property on any other disposition, exceeds the adjusted basis of the property. The amount recaptured is treated as gain which is ordinary income and is recognized upon the disposition regardless of any other provision of the Internal Revenue Code which would otherwise provide for nonrecognition.

The proposed regulation defines the term "adjusted intangible drilling and development costs" as the total amount of expenditures allocable to the oil, gas, or geothermal property paid or incurred after December 31, 1975, which have been deducted as intangible drilling and development costs and which, but for being so deducted, would have been reflected in the adjusted basis of the property; reduced by the amount, if any, by which either the deduction for cost depletion or the deduction for percentage depletion with respect to the property would have been increased if the costs had been charged to capital account rather than deducted.

Costs which, if they had not been deducted as intangible drilling and development costs, would have properly been added to basis and recovered through depreciation are also recaptured under the proposed regulation.

The term "disposition" is generally defined in the proposed regulation to have the same meaning as under section 1245 of the Code (relating to gain from disposition of certain depreciable property). The term does not include abandonments, unitization or pooling arrangements, the creation of an interest which expires or shifts by its own terms (such as a carrying arrangement in which the operating interest shifts automatically after complete pay-out), or leases or subleases of oil, gas, or geothermal property.

The proposed regulation generally defines the term "oil, gas, or geothermal property" to mean each operating interest with respect to which any adjusted intangible drilling and development costs are properly chargeable.

The recapture rules of the proposed regulation apply to the disposition of all or any portion of an oil, gas, or geothermal property. Generally, in the case of a disposition of a portion of an oil, gas, or geothermal property other than an undivided interest, the entire amount of the adjusted intangible drilling and development costs is allocated to the portion of the property first disposed of. In the case of a disposition of an undivided interest in an oil, gas, or geothermal property, a proportionate part of the adjusted intangible drilling and development costs is allocated to the undivided interest and recaptured to the extent of the gain from the disposition of the undivided interest.

Proposed § 1.1254–2 provides exceptions and limitations to the general recapture rules for gifts, transfers at death, certain tax-free transactions, like kind exchanges, involuntary conversions, and for section 1071 and 1081 transactions. These rules are similar to the exceptions and limitations provided by the regulations under section 1245(b) of the Code.

Proposed § 1.1254–3 contains rules similar to the rules of the regulations under section 751 of the Code (relating to unrealized receivables and inventory items) that apply in the case of certain sales or exchanges of stock in an electing small business corporation.

Proposed § 1.1254–4 contains rules for modifying the adjusted intangible drilling and development costs in the case of certain specified acquisitions. These rules are similar to the rules for adjustments to basis of the regulations under section 1245(c) of the Code.

Proposed § 1.1254–5 contains rules relating to the distribution of oil, gas, or geothermal property by a partnership. These rules are similar to the rules of the regulations under section 617(g) of the Code (relating to deduction and recapture of certain mining exploration expenditures).

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

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

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

PARAGRAPH 1. Section 1.170A–4(b)(4) is amended by deleting "or 1252(a)." and inserting in lieu thereof "1252(a), or 1254(a).".

PAR. 2. Section 1.301–1 is amended as follows:

1. The first sentence of paragraph (d) is amended by deleting "or 1252(a))" and inserting in lieu thereof "1252(a), or 1254(a))".

2. Paragraph (h)(2)(ii)(*b*) is amended by deleting "or section 1252(a) (relating to gain from disposition of farm land);" and inserting in lieu thereof "section 1252(a) (relating to gain from disposition of farm land), or section 1254(a) (relating to gain from disposition of interest in oil, gas, or geothermal property);".

3. Paragraph (j)(1) is amended by deleting "or 1252(a)" and inserting in lieu thereof "1252(a), or 1254(a)".

4. The first sentence of paragraph (n)(2) is amended by deleting "or 1252(a))," and inserting in lieu thereof "1252(a), or 1254(a)),".

5. Subdivisions (i), (ii), and (iii) of paragraph (n)(2) are each amended by deleting "or 1252 (a)(a))" and inserting in lieu thereof "1252(a), or 1254(a))".

PAR. 3. Section 1.312—3 is amended by deleting "or 1252(a)." and inserting in lieu thereof "1252(a), or 1254(a).".

PAR. 4. Section 1.341–6 is amended as follows:

1. Paragraph (b)(1) is amended by deleting "and 1252 (relating to gain from disposition of farm land)." and inserting in lieu thereof "1252 (relating to gain from disposition of farm land), and 1254 (relating to gain from disposition of interest in oil, gas, or geothermal property).".

2. The first sentence of paragraph (b)(2)(i) is amended by deleting "or 1252)" and inserting in lieu thereof "1252, or 1254)".

3. The second sentence of paragraph (b)(2)(iii) is amended by deleting "or 1252)" and inserting in lieu thereof "1252, or 1254)".

4. The first sentence of paragraph (b)(3) is amended by deleting "or 1252)" and inserting in lieu thereof "1252, or 1254)".

5. The first sentence of paragraph (h)(4) is amended by deleting "or 1252)" and inserting in lieu thereof "1252, or 1254)".

6. Paragraph (n) is amended by deleting "*and 1252.*" from the caption and inserting in lieu thereof "*1252, and 1254,*", and by deleting "and 1252(a) (relating to gain from disposition of farm land)." from the text and inserting in lieu

thereof "1252(a) (relating to gain from disposition of farm land), and 1254(a) (relating to gain from disposition of interest in oil, gas, or geothermal property).".

PAR. 5. Section 1.453–9(c)(1)(ii) is amended by deleting "or 1252(a)(1)" and inserting in lieu thereof "1252(a)(1), or 1254(a)(1)" and by deleting "and paragraph (d)(3) of § 1.1252–1." and inserting in lieu thereof "paragraph (d)(3) of § 1.1252–1, and paragraph (d) of § 1.1254–1.".

PAR. 6. Section 1.751–1(c) (4), (5), and (6) is amended to read as follows:

§ 1.751–1 Unrealized receivables and inventory items.

* * * * *

(c) *Unrealized receivables.* * * *

(4)(i) With respect to any taxable year of a partnership ending after September 12, 1966 (but only in respect of expenditures paid or incurred after that date), the term "unrealized receivables", for purposes of this section and sections 731, 736, 741, and 751, also includes potential gain from mining property defined in section 617(f)(2). With respect to each item of partnership mining property so defined, the potential gain is the amount which would be treated as gain to which section 617(d)(1) would apply if (at the time of the transaction described in sections 731, 736, 741, or 751, as the case may be) the item were sold by the partnership at its fair market value.

(ii) With respect to sales, exchanges, or other dispositions after December 31, 1975, in any taxable year of a partnership ending after that date, the term "unrealized receivables", for purposes of this section and sections 731, 736, 741, and 751, also includes potential gain from stock in a DISC as described in section 992(a). With respect to stock in such a DISC, the potential gain is the amount which would be treated as gain to which section 995(c) would apply if (at the time of the transaction described in sections 731, 736, 741, or 751, as the case may be) the stock were sold by the partnership at its fair market value.

(iii) With respect to any taxable year of a partnership beginning after December 31, 1962, the term "unrealized receivables", for purposes of this section and sections 731, 736, 741, and 751, also includes "potential section 1245 income". With respect to each item of partnership section 1245 property (as defined in sec. 1245(a)(3)), "potential section 1245 income" is the amount which would be treated as gain to which section 1245(a)(1) would apply if (at the time of the transaction described in section 731, 736, 741, or 751, as the case may be) the item of section 1245 property were sold by the partnership at its fair market value. See paragraph (e)(1) of § 1.1245–1. For example, if a partnership would recognize under section 1254(a)(1) gain of $600 upon a sale of one item of section 1245 property and gain of $300 upon a sale of its only other item of such property, the potential section 1245 income of the partnership would be $900.

(iv) With respect to transfers after October 9, 1975, and to sales, exchanges, and distributions taking place after that date, the term "unrealized receivables", for purposes of this section and sections 731, 736, 741, and 751, also includes potential gain from stock in certain foreign corporations as described in section 1248. With respect to stock in such a foreign corporation, the potential gain is the amount which would be treated as gain to which section 1248(a) would apply if (at the time of the transaction described in sections 731, 736, 741, and 751, as the case may be) the stock were sold by the partnership at its fair market value

(v) With respect to any taxable year of a partnership ending after December 31, 1963, the term "unrealized receivables", for purposes of this section and sections 731, 736, 741, and 751, also includes "potential section 1250 income". With respect to each item of partnership section 1250 property (as defined in section 1250(c)), "potential section 1250 income" is the amount which would be treated as gain to which section 1250(a) would apply if (at the time of the transaction described in sections 731, 736, 741, or 751, as the case may be) the item of section 1250 property were sold by the partnership at its fair market value. See paragraph (f)(1) of § 1.1250–1.

(vi) With respect to any taxable year of a partnership beginning after December 31, 1969, the term "unrealized receivables", for purposes of this section and sections 731, 736, 741, and 751, also includes potential gain from farm recapture property as defined in section 1251(e)(1). With respect to each item of partnership farm recapture property so defined, the potential gain is the amount which would be treated as gain to which section 1251(c) would apply if (at the time of the transaction described in sections 731, 736, 741, or 751, as the case may be) the item were sold by the partnership at its fair market value.

(vii) With respect to any taxable year of a partnership beginning after December 31, 1969, the term "unrealized receivables", for purposes of this section and sections 731, 736, 741, and 751, also includes potential gain from farm land as defined in section 1252(a)(2). With respect to each item of partnership farm land so defined, the potential gain is the amount which would be treated as gain to which section 1252(a)(1) would apply if (at the time of the transaction described in sections 731, 736, 741, or 751, as the case may be) the item were sold by the partnership at its fair market value.

(viii) With respect to transactions which occur after December 31, 1976, in any taxable year of a partnership ending after that date, the term "unrealized receivables", for purposes of this section and sections 731, 736, 741, and 751, also includes potential gain from franchises, trademarks, or trade names referred to in section 1253(a). With respect to each such item so referred to in section 1253(a), the potential gain is the amount which would be treated as gain to which section 1253(a) would apply if (at the time of the transaction described in section 731, 736, 741, or 751, as the case may be) the items were sold by the partnership at its fair market value.

(ix) With respect to any taxable year of a partnership ending after December 31, 1975, the term "unrealized receivables", for purposes of this section and sections 731, 736, 741, and 751, also includes potential gain from oil, gas, or geothermal property as described in section 1254. With respect to each item of partnership oil, gas, or geothermal property so described, the potential gain is the amount which would be treated as gain to which section 1254(a) would apply if (at the time of the transaction described in section 731, 736, 741, or 751, as the case may be) the items were sold by the partnership at its fair market value.

(x) For purposes of section 751(c) and this paragraph (c)(4), any arm's-length agreement between the buyer and seller, or between the partnership and distributee partner, will generally establish the fair market value of the property described in this paragraph (c)(4).

(5) For purposes of substitle A of the Code, the basis of any potential gain described in paragraph (c)(4) of this section, or of potential section 1245 income or potential section 1250 income described in paragraph (c)(4) of this section, is zero.

(6)(i) If (at the time of the transaction referred to in paragraph (c)(4) of this section) a partnership holds property described in paragraph (c)(4) of this section and if (*a*) a partner had a special basis adjustment under section 743(b) in respect of the property, or (*b*) the basis under section 732 of the property if distributed to the partner would reflect a special basis adjustment under section 732(d), or (*c*) on the date a partner

acquires a partnership interest by way of a sale or exchange (or upon death of another partner) the partnership owned the property and an election under section 754 was in effect with respect to the partnership, then the partner's share of any potential gain described in paragraph (c)(4) of this section or potential section 1245 (or 1250) income of the partnership in respect of the property shall be determined under subdivision (ii) of this paragraph (c)(6).

(ii) The partner's share of the potential gain described in paragraph (c)(4) of this section or potential section 1245 (or 1250) income of the partnership in respect of the property to which this subdivision (ii) applies is that amount of gain which the partner would recognize under section 617(d)(1), 995(c), 1245(a), 1248(a), 1250(a), 1251(c), 1252(a), 1253(a), or 1254(a) (as the case may be) upon a sale of the property by the partnership, except that, for purposes of this paragraph (c)(6), (*a*) the items which are allocated under (or in a manner consistent with the principles provided in) paragraph (e)(3)(ii) of § 1.1245–1 shall be allocated to the partner in the same manner as his share of partnership property is determined, and (*b*) the amount of a special basis adjustment under section 732(d) shall be treated as if it were the amount of a special basis adjustment under section 743(b).

* * * * * *

PAR. 7. The following new sections are added immediately after § 1.1253–3:

§ 1.1254–1 Treatment of gain from disposition of certain oil, gas, or geothermal property.

(a) *In general.* (1) Section 1254(a)(1) of the Code provides that, upon a disposition in a taxable year ending after December 31, 1975, of oil or gas property (or upon a disposition of geothermal property in the case of wells commenced on or after October 1, 1978, in taxable years ending on or after such date), there shall be treated as gain which is ordinary income the lower of—

(i) The amount of the adjusted intangible drilling and development costs (as defined in paragraph (a)(2) of this section) with respect to the property, or

(ii) The amount, if any, by which the amount realized on the sale, exchange, or involuntary conversion, or the fair market value of the property on any other disposition, exceeds the adjusted basis of the property.

However, any amount treated as ordinary income under the preceding sentence shall not be included by the taxpayer in his "gross income from the property" for purposes of section 613. Generally, the lower of the amounts described in subdivisions (i) and (ii) of this paragraph (a)(1) is treated as ordinary income even though, in the absence of section 1254(a), no gain would be recognized upon the disposition under any other provision of the Code. For example, if a corporation distributes oil, gas, or geothermal property as a dividend, under section 1254(a), gain may be recognized as ordinary income to the corporation even though, in the absence of section 1254(a), section 311(a) would otherwise preclude any recognition of gain to the corporation. For an exception to the recognition of gain with respect to dispositions which involve mineral production payments, see section 636 and the regulations thereunder. For the definition of the term "oil, gas, or geothermal property", see paragraph (a)(3) of this section. For exceptions and limitations to the application of section 1254(a), see § 1.1254–2.

(2) The term "adjusted intangible drilling and development costs" means, with respect to any oil, gas, or geothermal property—

(i) The aggregate amount of expenditures paid or incurred after December 31, 1975, which is allocable to the oil, gas, or geothermal property, and which has been deducted as intangible drilling and development costs under section 263(c) by the taxpayer or any other person and which, but for being so deducted, would be reflected in the adjusted basis of the property, reduced by

(ii) The amount (if any) by which the deduction for depletion allowed under section 611 (computed either under section 612, relating to cost depletion, or sections 613 and 613A, relating to percentage depletion) with respect to the property would have been increased if the costs (paid or incurred after December 31, 1975) had been charged to capital account rather than deducted.

In calculating the amount described in subdivision (ii) of this paragraph (a) (2), except where otherwise required to be taken into account in computing percentage depletion under section 613, any costs which, if they had not been deducted under section 263(c), would have properly been deductible under section 167 (relating to depreciation) shall not be taken into account. The aggregate amount of expenditures paid or incurred after December 31, 1975, which are allocable to the oil, gas, or geothermal property includes the amount of expenditures properly allocable to wells which are nonproductive.

(3) The term "oil, gas, or geothermal property" means each operating interest (within the meaning of section 614(b), relating to special rules as to operating mineral interests in oil and gas wells or geothermal deposits) with respect to which any adjusted intangible drilling and development costs (as defined in paragraph (a)(2) of this section) are properly chargeable. In addition, the term includes a nonoperating interest retained by a lessor or sublessor if such lessor or sublessor held, prior to the lease or sublease, an operating interest with respect to which any intangible drilling and development costs were charged.

(4) The term "disposition" has the same meaning as in section 1245, relating to gain from dispositions of certain depreciable property. Accordingly, the term does not include transactions which are merely financing devices, such as mortgages and production payments which are treated as loans under section 636 and the regulations thereunder. Also, the term does not include abandonments, unitization and pooling arrangements, the creation of an interest which expires or shifts by its own terms (such as a carrying arrangement in which the operating interest shifts automatically after complete pay-out), or the lease or sublease of oil, gas, or geothermal property. See paragraph (b)(1)(i) of this section for rules relating to disposition of a portion of oil, gas, or geothermal property.

(5) The provisions of this paragraph (a) may be illustrated by the following examples:

Example (1). In 1976, A purchased undeveloped property for $100,000. During 1977, A incurred $200,000 of intangible drilling and development costs with respect to the property which A deducted under section 263(c). Reserves of 150,000 barrels of recoverable oil were discovered in 1977 and production began in 1978. In 1978, A produced and sold 100,000 barrels of oil which resulted in $700,000 of gross income. A had no other oil or gas production in 1978. For 1978, A's depletion deduction is based on percentage depletion and is $154,000 (22% of $700,000 gross income from the property). If the intangible drilling and development costs had been capitalized, $150,000 of the costs would have been allocated to the oil property and $50,000 of the costs would have been allocated in depreciable property; A's depreciation deduction would have been $10,000; and A's depletion deduction would have been based on cost and would have been $166,667 [($250,000 basis ($100,000 cost plus $150,000 capitalized intangible drilling and development costs) times 100,000 barrels of production divided by 150,000 barrels of recoverable reserves]. Thus, the amount by which A's depletion deduction would have been increased if the intangible drilling and development costs had been capitalized rather than deducted is $12,667 ($166,667 less

$154,000). On January 1, 1979, A sold the oil property to B for $250,000. A's basis in the property at the beginning of 1979 is zero ($100,000 cost less $154,000 depletion deduction for 1978). The adjusted intangible drilling and development costs are $187,333 ($200,000 intangible drilling and development costs deducted less $12,667 increase in depletion deduction if the costs had been capitalized). Since the adjusted intangible drilling and development costs ($187,333) are less than A's gain on the sale (the entire $250,000), $187,333 is treated as ordinary income under section 1254(a). The remaining amount of A's gain ($62,667) is not subject to section 1254(a).

Example (2). The facts are the same as in example (1) except that 13,000 barrels of oil are produced and sold which resulted in $105,000 of gross income in 1977. A sold the oil property to B for $300,000 on January 1, 1978, operating costs in addition to intangible drilling and development costs for 1977 are $50,000, and depreciation on equipment for 1977 is $10,000. Because A deducted intangible drilling and development costs ($200,000) in excess of gross income from the property ($105,000), taxable income from the property for 1977 is zero and percentage depletion is not allowable. Thus, A's depletion deduction for 1977 is based on cost and is $8,667 ($100,000 basis times 13,000 barrels of production divided by 150,000 barrels of recoverable reserves). If the intangible drilling and development costs had been capitalized, A's depletion deduction for 1977 would have been based on percentage depletion. However, the amount of the percentage depletion, $23,100 (22% of $105,000 gross income from the property), would have been limited to $22,500 or 50% of taxable income from the property of $45,000 ($105,000 gross income from the property less $50,000 operating costs less $10,000 depreciation).

Thus, the amount by which A's depletion deduction would have been increased if the intangible drilling and development costs had been capitalized rather than deducted is $13,833 ($22,500 less $8,667). A's basis in the property at the beginning 1978 is $91,333 ($100,000 cost less $8,667 depletion deduction). The adjusted intangible drilling and development costs are $186,167 ($200,000 intangible drilling and development costs deducted less $13,833 increase in depletion deduction if the costs had been capitalized). Since the adjusted intangible drilling and development costs ($186,167) are less than A's gain on the sale ($208,667) ($300,000 amount realized less $91,333 basis), $186,167 is treated as ordinary income under section 1254(a). The remaining amount of A's gain ($22,500) is not subject to section 1254(a).

Example (3). The facts are the same as in example (1) except that the oil property is sold for $150,000 and A realized gain of $150,000 ($150,000 amount realized less zero basis). Since A's gain is less than the adjusted intangible drilling and development costs with respect to the property ($187,333), the entire gain is treated as ordinary income under section 1254(a).

(b) *Disposition of portion of oil, gas, or geothermal property.* (1)(i) For purposes of section 1254(a)(1) and paragraph (a) of this section, except as provided in paragraph (b)(1)(ii) and (3) of this section, in the case of the disposition of a portion (which is not an undivided interest) of an oil, gas, or geothermal property, the entire amount of the adjusted intangible drilling and development costs with respect to the oil, gas, or geothermal property shall be treated as allocable to that portion of the property to the extent of the amount of gain to which section 1254(a)(1) applies. If the amount of the gain to which section 1254(a)(1) applies is less than the amount of the adjusted intangible drilling and development costs with respect to the oil, gas, or geothermal property, the balance of the adjusted intangible drilling and development costs remaining after allocation to that portion of the property shall remain subject to recapture by the taxpayer under section 1254(a)(1) upon disposition of the remaining portion of the property. The disposition of a portion of an oil, gas, or geothermal property includes the disposition of a geographical portion of an oil, gas, or geothermal property. For example, assume that A owns an 80-acre tract of land with respect to which A had deducted intangible drilling and development costs under section 263(c). If A were to sell the north 40 acres, the entire amount of the adjusted intangible drilling and development costs with respect to the 80-acre tract would be treated as allocable to the 40-acre portion sold (to the extent of the amount of gain to which section 1254(a)(1) applies).

(ii) For purposes of section 1254(a)(1) and paragraph (a) of this section, except as provided in paragraph (b)(3) of this section, in the case of the disposition of a portion (which is not an undivided interest) of an oil, gas, or geothermal property to which section 1254(a)(1) does not apply by reason of the application of § 1.1254–2, the following rule for allocation of costs applies. An amount of the adjusted intangible drilling and development costs which bears the same ratio to the entire amount of those costs with respect to the entire oil, gas, or geothermal property as the rights to income in the portion of the property transferred bear to the rights to income in the entire oil, gas, or geothermal property shall be treated as allocable to the portion of the oil, gas, or geothermal property transferred. The balance of the adjusted intangible drilling and development costs remaining after allocation to that portion of the transferred property shall remain subject to recapture by the taxpayer under section 1254(a)(1) upon disposition of the remaining portion of the property. For example, assume that A owns an 80-acre tract of land with respect to which A had deducted intangible drilling and development costs under section 263(c). If A were to give away the north 40 acres, and if 60 percent of the income from the 80-acre tract were attributable to the north 40 acres given away, 60 percent of the adjusted intangible drilling and development costs with respect to the 80-acre tract would be allocable to the north 40 acres given away.

(2) For purposes of section 1254(a)(1), except as provided in paragraph (b)(3) of this section, in the case of the disposition of an undivided interest in an oil, gas, or geothermal property (or a portion thereof), a proportionate part of the adjusted intangible drilling and development costs with respect to the oil, gas, or geothermal property shall be treated as allocable to the transferred undivided interest to the extent of the amount of gain to which section 1254(a)(1) applies. For example, assume that A owns an 80-acre tract of land with respect to which A had deducted intangible drilling and development costs under section 263(c). If A were to sell an undivided 40 percent interest in the 80-acre tract, 40 percent of the adjusted intangible drilling and development costs with respect to the 80-acre tract would be allocable to the transferred 40 percent interest in the 80-acre tract (to the extent of the amount of gain to which section 1254(a)(1) applies).

(3) The rules for allocation of costs set forth in section 1254(a)(2) and paragraph (b)(1) and (2) of this section shall not apply with respect to adjusted intangible drilling and development costs that the taxpayer establishes to the satisfaction of the Commissioner do not relate to the transferred portion of, or undivided interest in, the oil, gas, or geothermal property. If a taxpayer disposes of a portion of, or an undivided interest in, oil, gas, or geothermal property and treats adjusted intangible drilling and development costs with respect to the oil, gas, or geothermal property as if they do not relate to the portion or undivided interest transferred, the taxpayer must attach to the return for the taxable year in which the disposition occurred a statement that contains the following information:

(i) A description of the portion or undivided interest transferred;

(ii) A description of the entire oil, gas, or geothermal property which included the portion or undivided interest transferred;

(iii) An itemization of all expenditures deducted under section 263 (c) with respect to the oil, gas, or geothermal property;

(iv) A description of the location of all wells on the oil, gas, or geothermal property; and

(v) A statement of reasons why the expenditures itemized do not relate to the portion or undivided interest transferred.

(c) *Disposition of oil, gas, or geothermal property by partnership.* If a proper election is made by a partnership under §§ 1.703–1 (b)(1) and 1.612–4 to deduct intangible drilling and development costs, then gain recognized by the partnership and treated as ordinary income by application of section 1254 (a) may be allocated among the partners by the partnership agreement unless examination of all the facts and circumstances discloses that the allocation by the partnership agreement does not have substantial economic effect.

(d) *Installment method.* Gain from a disposition to which section 1254 (a)(1) applies may be reported on the installment method if that method is otherwise available under section 453 of the Code and the regulations thereunder. If the installment method is elected, the portion of each installment payment as reported which represents income (other than interest) is treated as gain to which section 1254 (a)(1) applies until all of the gain (to which section 1254 (a)(1) applies) has been reported, and the remaining portion (if any) of the income is then treated as gain to which section 1254 (a)(1) does not apply. For treatment of amounts as interest on certain deferred payments, see section 483 and the regulations thereunder.

§ 1.1254–2 Exceptions and limitations.

Section 1254(b)(1) provides that rules similar to the rules of section 1245(b) shall apply for purposes of section 1254.

(a) *Exception for gifts.* (1) No gain shall be recognized under section 1254(a)(1) upon a disposition by gift of oil, gas, or geothermal property. For purposes of this paragraph, the term "gift" means, except to the extent that paragraph (a)(2) of this section applies, a transfer of oil, gas, or geothermal property which, in the hands of the transferee, has a basis determined under the provisions of section 1015 (a) or (d) (relating to basis of property acquired by gift). For reduction in amount of the charitable contribution in the case of a gift of oil, gas, or geothermal property, see section 170(e) and § 1.170–1(c)(3).

(2) If a disposition of oil, gas, or geothermal property described in section 1254 is in part a sale or exchange and in part a gift, the gain to which section 1254(a)(1) applies is the lower of the adjusted intangible drilling and development costs with respect to the property or the excess of the amount realized upon the disposition of the property over the adjusted basis of the property.

(b) *Exception for transfers at death.* Except as provided in section 691 (relating to income in respect of a decedent), no gain shall be recognized under section 1254(a)(1) upon a transfer at death. For purposes of this paragraph, the term "transfer at death" means a transfer of oil, gas, or geothermal property described in section 1254 which, in the hands of the transferee, has a basis determined under the provisions of section 1014(a) (relating to basis of property acquired from a decedent) because of the death of the transferor.

(c) *Limitation for certain tax-free transactions.* (1) Upon a transfer of property described in paragraph (c)(3) of this section, the amount of gain taken into account by the transferor under section 1254(a)(1) shall not exceed the amount of gain recognized to the transferor on the transfer (determined without regard to section 1254). Except as otherwise provided in paragraph (c)(2) of this section, this paragraph (c)(1) does not apply to a disposition of oil, gas, or geothermal property to an organization (other than a cooperative described in section 521) which is exempt from the tax imposed by chapter 1 of the Code. For purposes of this paragraph (c)(1), in the case of a transfer both of oil, gas, or geothermal property described in section 1254 and other property not so described in one transaction, the amount realized from the disposition of the oil, gas, or geothermal property described in section 1254 shall be deemed to be equal to the amount which bears the same ratio to the total amount realized as the fair market value of the oil, gas, or geothermal property described in section 1254 bears to the aggregate fair market value of all of the property transferred. The preceding sentence shall be applied solely for purposes of computing the portion of the total gain (determined without regard to section 1254) which may be recognized as ordinary income under section 1254(a)(1).

(2) The second sentence of paragraph (c)(1) of this section does not apply to a disposition of oil, gas, or geothermal property described in section 1254 to an organization described in section 511(a)(2) or (b)(2) (relating to imposition of tax on unrelated business income of charitable, etc., organizations) if, immediately after the disposition, the organization uses the property in an unrelated trade or business as defined in section 513 (relating to unrelated trade or business). If any property with respect to which gain is not recognized by reason of the exception of this paragraph (c)(2) ceases to be used in an unrelated trade or business of the organization acquiring the property, that organization shall, for purposes of section 1254, be treated as having disposed of the property on the date of the cessation.

(3) The transfers referred to in paragraph (c)(1) of this section are transfers of oil, gas, or geothermal property described in section 1254 in which the basis of the oil, gas, or geothermal property in the hands of the transferee is determined by reference to its basis in the hands of the transferor by reason of the application of any of the following provisions:

(i) Section 332 (relating to distributions in complete liquidation of an 80-percent-or-more controlled subsidiary corporation). See paragraph (c)(4) of this section.

(ii) Section 351 (relating to transfer to a corporation controlled by transferor).

(iii) Section 361 (relating to exchanges pursuant to certain corporate reorganizations).

(iv) Section 371(a) (relating to exchanges pursuant to certain receivership and bankruptcy proceedings).

(v) Section 374(a) (relating to exchanges pursuant to certain railroad reorganizations).

(vi) Section 721 (relating to transfers to a partnership in exchange for a partnership interest).

(vii) Section 731 (relating to distributions by a partnership to a partner).

(4) In the case of a distribution in complete liquidation of an 80-percent-or-more controlled subsidiary to which section 332 applies, the limitation provided in this paragraph (c) is confined to instances in which the basis of the oil, gas, or geothermal property described in section 1254 in the hands of the transferee is determined, under section 334(b)(1), by reference to its basis in the hands of the transferor. Thus, for example, the limitation may apply in respect of a liquidating distribution of oil, gas, or geothermal property by an 80-percent-or-more controlled corporation to the parent corporation, but does not apply in respect of a liquidating distribution of oil, gas, or geothermal property to a minority shareholder. This paragraph (c) does not apply to a liquidating distribution of oil, gas, or geothermal property by an 80-percent-or-more controlled subsidiary to its parent if the parent's basis for the property is

determined under section 334(b)(2), by reference to its basis for the stock of the subsidiary.

(d) *Limitation for like kind exchanges and involuntary conversions.* (1) If property described in section 1254 is disposed of and gain (determined without regard to section 1254) is not recognized in whole or in part under section 1031 (relating to like kind exchanges) or section 1033 (relating to involuntary conversions), then the amount of gain taken into account by the transferor under section 1254(a)(1) shall not exceed the amount of gain recognized on the disposition (determined without regard to section 1254).

(2) For purposes of this paragraph (d), if both oil, gas, or geothermal property described in section 1254 and other property not so described are acquired as the result of one disposition in which both oil, gas, or geothermal property and other property are transferred, then the total amount realized upon the disposition shall be allocated between the oil, gas, or geothermal property and the other property disposed of in proportion to their respective fair market values. In general, if a buyer and seller have adverse interests as to such allocation of the amount realized, any arm's-length agreement between the buyer and seller will establish the allocation. In the absence of such an agreement, the allocation shall be made by taking into account the appropriate facts and circumstances.

(e) *Limitation for section 1071 and 1081 transactions*—(1) *Sections 1071 and 1081(b) transactions.* If oil, gas, or geothermal property described in section 1254 is disposed of and gain (determined without regard to section 1254) is not recognized in whole or in part because of the application of either section 1071 (relating to gain from sale or exchange to effectuate policies of F.C.C.) or section 1081 (b) (relating to gain from sale or exchange in obedience to order of S.E.C.), then the amount of gain taken into account by the transferor under section 1254(a)(1) shall not exceed the amount of gain recognized on the disposition (determined without regard to section 1254).

(2) *Section 1081(d)(1)(A) transaction.* No gain or loss shall be recognized under section 1254(a)(1) upon an exchange of property as to which gain would not be recognized (without regard to section 1254) because of the application of section 1081(d)(1)(A) (relating to transfers within system group).

§ 1.1254-3 Sale or exchange of stock in an electing small business corporation

Section 1254(b)(2) provides that rules similar to the rules of section 751 (relating to unrealized receivables and inventory items) shall apply in the case of the sale or exchange of stock in an electing small business corporation (as defined in section 1371(b)).

(a) *Character of amount received.* If money or property received by a shareholder of an electing small business corporation (as defined in section 1371(b)) in exchange for all or part of the shareholder's stock in the corporation exceeds the adjusted basis of the stock, such excess is considered as an amount realized from the sale or exchange of property other than a capital asset to the extent of the shareholder's pro rata share of any adjusted intangible drilling and development costs.

(b) *Determination of pro rata share.* For purposes of this section, a shareholder's pro rata share of adjusted intangible drilling and development costs is that portion of the sum of the corporation's adjusted intangible drilling and development costs with respect to all of its oil, gas, or geothermal property which results from a proportional allocation to the shares sold or exchanged by the shareholder.

(c) *Oil, gas, or geothermal property retained by electing small business corporation.* In the case of any oil, gas, or geothermal property held by an electing small business corporation after a sale or exchange to which this section applies, the adjusted intangible drilling and development costs with respect to that oil, gas, or geothermal property is, for purposes of section 1254(a)(1), reduced by the selling or exchanging shareholder's pro rata share of such costs determined by application of paragraph (b) of this section.

§ 1.1254-4 Adjustments reflected in adjusted intangible drilling and development costs immediately after certain acquisitions.

Section 1254(b)(1) provides that rules similar to the rules of section 1254(c) shall apply for purposes of section 1254.

(a) *Transactions in which basis is determined by reference to cost or fair market value of property transferred.* (1) If, on the date a person acquires oil, gas, or geothermal property described in section 1254, the person's basis for the property is determined solely by reference to its cost (within the meaning of section 1012), then on that date the amount of the adjusted intangible drilling and development costs with respect to the oil, gas, or geothermal property in the person's hands is zero.

(2) If, on the date a person acquires oil, gas, or geothermal property described in section 1254, the person's basis for the property is determined solely by reason of the application of section 301(d) (relating to basis of property received in corporate distribution) or section 334(a) (relating to basis of property received in a liquidation in which gain or loss is recognized), then on that date the amount of the adjusted intangible drilling and development costs with respect to the oil, gas, or geothermal property in the person's hands is zero.

(3) If, on the date a person acquires oil, gas, or geothermal property described in section 1254, the person's basis for the property is determined solely under the provisions of section 334 (b)(2) or (c) (relating to basis of property received in certain corporate liquidations), then on that date the amount of the adjusted intangible drilling and development costs with respect to the oil, gas, or geothermal property in the person's hands is zero.

(4) If, on the date a person acquires oil, gas, or geothermal property described in section 1254 from a decedent, the person's basis is determined, by reason of the application of section 1014(a), solely by reference to the fair market value of the property on the date of the decedent's death or on the applicable date provided in section 2032 (relating to alternate valuation date), then on the date of acquisition the amount of the adjusted intangible drilling and development costs with respect to the oil, gas, or geothermal property in the person's hands is zero.

(b) *Gifts and certain tax-free transactions.* (1) If oil, gas, or geothermal property described in section 1254 is transferred in a transaction described in paragraph (b)(2) of this section, then the amount of the adjusted intangible drilling and development costs with respect to the oil, gas, or geothermal property in the hands of the transferee immediately after the disposition shall be an amount equal to—

(i) The amount of the adjusted intangible drilling and development costs with respect to the oil, gas, or geothermal property in the hands of the transferor immediately before disposition, minus

(ii) The amount of any gain taken into account as ordinary income under section 1254(a)(1) by the transferor upon the disposition.

(2) The transactions to which paragraph (b) (1) of this section apply are—

(i) A disposition which is a gift or in part a sale or exchange and in part a gift,

(ii) A disposition which is described in section 1245 (b) (3) (relating to certain tax-free transactions), or

(iii) An exchange which is described both in section 1245 (b) (5) and § 1.1245–2 (e) (2) (relating to transfers described in section 1081 (d) (1) (A)).

(c) *Certain transfers at death.* If oil, gas, or geothermal property described in section 1254 is acquired in a transfer at death, the amount of the adjusted intangible drilling and development costs with respect to the oil, gas, or geothermal property in the hands of the transferee immediately after the transfer shall include the amount, if any, of the intangible drilling and development costs deducted by the transferee before the decedent's death, to the extent that the basis of the oil, gas, or geothermal property (determined under section 1014 (a)) is required to be reduced under the second sentence of section 1014 (b) (9) (relating to adjustments to basis where the property is acquired from a decedent prior to his death).

(d) *Property received in a like kind exchange or involuntary conversion.* (1) If oil, gas, or geothermal property described in section 1254 is acquired in a disposition which is a like kind exchange or involuntry conversion, then immediately after the acquisition the amount, in the hands of the transferee, of the adjusted intangible drilling and development costs with respect to the oil, gas, or geothermal property acquired shall be an amount equal to—

(i) The amount of the adjusted intangible drilling and development costs with respect to the oil, gas, or geothermal property in the hands of the transferor immediately before disposition, minus

(ii) The amount of any gain taken into account as ordinary income under section 1254 (a) (1) by the transferor upon the disposition.

(2) If more than one parcel of oil, gas, or geothermal property is acquired at the same time from the same transferor in a transaction referred to in paragraph (d) (1) of this section, the total amount, in the hands of the transferee, of the adjusted intangible drilling and development costs with respect to the parcels is allocated to the parcels in proportion to their respective adjusted bases.

(e) *Property transferred in cases to which sections 1071 or 1081 (b) applies.* If oil, gas, or geothermal property described in section 1254 is acquired in a transfer to which section 1071 or section 1081 (b) applies, then immediately after the transfer the amount, in the hands of the transferee, of the adjusted intangible drilling and development costs with respect to the oil, gas, or geothermal property acquired is—

(1) The amount of the adjusted intangible drilling and development costs with respect to the oil, gas, or geothermal property in the hands of the transferor immediately before transfer, reduced by

(2) The amount of any gain taken into account as ordinary income under section 1254 (a) (1) by the transferor upon the transfer.

§ 1.1254–5 Special rules for partnership property.

Section 1254 (b) (1) provides that rules similar to the rules of section 617 (g) (relating to special rules concerning partnership property) shall apply for purposes of section 1254.

(a) *Property distributed to partner.* The adjusted intangible drilling and development costs for any oil, gas, or geothermal property received by a partner in a distribution with respect to part or all of an interest in a partnership include—

(1) The adjusted intangible drilling and development costs (not taken into account as ordinary income under section 1254(a)(1)) with respect to the oil, gas, or geothermal property immediately prior to the distribution, reduced by

(2) The amount of gain to which section 751(b) (relating to certain distributions treated as sales or exchanges) applies realized by the partnership (as constituted after the distribution) on the distribution of the oil, gas, or geothermal property.

(b) *Property retained by partnership.* In the case of any oil, gas, or geothermal property held by a partnership after a distribution to a partner to which section 751(b) applies, the adjusted intangible drilling and development costs with respect to the oil, gas, or geothermal property retained by the partnership are reduced by the amount of gain (if any) to which section 751(b) applies realized by the partner with respect to the distribution on account of the oil, gas, or geothermal property retained by the partnership.

PAR. 8. Section 1.1502–14(c)(1) is amended by deleting "or 1250(a)(1)" and inserting in lieu thereof "1250(a)(1) or 1254(a)(1)".

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 80–17668 Filed 6–10–80; 8:45 am]

BILLING CODE 4830–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1056, 1320, 1321, 1322, 1323, and 1324

[Ex Parte Nos. MC–1, 73,* 143 and 170]

Proposal To Repeal Existing Credit Regulations for Railroads, Motor Carriers, Water Carriers, and Freight Forwarders, and Authorize Individual Carriers To Establish Through Tariffs Publication Their Own Nondiscriminatory Credit Terms; 15-Day Postponement of Filing Due Date

AGENCY: Interstate Commerce Commission.

ACTION: 15-day postponement of filing due date in reopening of rulemaking proceeding (proposed rules).

SUMMARY: The present due date for filing comments in this reopening of rulemaking proceedings published at 45 FR 31766, May 14, 1980, involving our credit rules is June 30, 1980. The Association of American Railroads has requested a 90-day extension. Insufficient reasons for such a lengthy extension have been presented. A 15-day extension will be granted. This will provide a total comment period of 60 days. Considering the relative simplicity of the Commission's proposal, we believe 60 days is adequate to formulate meaningful comments.

DATE: Comments are now due July 15, 1980.

ADDRESS: An original and 15 copies of comments should be sent to: Room 5356, ICC, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard Felder (202) 275–7693.

Decided: June 3, 1980.

By the Commission, Darius W. Gaskins, Jr., Chairman.

James H. Bayne,

Acting Secretary.

[FR Doc. 80–17688 Filed 6–10–80; 8:45 am]

BILLING CODE 7035–01–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 71

[Docket No. PRM–71–8]

Foster Wheeler Energy Corp.; Filing of Petition for Rulemaking

AGENCY: U.S. Nuclear Regulatory Commission.

*Includes No. 37152.

ACTION: Publication of petition for rulemaking from Foster Wheeler Energy Corporation.

SUMMARY: The Nuclear Regulatory Commission is publishing for public comment, as a petition for rulemaking, a motion filed before the Commission on March 19, 1980, by Foster Wheeler Energy Corporation. This petition, which has been assigned Docket No. PRM–71–8, requests that the Commission "* * * exempt persons licensed pursuant to 10 CFR 34 for Industrial Radiography from the provision of 10 CFR 71.12(b)(1)(i) requiring that such persons have a copy of '* * * all documents referred to in the license, certificate, or other approval * * *' in order to be able to deliver licensed material to a carrier for transport under the general licensing provisions of 10 CFR 71.12." The petitioner further states that "it is adequate for a radiography licensee to have on file just the Certificate of Compliance for a given source shipping container."

DATE: Comment period expires August 11, 1980.

ADDRESSES: A copy of the petition for rulemaking is available for public inspection in the Commission's Public Document Room, 1717 H Street, NW, Washington, DC. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

All persons who desire to submit written comments or suggestions concerning the petition for rulemaking should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

FOR FURTHER INFORMATION CONTACT: Joseph M. Felton, Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–492–7211.

SUPPLEMENTARY INFORMATION: The petitioner states that radiography licensees are authorized by NRC to use only specific sources and source shipping containers and that (Foster Wheeler) "* * * cannot register with the NRC Transportation Branch to be a user of a package unless we are also licensed to use that same package by the NRC Radioisotopes Licensing Branch."

The petitioner, an NRC Byproduct Material Licensee, states that the preparation of its written procedures concerning the use and transporting of source shipping containers (as specified in §§ 34.32 and 71.51) was accomplished without using the information required by § 71.12(b)(1)(i), yet these procedures apparently meet NRC requirements.

The petitioner further states that the documents which are maintained pursuant to § 71.12(b)(1)(i) have not proved to be needed or useful on other occasions and that "the regulation, as it pertains to our license category [Industrial Radiography Licensees], offers no positive effect on the safe transportation of radioactive material and should be withdrawn."

A recently denied petition (Chem-Nuclear Systems, PRM–71–5) was filed on similar grounds; however, the petitioner states that its petition (PRM–71–8) relates to different issues.

Copies of Chem-Nuclear Systems' petition and the Commission's Notice of Denial are also available in the Public Document Room and may be obtained by writing to the Division of Rules and Records at the above address.

Dated at Washington, DC this 4th day of June 1980.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80–17573 Filed 6–10–80; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF ENERGY

10 CFR Part 474

[Docket No. CAS–RM–80–202]

Electric and Hybrid Vehicle Research, Development, and Demonstration Program; Equivalent Petroleum-Based Fuel Economy Calculation

AGENCY: Department of Energy.

ACTION: Notice of Proposed Rulemaking for Electric and Hybrid Vehicle Research, Development, and Demonstration Program; cancellation of public hearing.

SUMMARY: The Department of Energy announces that the public hearing on the Equivalent Petroleum-Based Fuel Economy Calculation for the Electric and Hybrid Vehicle Research, Development, and Demonstration Program scheduled for Tuesday, June 10, 1980, in Washington, D.C., was cancelled, due to lack of public interest in making oral presentations at the hearing

DATES: As stated in the notice of proposed rulemaking issued on May 12, 1980 (45 FR 34008, May 21, 1980), written comments on the Equivalent Petroleum-Based Fuel Economy Calculation must be received by the Department by close of business, July 21, 1980.

FOR FURTHER INFORMATION CONTACT: Robert S. Kirk, Electric and Hybrid Vehicles Division, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–8032.

Issued in Washington, D.C., June 9, 1980.

Maxine Savitz,

Deputy Assistant Secretary for Conservation, Conservation and Solar Energy.

[FR Doc. 80–17827 Filed 6–10–80; 10:34 am]

BILLING CODE 6450–01–M

Notices

Federal Register
Vol. 45, No. 114
Wednesday, June 11, 1980

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Marketing Agreement 146]

Budget of Expenses of Administrative Committee and Rate of Assessment for the 1980 Crop Year

Pursuant to Marketing Agreement 146, regulating the quality of domestically produced peanuts [30 FR 9402], and upon recommendation of the Peanut Administrative Committee established pursuant to such agreement and other information, it is hereby found and determined that the expenses of said Committee and the rate of assessment applicable to peanuts produced in 1980 and for the crop year beginning July 1, 1980, shall be as follows:

(a) *Administrative expenses.* The budget of expenses for the Committee for the Crop year beginning July 1, 1980, shall be in the total amount of $600,000, such amount being reasonable and likely to be incurred for the maintenance and functioning of the Committee, and for such purposes as the Secretary may, pursuant to the provisions of the marketing agreement, determine to be appropriate.

(b) *Indemnification expenses.* Expenses of the Committee for indemnification payments, pursuant to the Terms and Conditions of Indemnification Applicable to 1980 Crop Peanuts, effective July 1, 1980, are estimated at, but may exceed $3.5 million, such amount being reasonable and likely to be incurred.

(c) *Rate of assessment.* Each handler shall pay to the Peanut Administrative Committee, in accordance with § 48 of the marketing agreement, an assessment of the rate of $1.90 per net ton of farmers stock peanuts received or acquired other than those described in § 31 (c) and (d) ($.040 for administrative expenses and $1.50 for indemnification expenses).

(d) *Indemnification reserve.* Monetary additions to the indemnification reserve, established in the 1965 crop year pursuant to § 48 of the marketing agreement, shall continue. That portion of the total assessment funds accrued from the $1.50 rate and not expended in providing indemnification on the 1980 crop peanuts shall be placed in such reserve and shall be available to pay indemnification expenses on subsequent crops.

The expenses and rate of assessment are, under the agreement, on a crop year basis and will automatically be applicable to all assessable peanuts from the beginning of such crop year. The handler of peanuts who will be affected hereby have signed the marketing agreement authorizing approval of expenses that may be incurred and the imposition of assessments, they are represented on the Committee which has submitted the recommendation with respect to such expenses and assessment for approval; and handlers have had knowledge of the foregoing in their recent industry-wide discussions and will be afforded maximum time to plan their operations accordingly.

Dated: June 6, 1980.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 80-17642 Filed 6-10-80; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF COMMERCE

International Trade Administration

Picker Sticks From Mexico; Results of Administrative Review of Antidumping Finding and of Tentative Determination To Revoke

AGENCY: U.S. Department of Commerce.

ACTION: Notice of results of administrative review of antidumping finding and of tentative determination to revoke.

SUMMARY: This notice is to advise the public that, as a result of an administrative review of the antidumping finding on picker sticks from Mexico, the Department of Commerce has tentatively determined to revoke such finding. There have been no imports of picker sticks from Mexico at less than fair value from January 1, 1974 through December 31, 1977, and no shipments from January 1978 through September 1979.

EFFECTIVE DATE: June 11, 1980.

FOR FURTHER INFORMATION CONTACT: Arthur N. DuBois, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-2361).

SUPPLEMENTARY INFORMATION: On June 10, 1974, a dumping finding with respect to picker sticks from Mexico was published in the **Federal Register** as Treasury Decision 74-166 (39 FR 20370). In the **Federal Register** of March 28, 1980, a notice of intent to conduct administrative review of all outstanding dumping findings was published (45 FR 20511-12). As required by Section 751 of the Tariff Act of 1930, as amended, the Department of Commerce has conducted an administrative review of the finding for picker sticks. This review has disclosed no reasons why the finding should not be revoked. There were no shipments at less than fair value from January 1, 1974 through December 31, 1977, and no shipments at all from January 1, 1978 through September 30, 1979. Draper de Mexico, the only exporter, has agreed in writing to an immediate suspension of liquidation and reinstatement of the finding if circumstances develop which indicate that the merchandise thereafter imported into the United States is being sold at less than fair value, as provided by § 353.54(e) of the Commerce Regulations. Therefore, the above finding will be revoked, effective 35 days from the date of this notice and without further notice, unless it is established to the Secretary's satisfaction that revocation is not warranted.

Interested parties may submit written comments within 30 days of the date of this notice and may request disclosure and/or a hearing within 15 days of the date of this notice.

After final revocation, an amendment to Annex I, Section 353 of the Commerce Regulations (19 CFR 353, Annex I), will be published in a **Federal Register** notice.

This administrative review, tentative determination to revoke, and notice publication are in accordance with Section 751(a)(1) and (c) of the Act (93 Stat. 175, 19 U.S.C. 1675(a)(1), (c)) and Section 353.54(e) of Commerce

Regulations (19 CFR 353.54(e), 45 FR 8206).

John D. Greenwald,

Deputy Assistant Secretary, Import Administration.

June 3, 1980.

[FR Doc. 17584 Filed 6-10-80; 8:45 am]

BILLING CODE 3510-25-M

Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held on Tuesday, July 29, 1980, at 9:30 a.m. in Room 6802, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, with respect to questions involving (a) technical matters, (b) worldwide availability and actual utilization of production technology, (c) licensing procedures which affect the level of export controls applicable to computer peripherals, components and related test equipment, including technical data or other information related thereto, and (d) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has five parts:

General Sessions

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Subcommittee reports: (A) Memory and Media, (B) Foreign Availability, (C) Display and Terminals, and (D) Export Regulations.
4. New business.

Executive Session

5. Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committees. Written statements may be presented at any time before or after the meeting.

With respect to agenda item (5), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, has formally determined, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12055. All Committee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the **Federal Register** on September 14, 1978 (43 FR 41071).

Copies of the minutes of the General Session will be available by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, phone 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Date: June 5, 1980.

Kent N. Knowles,

Director, Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 80-17601 Filed 6-10-80; 8:45 am]

BILLING CODE 3510-25-M

Potential Disclosure of Reports of Boycott Requests Received Between Jan. 1, 1965, and Oct. 7, 1976.

AGENCY: Office of Antiboycott Compliance, International Trade Administration.

ACTION: Notification of Response and Justification Procedure to Interested Parites concerning Potential Disclosure of Boycott Reports received by the Department of Commerce between January 1, 1965 and October 7, 1976.

SUMMARY: The Export Administration Act of 1969, as amended, required persons who received boycott-related requests to report the receipt of such requests to the Department of Commerce. Reports of boycott-related requests received prior to October 7, 1976 are currently the subject of litigation in the United States District Court for the District of Columbia. *Mark Green, et al. v. Department of Commerce,* Civil No. 77-363(D.D.C.). It has been, and continues to be, the position of the Department of Commerce that, pursuant to Section 7(c) (now 12(c)) of the Export Administration Act, all material provided pursuant to the Act is deemed confidential and will not be released unless it is determined that the withholding of this information is contrary to the national interest. No such determination has been made to date. However, as a result of the litigation, the Court is prepared to order the Department to release the reports in their entirety, including all business proprietary information contained in those reports. The Court has indicated that it will reconsider its order as applied to certain business proprietary information whose release would cause competitive injury to the reporting firms. The Department of Commerce is exercising its discretion to notify the reporting entities of the Court's order and of the opportunity to submit to the Department of Commerce a request for continued nondisclosure and a justification in support of such request.

DATE: Written requests and offered justifications for withholding must be received not later than Monday, July 7, 1980. Comments should be filed in duplicate and addressed to: Richard M. Seppa, Acting Director, Office of Antiboycott Compliance, Room 3226, Department of Commerce, Washington, D.C. 20230.

FOR ADDITIONAL INFORMATION CONTACT: William R. Schneider, who can be reached by telephone on 202-377-2448.

SUPPLEMENTARY INFORMATION: Reports of boycott-related requests received *prior* to October 7, 1976 are currently the subject of a Freedom of Information Act

request which is now in litigation in United States District Court for the District of Columbia. Pursuant to the Export Administration Act of 1969, as amended, and a related Directive issued by President Ford, public disclosure is required of all but certain types of information contained in boycott report forms reporting receipt of boycott-related requests on or after October 7, 1976.

The purpose of this notice is to provide firms that submitted an estimated 62,000 boycott reports relating to requests that were received between January 1, 1965 and October 7, 1976 with the opportunity both to identify any information that they believe would cause substantial competitive injury to them, if released, and to explain, in a thoughtful and specific manner, the basis for their belief that such injury would result from disclosure. Submitters' explanations will assist the Department in determining whether withholding is permissible under the applicable legal standards relating to competitive injury.

If submitters wish to have the Department withhold any information contained on the boycott report forms they submitted, they must identify that information by item number, give the data on which the form was submitted, and explain how their competitive position will be injured as a result of disclosure. The Department will consider, in accordance with the applicable competitive injury standard, requests to withhold similar information contained in portions of documents submitted as atachments to reports. Decisions concerning public disclosure are required by law to be made by the Department of Commerce, subject to review by the Court. Where a genuine risk of competitive injury does exist, submitters should explain the manner in which such injury would result from public disclosure with enough specificity to permit the Department to evaluate the soundness of their claims and to allow the Court thereafter to review the Department's determination. Firms are also urged to refrain from submitting responses that do not explain specifically how such injury would result from disclosure in the particular cases involved. Firms are further advised that their responses and accompanying justifications may become publicly available.

While the Department cannot promise that reports of boycott-related requests of firms which do respond to this notice will be protected, all reports not addressed by responses to this notice will be disclosed. If firms do not respond by July 7, 1980, the Department will conclude that they no longer object to the public disclosure of the information contained in their reports.

Dated: June 6, 1980.

Eric L. Hirschhorn,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 80-17657 Filed 6-10-80; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

National Conference on Weights and Measures; Meeting

Notice is hereby given that the 65th annual meeting of the National Conference on Weights and Measures will be held on June 22–27, 1980, at the Shoreham Hotel in Washington, D.C.

The National Conference on Weights and Measures is an organization of weights and measures enforcement officials of the States, counties, and cities of the United States. The annual meeting of the Conference brings together the enforcement officials, other government officials, and representatives of business, industry, trade associations, and consumer organizations for the purpose of hearing and discussing subjects that relate to the fields of weights and measures technology and administration.

Pursuant to authority in its Organic Act (15 U.S.C. 272(5)), the National Bureau of Standards acts as a sponsor of the National Conference on Weights and Measures in order to promote uniformity among the States in the complex of laws, regulations, methods, and testing equipment that comprises regulatory control by the States of commercial weighing and measuring.

The public is invited to attend. A registration fee of $75.00 per person has been established by the Conference Executive Committee to pay for expenses of the meeting. Additional information concerning the Conference and arrangements may be obtained from Mr. Harold F. Wollin, Executive Secretary, National Conference on Weights and Measures, National Bureau of Standards, Washington, D.C. 20234; telephone—(301) 921–3677.

Dated: June 5, 1980.

Ernest Ambler,

Director.

[FR Doc. 80-17578 Filed 6-10-80; 8:45 am]

BILLING CODE 3510-13-M

National Technical Information Service

U.S. Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to avoid premature disclosure. Claims and other technical data will usually be made available to serious prospective licensees upon execution of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should be directed to the addresses cited for the agency-sponsors.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

U.S. Department of the Air Force, AF/JACP, 1900 Half Street, S.W., Washington, D.C. 20324

Patent application 6-064,932: Aerial Refueling Receptacle Floodlights—Spoiler and Fuselage, Nose Mounted; filed Aug. 8, 1979.

Patent application 6-068,822: Optical Multiplexer/Demultiplexer; filed Aug. 22, 1979.

Patent application 6-069,476: Articulated Para-Ordered Aromatic Heterocyclic Polymers Containing Diphenoxybenzene Structures; filed Aug. 24, 1979.

Patent application 6-070,454: Integrated Optical R-F Spectrum Analyzer; filed Aug. 28, 1979.

Patent application 6-070,473: F-Phenylalkylene Oxide Diacetylenes; filed Aug. 28, 1979.

Patent application 6-072,734: Laser Resistant Ceramic Composite; filed Aug. 30, 1979.

Patent application 6-074,263: Method for Controlling the Resonance Frequency of Yttrium Iron Garnet Films; filed Sept. 11, 1979.

Patent application 6-076,720: Self-Stressed Mode 1 Fracture Mechanics Test Piece; filed Sept. 19, 1979.

Patent application 6-077,235: Hole Angularity Gage; filed Sept. 19, 1979.

Patent 4,177,308: Non-Combustible High Temperature Abradable Seal Material;

filed Aug. 10, 1978; patented Dec. 4, 1979; not available NTIS.
Patent 4,177,328: Wall Wick for Nickel-Hydrogen Cell; filed Dec. 19, 1978; patented Dec. 4, 1979, not available NTIS.
Patent 4,177,437: High Power Pre-TR Switch; filed Jan. 20, 1978; patented Dec. 4, 1979; not available NTIS.
Patent 4,177,464: Multiplexing of Multiple Loop Sidelobe Cancellers; filed Nov. 13, 1978; patented Dec. 4, 1979; not available NTIS.
Patent 4,177,465: Near-Range Personnel Beacon Locator Apparatus; filed Oct. 6, 1978; patented Dec. 4, 1979; not available NTIS.
Patent 4,177,493: High Voltage Antenna Protection System; filed Dec. 29, 1977; patented Dec. 4, 1979; not available NTIS.
Patent 4,177,681: Apparatus for Adjusting and Locking a Linear Actuator; filed Apr. 6, 1978; patented Dec. 11, 1979; not available NTIS.
Patent 4,178,428: Thermally Stable Enyne Polysulfone Polymers; filed Sept. 27, 1978; patented Dec. 11, 1979; not available NTIS.
Patent 4,179,086: Arm Restraint System; filed July 20, 1978; patented Dec. 18, 1979; not available NTIS.
Patent 4,179,190: Wide Band Adjustable Brewster Angle Polarizer; filed Jan. 3, 1978; patented Dec. 18, 1979; not available NTIS.
Patent 4,179,657: Anti-Jamming Communication System; filed Aug. 28, 1958; patented Dec. 18, 1979; not available NTIS.
Patent 4,179,799: Method of Molding a Double Cathode Having a Sensing Grid for a Porous Electrode Primary Battery; filed Apr. 17, 1978; patented Dec. 25, 1979; not available NTIS.
Patent 4,180,725: Grating Apparatus for Static Crossed Field Photomultipliers; filed May 11, 1978; patented Dec. 25, 1979; not available NTIS.
Patent 4,180,779: QPSK Demodulator with Two-Step Quadruplar and/or Time-Multiplexing Quadrupling; filed Sept. 21, 1978; patented Dec. 25, 1979; not available NTIS.

U.S. Department of Agriculture, Program Agreements and Patents Branch, Administrative Service Division Federal Building, Science and Education Administration, Hyattsville, Md. 20782

Patent application 6-055,116: Novel Aroid Products; filed July 5, 1979.
Patent application 6-080,734: Stickless Burley Tobacco Curing Frames; filed Oct. 1, 1979.
Patent application 6-085,440: Automatic Hatchery Tray Dumper; filed Oct. 16, 1979.
Patent application 6-088,673: Mechanical Buncher for Leafy Vegetables; filed Oct. 26, 1979.
Patent application 6-094,539: Carcass Cleaning Unit; filed Nov. 15, 1979.
Patent 3,577,711: Apparatus for Removing Entrained Particles from Gases; filed June 2, 1969; patented May 4, 1971; not available NTIS.

U.S. Department of Energy, Assistant General Counsel for Patents, Washington, D.C. 20545

Patent 4,103,310: Multiple-Image Oscilloscope Camera; filed Jan. 27, 1977; patented July 25, 1978; not available NTIS.
Patent 4,143,131: Removal of Plutonium from Hepatic Tissue; filed Mar. 29, 1974; patented Mar. 6, 1979; not available NTIS.
Patent 4,147,563: Method for Forming P–N Junctions and Solar-Cells by Laser-Beam Processing, filed Aug. 9, 1978; patented Apr. 3, 1979; not available NTIS.
Patent 4,147,936: Fire Resistant Nuclear Fuel Cask; filed Feb. 7, 1978; patented Apr. 3, 1979; not available NTIS.
Patent 4,148,134: Method for Forming a Thermocouple; filed Oct. 12, 1977; patented Apr. 10, 1979; not available NTIS.
Patent 4,148,235: Coupling for Joining a Ball Nut to a Machine Tool Carriage; filed Mar. 28, 1978; patented Apr. 10, 1979; not available NTIS.
Patent 4,149,931: Divertor for Use in Fusion Reactors; filed July 16, 1973; patented Apr. 17, 1979; not available NTIS.
Patent 4,151,325: Titanium Nitride Thin Films for Minimizing Multipactoring; filed Oct. 22, 1976; patented Apr. 24, 1979; not available NTIS.
Patent 4,151,419: Solids Irradiator; filed Oct. 20, 1977; patented Apr. 24, 1979; not available NTIS.
Patent 4,151,773: Defect Scriber; filed Apr. 28, 1978; patented May 1, 1979; not available NTIS.
Patent 4,151,873: Regenerator for Gas Turbine Engine; filed Jan. 25, 1978; patented May 1, 1979; not available NTIS.
Patent 4,152,028: Expansible Apparatus for Removing the Surface Layer from a Concrete Object; filed Feb. 24, 1978; patented May 1, 1979; not available NTIS.
Patent 4,152,175: Silicon Solar Cell Assembly; filed Jul. 24, 1978; patented May 1, 1979; not available NTIS.
Patent 4,152,178: Sintered Rare Earth-Iron Laves Phase Magnetostrictive Alloy Product and Preparation Thereof; filed Jan. 24, 1978; patented May 1, 1979; not available NTIS.
Patent 4,152,647: Rapidly Deployable Emergency Communication System; filed Feb. 23, 1978; patented May 1, 1979; not available NTIS.
Patent 4,153,370: Microinterferometer Transducer; filed Dec. 5, 1977; patented May 8, 1979; not available NTIS.
Patent 4,154,868: Method for Forming Targets; filed Jul. 13, 1978; patented May 15, 1979; not available NTIS.
Patent 4,156,809: Data Acquisition System; filed Feb. 7, 1978; patented May 29, 1979; not available NTIS.
Patent 4,157,490: X- and Y-Axis Driver for Rotating Microspheres; filed May 17, 1978; patented June 5, 1979; not available NTIS.
Patent 4,157,555: Superconducting Transistor; filed Nov. 7, 1977; patented June 5, 1979; not available NTIS.
Patent 4,158,145: Combind Compressed Air Storage-Low Btu Coal Gasification Power Plant; filed Oct. 20, 1977; patented June 12, 1979; not available NTIS.
Patent 4,158,176: Spatial Filter System as an Optical Relay Line; filed Sep. 6, 1977; patented June 12, 1979; not available NTIS.
Patent 4,158,598: Parabolic Lithium Mirror for a Laser-Driven Hot Plasma Producing Device; filed June 14, 1976; patented June 19, 1979; not available NTIS.
Patent 4,158,606: Austenitic Stainless Steel Alloys Having Improved Resistance to Fast Neutron-Induced Swelling; filed Mar. 15, 1978; patented June 19, 1979; not available NTIS.

U.S. Department of Health and Human Services, National Institutes of Health, Chief, Patent Branch, Westwood Building, Bethesda, Md. 20205

Patent 4,182,678: Micro-Scale Countercurrent Chromatograph; filed Dec. 14, 1978; patented Jan. 8, 1980; not available NTIS.

U.S. Department of the Interior, Branch of Patents, 18th and C Streets, N.W., Washington, D.C. 20240

Patent application 6-066,998: In-Situ Leach Mining Method and Apparatus; filed Aug. 16, 1979.
Patent application 6-078,358: Automated Satellite Mapping System (MAPSAT); filed Sep. 24, 1979.
Patent 4,173,141: Method of Determining Gas Leakage Through a Mine Stopping; filed Nov. 28, 1978; patented Nov. 6, 1979; not available NTIS.
Patent 4,180,177: Pressure Vent for Explosion-Proof Electrical Enclosures; filed Apr. 4, 1979; patented Dec. 25, 1979; not available NTIS.
Patent 4,180,352: Extensible Brattice and Cantilevered Roof Mounted Support System Therefor; filed Nov. 7, 1978; patented Dec. 25, 1979; not available NTIS.
Patent 4,181,588: Method of Recovering Lead through the Direct Reduction of Lead Chloride by Aqueous Electrolysis; filed Jan 4, 1979; patented Jan 1, 1980; not available NTIS.
Patent 4,185,199: Method of Continuously Determining Radiation Working Level Exposure; filed June 29, 1978; patented Jan. 22, 1980; not available NTIS.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217

Patent 3,403,405: Telescoping Folded Monopole with Capacitance at Input; filed June 8, 1965; patented Sept. 24, 1968; not available NTIS.
Patent 4,130,466: Antifouling Coating for Aluminum Structures; filed May 31, 1978; patented Dec. 19, 1978; not available NTIS.
Patent 4,155,089: Notched/Diagonally Fed Twin Electric Microstrip Dipole Antennas; filed Oct. 31, 1977; patented May 15, 1979; not available NTIS.
Patent 4,157,548: Offset Fed Twin Electric Microstrip Dipole Antennas; filed Oct. 31, 1977; patented June 5, 1979; not available NTIS.
Patent 4,157,991: Corrosion Preventive Composition; filed Apr. 10, 1978; patented June 12, 1979; not available NTIS.
Patent 4,166,729: Collector Plates for Electrostatic Precipitators; filed July 26, 1977; patented Sept. 4, 1979; not available NTIS.
Patent 4,167,735: Aircraft Orientation Determining Means; filed Aug. 18, 1978; patented Sept. 11, 1979; not available NTIS.
Patent 4,172,630: Multimode Electrooptic Waveguide Switch; filed Apr. 13, 1978; patented Oct. 30, 1979; not available NTIS.
Patent 4,173,384: Flexible Co-Axial Connector for Cable In-Line Electronics; filed Aug. 23,

1978; patented Nov. 6, 1979; not available NTIS.
Patent 4,174,524: Ultra High Speed Gated Pulse Optical Imaging System; filed Sept. 25, 1978; patented Nov. 13, 1979; not available NTIS.
Patent 4,174,843: Self-Adjusting Tandem Seal. Filed June 8, 1978, patented Nov. 20, 1979, Not available NTIS.
Patent 4,176,040: Coal Liquefaction, Filed May 8, 1978, patented Nov. 27, 1979, Not available NTIS.

National Aeronautics and Space Administration, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546

Patent application 6-072,727: Method of Making V-MOS Field Effect Transitors; filed Sept. 5, 1979.
Patent application 6-072,857: Multiwall Thermal Protection System: filed Sept. 5, 1979.
Patent application 6-073,477: Scanning Afocal Laser Velocimeter Projection Lens System; filed Sept. 7, 1979.
Patent application 6-092,143: Method for Shaping and Aiming Narrow BEAMS. Filed Nov. 7, 1979.
Patent application 6-092,145: Modified Face Seal for Positive Film Stiffness. Filed Nov. 7, 1979.
Patent application 6-093,714: Schottky Barrier Solar Cell and Method of Fabrication. Filed Nov. 13, 1979.
Patent application 6-098,568: Low Temperature Latching Solenoid. Filed Nov. 29, 1979.
Patent application 6-102,003: Improved Refractory Coatings and Method of Producing the Same. Filed July 12, 1979.
Patent application 6-102,593: Surface Conforming Thermal/Pressure Seal. Filed Dec. 12, 1979.
Patent application 838,308: Simultaneous Muscle Force and Displacement Transducer. Filed Sept. 30, 1977.
Patent application 940,970: Miniature Cyclotron Resonance Ion Source Using Small Permanent Magnet. Filed Sept. 11, 1978.
Patent application 972,252: Optical Gyroscope System. Filed Dec. 22, 1978.
Patent 4,094,775: Dialysis System; filed Feb. 28, 1977; patented June 13, 1978; not available NTIS.
Patent 4,157,655: Coal-Shale Interface Detection System; filed Nov. 3, 1977; patented June 12, 1979: not available NTIS.
Patent 4,157,718: Intra-Ocular Pressure Normalization Technique and Equipment. Filed Aug. 1977, patented June 12, 1979. Not available NTIS.
Patent 4,170,776: System for Real-Time Crustal Deformation Monitoring. Filed Dec. 21, 1977, patented Oct. 9, 1979. Not available NTIS.
Patent 4,171,645: Displacement Probes with Self-Contained Exciting Medium. Filed July 26, 1978, patented Oct. 23, 1979. Not available NTIS.
Patent 4,172,228: Method for Analyzing Radiation Sensitivity of Integrated Circuits. Filed June 30, 1978, patented Oct. 23, 1979. Not available NTIS.
Patent 4,172,786: Ozonation of Cooling Tower Waters. Filed Sept. 29, 1978, patented Oct. 30, 1979. Not available NTIS.
Patent 4,173,820: Method for Forming a Solar Array Strip. Filed Mar. 29, 1978, patented Nov. 13, 1979. Not available NTIS.

Chief, Intellectual Prop. Division, OTJAG, Department of the Army, Room 2D 444, Pentagon, Washington, D.C. 20310

Patent application 970,404: Non-Polluting Process for Desensitizing Explosives; filed Dec. 18, 1978.

[FR Doc. 80-17628 Filed 6-10-80; 8:45 am]
BILLING CODE 3510-04-M

U.S. Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly, foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of patents cited are available from the Commissioner of Patents & Trademarks, Washington, DC 20231, for $.50 each. Requests for copies of patents must include the patent number.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $5.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to avoid premature disclosure. Claims and other technical data will usually be made available to serious prospective licensees upon execution of a non-disclosure agreement.

Requests for information on the licensing of particular inventions should be directed to the addresses cited for the agency-sponsors.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, National Technical Information Service, U.S. Department of Commerce.

U.S. Department of the Air Force AF/JACP 1900 Half Street, S.W., Washington, DC 20324

Patent application 6-062,592: Mechanical Heat Transfer Device, filed July 31, 1979.
Patent application 6-082,353: Streamline Afterbody for an Ejection Seat; filed Oct. 5, 1979.
Patent application 6-082,354: Hot Spike Mixer; filed Oct. 5, 1979.
Patent application 6-086,503: Broad Spectrum Vibration Damper Assembly Fixed Stator Vanes of Axial Flow Compressor; filed Oct. 26, 1979.
Patent application 6-091,220: Cooling System for Ramjet Engine, filed Nov. 5, 1979.
Patent application 6-091,993: Broadband Mode Suppressor for Microwave Integrated Circuits; filed Nov. 7, 1979.
Patent application 6-092,818: Aircraft Ejection Seat Safetying Device; filed Nov. 9, 1979.
Patent application 6-096,720: Containment and Release Device for Fluids; filed Nov. 21, 1979.
Patent application 6-097,462: Last Round Detection Device; filed Nov. 26, 1979.
Patent application 6-100,321: Soft Landing Gear. Filed Dec. 5, 1979.
Patent application 964,870: Copper (II) Chloride-Tetrachloroaluminate Battery; filed Nov. 29, 1978.
Patent 4,183,720: Composite Fan Blade Platform Double Wedge Centrifugal Seal; filed Jan. 3, 1978, patented Jan. 15, 1980, not avalaible NTIS.
Patent 4,184,896: Surface Barrier Tailoring of Semiconductor Devices, Utilizing Scanning Electron Microscope Produced Ionizing Radiation. Filed June 6, 1978, patented Jan. 22, 1980, not available NTIS.
Patent 4,185,292: Potential Troughs for Charge Transfer Devices; filed Aug. 3, 1978; patented June 22, 1980, not available NTIS.
Patent 4,185,458: Turbofan Augmentor Flameholder; filed May 11, 1978, patented Jan. 29, 1980, not available NTIS.
Patent 4,185,461: Turbojet Engine with Combustor Bypass; filed Jan 10, 1978, patented Jan. 29, 1980, not available NTIS.
Patent 4,185,558; Re-Entry Vehicle Boundary Layer Transition Suppressor; filed Apr. 23, 1968, patented Jan. 29, 1980, not available NTIS.

U.S. Department of Agriculture, Program Agreements and Patent Branch Administrative Service Division, Federal Building, Science & Education Administration, Hyattsville, MD 20782

Patent application 6-098,460: Soda Crackers; filed Nov. 29, 1979.

U.S. Department of Energy, Assistant General Council for Patents, Washington, DC 20545

Patent 4,095,106: Radiation Attenuation Gauge with Magnetically Coupled Source; filed Mar. 16, 1977, patented June 13, 1978, not available NTIS.
Patent 4,150,290: Focal-Surface Detector for Heavy Ions; filed May 13, 1977, patented Apr. 17, 1979, not available NTIS.
Patent 4,157,473: Simplified Fast Neutron Dosimeter; filed Dec. 8, 1975, patented June 5, 1979, not available NTIS.
Patent 4,157,559: Coaxial Nuclear Radiation Detector with Deep Junction and Radial Field Gradient; filed Jan. 31, 1977, patented June 5, 1979, not available NTIS.
Patent 4,161,950: Electrosurgical Knife. Filed Aug. 1, 1975, patented July 24, 1979, not available NTIS.

U.S. Department of the Interior, Branch of Patents, 18th and C Streets, N.W., Washington, DC 20240

Patent 4,174,937: Powder Agglomerator and its Method of Use; filed Sept. 15, 1978, patented Nov. 20, 1979, not available NTIS.
Patent 4,180,177: Pressure Vent for Explosion-Proof Electrical Enclosures; filed Apr. 4, 1979, patented Dec. 25, 1979, not available NTIS.
Patent 4,180,352: Extensible Brattice and Cantilevered Roof Mounted Support System Therefor; filed Nov. 7, 1978, patented Dec. 25, 1979, not available NTIS.

Patent 4,181,607: Removal of Asbestos Fibers from Water; filed Sept. 15, 1978, patented Jan. 1, 1980, not available NTIS.

U.S. Department of the Navy, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, VA 22217

Patent application 6-024,135: Neutral-Beam-Sustained Astron Reactor; filed Mar. 26, 1979.

Patent application 6-061,350: A Laser/Ultrasonic Welding Technique; filed July 23, 1979.

Patent application 6-061,534: Quick Releasing High Strength Connector; filed July 24, 1979.

Patent application 6-063,605: Universal Cargo Restraint System; filed Aug. 3, 1979.

Patent application 6-064,688: A Terrain Correlation Updating System; filed Aug. 3, 1979.

Patent application 6-074,844: Heat Exchanger for Contaminated Water; filed Sept. 7, 1979.

Patent application 6-084,274: A Flexure Mounted Gimbal Support Assembly; filed Oct. 10, 1979.

Patent application 6-086,188: Underwater Audio Intercommunication System; filed Oct. 17, 1979.

Patent application 6-086,977: Fire Fighting Simulator; filed Oct. 22, 1979.

Patent application 950,944: Process for Generation Gas for Telescoping Cartridge Operation; filed Oct. 13, 1979.

Patent 3,753,086: Method and Apparatus for Locating and Measuring Wave Guide Discontinuities; filed Dec. 9, 1970, patented Aug. 14, 1973, not available NTIS.

Patent 4,130,887: Digital Plotting System for Displaying Character Information; filed Nov. 14, 1977, patented Dec. 19, 1978, not available NTIS.

Patent 4,149,164: Digital Plotting System for Graphic Information; filed Dec. 27, 1977, patented Apr. 10, 1979, not available NTIS.

Patent 4,149,165: Digital Plotting System for Displaying Curved Line Information; filed Dec. 27, 1977, patented Apr. 10, 1979, not available NTIS.

Patent 4,162,533: Time Compression Correlator; filed Jan. 30, 1978, patented July 24, 1979, not available NTIS.

Patent 4,163,286: Digital Plotting System for Displaying Straight Line Information; filed Nov. 14, 1977, patented July 31, 1979, not available NTIS.

Patent 4,169,568: Hermetically Sealed Parachute Container; filed Nov. 14, 1977, patented Oct. 2, 1979, not available NTIS.

Patent 4,170,013: Stripline Patch Antenna; filed July 28, 1978, patented Oct. 2, 1979, not available NTIS.

Patent 4,171,525: VLF Loop Array Antenna; filed Apr. 5, 1978, patented Oct. 16, 1979, not available NTIS.

Patent 4,171,526: Event Mark Decoder for Use With Time Code Generator; filed Oct. 2, 1978, patented Oct. 16, 1979, not available NTIS.

Patent 4,173,000: Simulated VLF/LF Noise Generator; filed Aug. 21, 1978, patented Oct. 30, 1979, not available NTIS.

Patent 4,175,471: Cutting Apparatus and Vertical Drive Mechanism Therefor; filed Dec. 19, 1977, patented Nov. 27, 1979, not available NTIS.

Patent 4,176,354: Phased-Array Maintenance-Monitoring System; filed Aug. 25, 1978, patented Nov. 27, 1979, not available NTIS.

Patent 4,176,899: Quick Disconnect Electrical Connector Having Disassembly Features for Refurbishment; filed Oct. 23, 1978, patented Dec. 4, 1979, not available NTIS.

Patent 4,177,438: Surface Acoustic Wave Modulator Using Single Crystal Films of Lithium Ferrite; filed July 18, 1978, patented Dec. 4, 1979, not available NTIS.

Patent 4,177,468: Inflatable Cavity-Backed Annular Slot Transmitting Antenna; filed Sept. 5, 1978, patented Dec. 4, 1979, not available NTIS.

Patent 4,179,533: Multi-Refractory Films for Gallium Arsenide Devices; filed Apr. 25, 1978, patented Dec. 18, 1979, not available NTIS.

Patent 4,179,583: Electro-Mechanical Low Backlash Cable Connector; filed Mar. 6, 1978, patented Dec. 18, 1979, not available NTIS.

Patent 4,179,604: Electron Collector for Forming Low-Loss Electron Images; filed Sept. 29, 1978, patented Dec. 18, 1979, not available NTIS.

Patent 4,185,538: Simplified Air System for Underwater Rocket Launching; filed Aug. 30, 1960, patented Jan. 29, 1980, not available NTIS.

Patent 4,186,440: Continuous Memory System; filed May 24, 1966, patented Jan. 29, 1980, not available NTIS.

National Aeronautics and Space Administration, Assistant General Council for Patent Matters, NASA Code GP-2, Washington, DC 20546

Patent 3,352,774: Apparatus for Electrolytically Tapered or Contoured Cavities; filed Jan. 17, 1966, patented Nov. 14, 1967, not available NTIS.

Patent 3,635,537: Multiple Anode Arc Lamp System; filed Dec. 29, 1969, patented Jan. 18, 1972, not available NTIS.

Patent 4,168,939: Acoustically Swept Rotor; filed Sept. 8, 1977, patented Sept. 25, 1979, not available NTIS.

Patent 4,171,615: Supercharged Topping Rocket Propellant Feed System; filed Apr. 21, 1966, patented Oct. 23, 1979, not available NTIS.

Patent 4,173,001: Laser Apparatus; filed Sept. 29, 1977, patented Oct. 30, 1979, not available NTIS.

Patent 4,173,324: Coupling Device for Moving Vehicles; filed May 19, 1978, patented Nov. 6, 1979, not available NTIS.

Patent 4,173,397: Solar Concentrator; filed Nov. 30, 1977, patented Nov. 6, 1979, not available NTIS.

Patent 4,175,249: Self-Reconfiguring Solar Cell System; filed June 19, 1978, patented Nov. 20, 1979, not available NTIS.

[FR Doc. 80-17629 Filed 6-10-80; 8:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Additional Import Controls on Certain Man-Made Fiber Textile Products From Colombia

June 6, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling man-made fiber dressing growns in Category 650, produced or manufactured in Colombia and exported during the twelve-month period which began on July 1, 1979 at the consultation level of 13,725 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463)).

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 3, 1978, as amended, between the governments of the United States and Columbia, the United States Government has decided to control imports of man-mande fiber testile products in Category 650, produced or manufactured in Colombia and exported during the twelve month period which began on July 1, 1979, in addition to those previously designated. (See 44 FR 38956).

EFFECTIVE DATE: June 11, 1980.

FOR FURTHER INFORMATION CONTACT: William Boyd, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230. (202/377-5423).

SUPPLEMENTARY INFORMATION: On July 3, 1979, there was published in the **Federal Register** (44 FR 38956) a letter dated June 26, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certian specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Colombia, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on July 1, 1979 and extends through June 30, 1980. In accordance with the terms of the bilateral agreement, as amended, the United States Government had decided also to control imports of man-made fiber textile products in Category 650, produced or manufactured in Colombia and exported during the twelve-month period which began on July 1, 1980, at the consultation level of 13,725 dozen.

Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for consumption, or withdrawal from warehouse for consumption, of cotton textile products in excess of the designated level of restraint. The level of restraint has not been adjusted to account for any imports after July 1, 1979. Imports in Category 650 during the period July 1979-March 1980 have amounted to 10,083 dozen and will be charged. As the data become available further charges will be made for the period wich began on April 1 and extends through the effective date of this directive.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

U.S. Department of Commerce,
International Trade Administration, Washington D.C.

June 6, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on June 26, 1979 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Colombia.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 3, 1978, as amended, between the Governments of the United States and Colombia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on June 11, 1980 and for the twelve-month period beginning on July 1, 1979 and extending through June 30, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 650, produced or manufactured in Colombia in excess of 13,725 dozen.[1]

Textile products in Category 650 which have been exported to the United States prior to July 1, 1979 shall not be subject to this directive.

Textile products in Category 650 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of Colombia and with respect to imports of man-made fiber textile products from Colombia has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-17599 Filed 6-10-80; 8:45 am]

BILLING CODE 3510-25-M

[1] The level of restraint has not been adjusted to reflect any imports after June 30, 1979. Imports during the July 1979–March 1980 period have amounted to 10,083 dozen.

Announcing Additional Import Controls on Certain Cotton Textile Products From Macau

June 6, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Controlling cotton playsuits in Category 337, produced or manufactured in Macau and exported during the twelve-month period which began on January 1, 1980, at the agreed consultation level of 28,000 dozen.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 F.R. 13172), as amended on April 23, 1980 (45 FR 27463)).

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 29 and December 18, 1979, as amended, between the Governments of the United States and Portugal, the United States Government has decided to control imports of cotton textile products in Category 337, produced or manufactured in Macau and exported during the twelve-month period which began on January 1, 1980, in addition to those categories previously designated. (See 45 FR 6826).

EFFECTIVE DATE: June 11, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230. (202/377–5423).

SUPPLEMENTARY INFORMATION: On January 30, 1980, there was published in the **Federal Register** (45 F.R. 6826) a letter dated January 25, 1980 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Macau, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. In accordance with the terms of the bilateral agreement, the United States Government has decided also to control imports of cotton textile products in Category 337, produced or manufactured in Macau and exported during the twelve-month period which began on January 1, 1980, at the consultation level of 28,000 dozen. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for consumption, or withdrawal from warehouse for consumption, of cotton textile products in excess of the designated level of restraint. The level of restraint has not been adjusted to account for imports after December 31, 1979. Imports in Category 337 during the period January–March 1980 have amounted to 11,019 dozen and will be charged. As the data become available, further charges will be made for the period which began on April 1 and extends through the effective date of this directive.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

June 6, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on January 25, 1980 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Macau.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 29 and December 18, 1979, between the Governments of the United States and Portugal; and in accordance with the provisions of Executive

Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on June 11, 1980 and for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, enter into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 337, produced or manufactured in Macau in excess of 28,000 dozen.[1]

Cotton textile products in Category 337 which have been exported to the United States prior to January 1, 1980 shall not be subject to this directive.

Cotton textile products in category 337 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484 (a) (1) (A) prior to the effective date of this directive shall not be denied entry under this directive.

A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172).

In carrying out the above directions, entry into the United States for consumption shall be construed to include entry for consumption into the Commonwealth of Puerto Rico.

The action taken with respect to the Government of Portugal and with respect to imports of cotton textile products from Macau has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-17598 Filed 6-10-80; 8:45 am]

BILLING CODE 3510-25-M

Increasing the Import Restraint Level for Certain Man-Made Fiber Textile Products From Malaysia

June 6, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the consultation level for other woven fabrics, wholly of non-continuous man-made fibers, exported from Malaysia during the agreement year which began on January 1, 1980 from 2,000,000 square yards to 2,660,000 square yards.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463)).

SUMMARY: By an exchange of letters the Governments of the United States and Malaysia have agreed, pursuant to the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 17 and June 18, 1978, as amended, to increase the consultation level previously established for man-made fiber textile products in Category 613 to 2,660,000 square yards during the 12-month period which began on January 1, 1980.

EFFECTIVE DATE: June 6, 1980.

FOR FURTHER INFORMATION CONTACT: M. Shirley Hargrove, Trade and Industry Assistant, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230 (202/377-5423).

SUPPLEMENTARY INFORMATION: On December 14, 1979, there was published in the **Federal Register** (44 FR 72618), a letter dated December 11, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Malaysia, which may be entered into the United States for consumption or withdrawn from warehouse for consumption, during the 12-month period which began on January 1, 1980 and extends through December 31, 1980. In accordance with the terms of the bilateral agreement, the United States Government has agreed to increase the consultation level for Category 613 during the agreement year which began on January 1, 1980 and extends through December 1, 1980. Accordingly in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry for man-made fiber textile products in Category 613 in excess of the adjusted 12-month level of restraint.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

June 6, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 11, 1979 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Malaysia.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 17 and June 8, 1978, as amended and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on June 6, 1980, and for the twelve-month period which began on January 1, 1980 and extends through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 613, produced or manufactured in Malaysia, en excess of 2,660,000 square yards.[1]

The action taken with respect to the Government of Malaysia and with respect to imports of man-made fiber textile products from Malaysia has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-17600 Filed 6-10-80; 8:45 am]

BILLING CODE 3510-25-M

Increasing Import Restraint Level for Certain Man-Made Fiber Apparel From the Socialist Republic of Romania

June 9, 1980.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the consultation level established for women's, girls' and infants' man-made fiber coats in Category 635, produced or manufactured in the Socialist Republic of Romania and exported to the United States during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on February 28, 1980 (45 FR 13172), as amended on April 23, 1980 (45 FR 27463))

SUMMARY: The Governments of the United States and the Socialist Republic of Romania have agreed, pursuant to the Bilateral Wool and Man-Made Fiber

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1979. Imports during the January-March period have amounted to 11,019 dozen.

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1979.

Textile Agreement of June 17, 1977, as amended, to increase the consultation level established for man-made fiber textile products in Category 635 from 16,949 dozen to 33,898 dozen during the twelve-month period which began on January 1, 1980.

EFFECTIVE DATE: June 12, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald J Sorini, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, D.C. 20230. (202/377–5423).

SUPPLEMENTARY INFORMATION: On December 17, 1979, there was published in the **Federal Register** (44 FR 73137) a letter dated December 12, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which prohibited entry into the United States for consumption or withdrawal from warehouse for consumption of certain designated categories of cotton, wool and man-made fiber textile products, produced or manufactured in Romania and exported to the United States during the twelve-month period which began on January 1, 1979. This letter was amended by a further letter of May 13, 1980, published in the **Federal Register** on May 16, 1980 (45 FR 32362) which established a level of restraint of 16,949 dozen for Category 635 during the same twelve-month period. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs, in accordance with the terms of the bilateral agreement, to increase the previously established level of restraint for Category 635 to 33,898 dozen.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of May 13, 1980 from the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit, for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 635, produced or manufactured in Romania.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Wool and Man-Made Fiber Textile Agreement of June 17, 1977, as amended, between the Governments of the United States and the Socialist Republic of Romania; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on June 12, 1980 and for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption of man-made fiber textile products in Category 635 in excess of 33,898 dozen.[1]

The action taken with respect to the Government of the Socialist Republic of Romania and with respect to imports of man-made fiber textile products from Romania has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-17819 Filed 6-10-80; 9:04 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following committee meeting:

Name of the committee: Army Science Board.
Dates of meeting: June 30,–July 1, 1980.
Place: The Pentagon, Washington, DC (exact room location can be obtained by contacting Helen Pipon at 202–697–9703.
Time: 0800–1630 hours, June 30, 1980 (closed); 0800–1630 hours, July 1, 1980 (closed).

Proposed agenda: The ASB Ad Hoc Sub-Group on Energy Needs of the Army will meet to receive classified briefings and hold discussions on the following issues: (a) current and projected mobility, weapons systems, and installation requirements for energy in the Army; (b) identification of research and development efforts which might alleviate projected shortfalls; (c) identification of alternative energy sources.

This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof. The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting.

Helen A. Pipon,

Staff Assistant.

[FR Doc. 80-17612 Filed 6-10-80; 8:45 am]

BILLING CODE 3710-08-M

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1979.

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 79-CERT-116A]

Mississippi Power & Light Co.; Application for Amendment to a Certification of the Use of Natural Gas to Displace Fuel Oil

On February 19, 1980, the Economic Regulatory Administration (ERA) issued to Mississippi Power and Light Company (MP&L) a certification (79–CERT–116, 45 FR 14244, March 5, 1980) of an eligible use of natural gas to displace fuel oil at MP&L's Delta Steam Electric Station Unit #1 (DSES #1) and Delta Steam Electric Station Unit #2 (DSES #2) located in Cleveland, Mississippi, pursuant to 10 CFR Part 595 (44 FR 37920, August 16, 1979). Take notice that on March 31, 1980, MP&L filed a request with ERA to amend its certification. More detailed information is contained in the amendment request on file with the ERA and available for public inspection at the ERA, Docket Room 4126, 2000 M Street, N.W., Washington, D.C., 20461, from 8:30 a.m.—4:30 p.m., Monday through Friday, except Federal holidays.

MP&L requests that the volume of natural gas certified be increased from up to 40,000 Mcf per day to up to 60,000 Mcf per day which is estimated to displace the combined use of approximately 9,300 barrels of No. 6 residual fuel oil (2.5 percent sulfur) per day at DSES #1 and DSES #2.

The eligible seller and transporter on the original certificate is the Michigan Wisconsin Pipeline Company, One Woodward Avenue, Detroit, Michigan 48226. MP&L has requested that the Michigan Consolidated Gas Company, One Woodward Avenue, Detroit, Michigan 48226, be added as an additional seller and transporter.

In order to provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning this amendment to submit comments in writing to the Economic Regulatory Administration, Room 4126, 2000 M Street, N.W., Washington, D.C. 20461, Attention: Mr. Finn K. Neilsen, on or before June 21, 1980.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of this amendment may be requested by any interested person in writing on or

before June 21, 1980. The request should state the person's interest, and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary. If ERA determines that an oral presentation is necessary, further notice will be given to MP&L and any persons filing comments and will be published in the **Federal Register.**

Issued in Washington, D.C., on June 4, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 80-17587 Filed 6-10-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-R-80-14]

Incentives for the Development, Production, and Marketing of High-Cost Gas

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of inquiry; request for comments.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of an inquiry concerning the development, production, and marketing of high-cost gas supplies. There are presently several incentives for the development, production, and marketing of high-cost gas. Pursuant to the Natural Gas Policy Act of 1978 (NGPA), the sale of high-cost gas from geopressured brines, Devonian shales, coal seams and wells completed below 15,000 feet is not subject to price ceilings. The Federal Energy Regulatory Commission (FERC or Commission) has established a special incentive price for gas produced from tight sands. In addition, certain categories of high-cost gas are not defined as "natural gas" under ERA's regulations implementing the Powerplant and Industrial Fuel Use Act (FUA); therefore, electric powerplants and major industrial fuel burning installations can burn these types of gas without conflicting with FUA restrictions. Further, DOE has taken steps to encourage expanded development and production of high-cost gas by funding research and development projects to determine or demonstrate resource characteristics, reservoir stimulation technologies and the economic feasibility of producing these gases.

A principal purpose of this inquiry is to determine whether there are any Federal or state regulatory restraints inhibiting the development, production, and marketing of high-cost gas supplies. In addition, we are inquiring whether there are regulatory actions that could be taken by the ERA, the FERC, or the states which would stimulate development, production, and marketing of these supplies. An example of such action is a rule that ERA would propose to the Commission facilitating the transportation of user-owned high-cost gas supplies by interstate pipelines.

DATES: Written comments are due by 4:30 p.m. on August 1, 1980.

ADDRESS: All comments should be sent to the Office of Public Hearing Management, Economic Regulatory Administration, Room 2213, Docket No. ERA-R-80-14, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Albert F. Bass (Division of Natural Gas Regulations), Economic Regulatory Administration, 2000 M Street, NW., Room 7108, Washington, D.C. 20461, (202) 653-3286.

James G. Beste (Office of General Counsel), Department of Energy, 1000 Independence Avenue, SW., Room 5E-074, Washington, D.C. 20585, (202) 252-2900.

William L. Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street, NW., Room B-110, Washington, D.C. 20461, (202) 653-4055.

Robert C. Gillette (Office of Public Hearing Management), Economic Regulatory Administration, 2000 M Street, NW., Washington, D.C. 20461, (202) 653-3757.

SUPPLEMENTARY INFORMATION:

I. Background
II. Discussion of the Proposal
III. Issues for Comment
IV. Comment Procedures

I. Background

As defined by section 107(c) of the Natural Gas Policy Act (NGPA, 15 U.S.C. 3317(c)), high-cost gas means natural gas to be (1) produced from a completion location which is located at a depth of more than 15,000 feet and which is produced from a well the surface drilling of which began on or after February 19, 1977, (2) produced from geopressurized brine, (3) produced from Devonian shale, and (4) occluded natural gas produced from coal seams.

In addition, under section 107(c)(5) of the NGPA (15 U.S.C. 3317(c)(5)), high-cost gas includes natural gas produced under such other conditions as the FERC determines to present extraordinary risks or costs. The Commission has determined that gas produced from tight sands formations meets that statutory standard (18 CFR 271.701) and high cost gases from other sources are being considered for special price incentives.

Considerable interest has been expressed recently in high-cost gas. The President, in his energy address to the nation on July 15, 1979, emphasized the immediate need for the United States to develop new domestic energy sources, including high-cost gas. Important incentives for the development, production, and marketing of high-cost gas are currently provided. For example, pursuant to section 121(b) of the NGPA (15 U.S.C. 3331(b)), as of November 1, 1979, all categories of high-cost gas, with the exception of gas produced from tight sands, are exempt from the NGPA price ceilings for first sales of natural gas (18 CFR 272). On February 20, 1980, pursuant to its authority under NGPA section 107(b) (15 U.S.C. 3317(b)) to set "special price" which is "necessary to provide reasonable incentives for the production of * * * high-cost natural gas," the FERC issued an "Interim Rule and Request for Further Comment" on high-cost gas produced from tight sands (Docket No. RM79-76, 18 CFR 271.701). In that interim rule, the Commission set an incentive price for certain natural gas produced from tight sands at 150 percent of the NGPA ceiling price for gas from new conventional onshore wells (18 CFR 271.702(b)). DOE has requested that the FERC establish a price ceiling for gas from tight sands that is equivalent to the price of imported oil.

In addition, under regulations issued by ERA (10 CFR 507.3 (d), (e)) implementing the Powerplant and Industrial Fuel Use Act (FUA), gas produced from geopressurized brine, occluded natural gas produced from coal seams and gas produced from Devonian shale are not defined as "natural gas." Other sources designated by the FERC as high-cost gas also are not defined as "natural gas" under the FUA regulations, unless the ERA specifically designates these gases as "natural gas." Therefore, electric powerplants and major industrial fuel burning installations can burn the types of gas not defined as "natural gas" without conflicting with the FUA restrictions on natural gas use.

Further, the DOE has taken a number of actions to encourage further development of high-cost gas resources. For example, DOE is involved in the Eastern Gas Shales Project to perform research, development and

demonstration activities. Three important issues are being addressed by DOE in this project: How much gas is contained in the shale? Where is it located? How can it be developed commercially? The project was designed as an 8-year effort to develop the information and technology needed to attract large-scale commercial production of shale gas. About 35 organizations including State geologic survey teams, universities, private research laboratories, and gas companies are participating in the project along with the U.S. Geological Survey. The project includes efforts to inventory and characterize the shale resources, improve and test well completion methods, and disseminate the results to industry. The first effort is designed to determine the characteristics of the resource, the resource's location, and the quantity which is in place. The second effort is designed to increase the profitability of shale fracturing methods.

The Western Gas Tight Sands Project has been established within DOE to inventory and characterize tight sands resources and to test well stimulation methods. Project activities include (1) a 5-year resource characterization program being performed by the U.S. Geological Survey for DOE, (2) laboratory research and development, and (3) field projects to test methods of stimulating tight sands formations. DOE also plans to fund a feasibility study on using natural gas from low pressure, shallow, tight sands in the Northern Great Plains.

DOE's Methane Conservation, Production and Utilization Project, initiated in 1978, is developing methods and systems for using gas from coal seams which are too deep or too thin to be mined. The purpose of this project is to promote commercialization of the resource for industry use or for communities close to potential deposits. In addition, the Administration's rural development initiatives include a grant to the American Public Gas Association to initiate projects to recover gas from coal or shale at six selected communities. The grant is to be administered by the DOE.

DOE has an ongoing research and development program concerning gas from geopressurized brines which is part of its overall research program on geothermal resources. Three important issues are being addressed by DOE in its research: How much energy is contained in geopressured zones? Where is it located? How can it be developed commercially? Two production methods are being studied by DOE. First, the methane recovery potential of shallow geopressured reservoirs is being assessed. Second, DOE is assessing the potential of deep, high temperature reservoirs for producing methane, electric power, and heat. The research program includes efforts to inventory and characterize the geopressured resources, design and test recovery methods and technology, and study the environmental and institutional problems.

DOE is also involved with implementing the intent of Congress for the development and production of alternative fuels. Congress has appropriated $2.2 billion dollars for this purpose in fiscal year 1980. Included in the alternative fuel category identified in the appropriation are gases produced from unconventional sources which would include geopressured brines, Devonian shales, coal seams and tight sands.

BILLING CODE 6450-01-M

SOURCE	GAS-IN-PLACE (Tcf)		ULTIMATELY RECOVERABLE GAS (Tcf)	
Geopressured aquifers	49,000*	(Jones, 1976 & 1977)		
	5,735	(Dorfman, 1977)	256	(Dorfman, 1977)
	3,000	(Hise, 1976)	125	(Hise, 1976)
			54	(Bernard, 1978)
Gaseous coal **	300 to 850	(Deul, 1976)	200 to 250	(BOM and DOE; cited in A.G.A. Gas Supply Review, v. 5, no. 9)
Tight sands	242 to 600**	(U.S. Federal Power Commission, 1973)	240 to 300	(U.S. Federal Power Commission, 1973)
	793***	(U.S. Federal Power Commission; cited in Harbaugh, et al., 1977b)		
			70 to 180	(Kuuskran, et al., 1978)
Devonian shales	500 to 600	(U.S. Geol. Surv.; cited in DeWitt, 1976)		
	285	(U.S. Federal Power Commission; cited in Harbaugh, et al., 1977b)	60	(Industry estimates; cited in Harbaugh, 1977b)
			285	(Columbia Gas Trans. Corp; cited in Foster, 1977)
			206 to 903	(Smith, 1978)

*Jones (1976, 1977) speculated that another 49,000 Tcf may be present within associated geopressured shales, some of which might migrate into adjacent sands as they are produced.

**Estimated gas-in-place in the tight sands of the Piceance, Uinta and Green River basins.

***Includes the 600 Tcf estimated by the 1973 Task Force to the Federal Power Commission as well as an additional 130 Tcf for the northern Great Plains province of Montana and the Dakotas, and 63 Tcf for the San Juan basin of northern New Mexico.

BILLING CODE 6450-01-C

The following table provides estimates from a number of sources concerning potential gas resources related to various types of high-cost gas. The information in the table was presented in a report entitled "Potential Supply of Natural Gas in the United States (as of December 31, 1978)" by the Potential Gas Committee, Potential Gas Agency, Colorado School of Mines. This information indicates that the resource base for these sources of gas is substantial. What is more uncertain is the amount of these gas resources that can be recovered and brought to market and the incentives that are needed to accomplish this.

Aside from the activities being pursued by the DOE concerning these high-cost gas sources, we know of the work being done in this area by the private sector such as the Gas Research Institute and a number of producers and pipelines. The National Petroleum Council (NPC), at the request of the Secretary of Energy, is completing a study on high-cost gas sources. This study covers four sources: Devonian shale, coal-bed methane, geopressurized brines and tight sands. Draft reports on the first three sources have been completed and are in the process of being reviewed by the NPC Committee on Unconventional Gas Sources and the NPC itself, prior to being considered for adoption by the Council at a meeting scheduled for June 11, 1980, in Washington, D.C. A draft report on gas from tight sands has not been completed by the NPC but will be available later in 1980. Persons interested in obtaining copies of these studies should contact: Lucio D'Andrea (Office of Oil and Gas), Office of Resource Applications, 12th and Pennsylvania Ave., N.W., Room 3524, Washington, D.C. 20461, (202) 633–8383.

II. Discussion

In the past, high-cost gas resources have been uneconomical to produce and market in significant quantities because of the high costs and risks associated with their development and production. Under the current regulatory structure, including price deregulation of certain high-cost gas categories, production of gas from high-cost sources is expected to increase as the escalating prices of alternate fuels, such as oil, make the price of high-cost gas more competitive and production from conventional sources decline. It is unclear, however whether production of high-cost gas can be maximized under the present regulatory structure. As indicated above, a great deal of information is available concerning potential supplies of high-cost gas but we would like to have any additional information that interested parties possess including comments on the information we have presented. An important issue that we would like addressed is whether there are regulatory restraints that could be removed or lessened by Federal or state action in order to encourage the development, production, and marketing of high-costs gas. For example, under most circumstances interstate pipelines can transport gas only pursuant to certificates of convenience and necessity issued by the Commission on a case-by-case basis prior to transportation of the gas. An incentive that might be used to enhance the marketability of high-cost gas would be to facilitate its transportation in interstate pipelines by allowing pipelines to transport high-cost user-owned gas on a self-executing basis without prior Commission authorization in each individual case, as is currently done with regard to certain oil displacement gas in the Order No. 30 oil displacement program (FERC Order No. 30, Docket No. RM79–34).

To deterine what regulatory actions could be taken to encourage the development, production, and marketing of these gas supplies, we need any additional information that is available on the present and potential markets for high-cost gas, the type of incentives needed to develop, produce, and market this gas, any regulatory impediments to such development, production, and marketing, and how these impediments could be removed.

III. Issues for Comment

ERA requests comments on the following issues related to the development, production, and marketing of high-cost gas supplies. ERA welcomes comments on any other relevant issues.

A. Availability of High-Cost Gas Supplies

1. What are the most recent estimates of the quantity of high-cost gas that could be made available to the market over the next ten years under present technology and pricing structure? Provide such estimates according to type of gas and type of market and specify when the gas could be made available to the market.

2. What improvements in existing technology or what improved technology is needed before further development of high-cost gas can occur? For which categories and to what extent is improved technology required? Can the necessary technology be developed? If so, how quickly and under what circumstances could the technology be developed?

3. Are there any present or potential legal problems concerning the ownership of high-cost gas supplies which may delay the development and production of these supplies? Which types of gas are involved and what are the potential legal problems? How can these legal barriers be removed?

4. What types of high-cost gas would be the easiest to develop, produce, and market, and why?

5. Would the development, production or marketing of this gas have a detrimental effect on the environment? Which function (*e.g.*, production) would be involved, what type of environmental problems would be involved, and to what degree? What measures could be taken to eliminate or mitigate these detrimental effects?

B. Present and Potential Markets for High-Cost Gas

1. Identify each type of market (*e.g.*, electric powerplants, interstate pipelines) by type of gas (*e.g.*, Devonian shale) and whether the market is present or potential.

2. For each type of potential market identify any restrictions to the marketing of each of the various gas supplies.

3. Under what conditions are interstate pipelines interested in purchasing high-cost gas for their system supplies? Intrastate pipelines? Local distribution companies? Should gas companies be encouraged to purchase gas from these sources when seeking relief from curtailments?

C. Types of Incentives Needed

1. Regulatory actions. a. Should we propose a rule to the FERC to facilitate the transportation in interstate pipelines of high cost user-owned gas? If so, should authorization of such transportation be self-executing or on a case-by-case basis? If such a rule were adopted would it aid the marketing of all types of high cost gas or specific types of gas to specific markets? If the latter, indicate the specific types of gas and markets?

b. Identify any other potential regulatory actions by type of gas and market that could be taken by the Federal or State agencies to remove restrictions on or provide incentives for the marketing of high-cost gas. For example, should the FERC create new categories of high-cost gas? If so, which categories?

2. Identify any non-regulatory incentives by type of gas and market that could be provided by Federal or State agencies, such as tax incentives.

3. Should incentives for the use of high-cost gas be extended to both

industrial boiler fuel users and electric powerplants?

4. What price level is necessary for each source of gas to be developed and produced and why?

5. Would changes in the Federal or state curtailment priority systems create an incentive for development and production of high-cost gas? If so, what type of changes?

6. Will the incremental pricing rules implemented by the Commission under Title II of the NGPA affect the potential marketing of this gas? If so, how?

7. Are additional financial incentives (*e.g.*, research and development grants) necessary to increase development and production of high-cost gas? If so, discuss type of incentives and who should supply these incentives, government or industry or both.

IV. Comment Procedures

You are invited to participate in this inquiry by submitting written comments, data, views, or arguments with respect to the specific issues set forth in this notice and any other relevant suggestions or proposals to: Public Hearing Management, Economic Regulatory Administration, Room 2313, Docket No. ERAR–80–14, 2000 M Street, NW., Washington, D.C. 20461. You may hand deliver your comments to this room between 8:00 a.m. and 4:30 p.m., Monday through Friday, or you may mail your comments to the above address. You should submit fifteen copies and should include on the first page of each comment, and on any envelope, the docket number and the designation "Notice of Inquiry for High-Cost Gas." We will consider all comments received by 4:30 p.m. on August 1, 1980, and all other relevant information before taking further action on this matter. Please indicate the specific issue or issues you are addressing by number. All comments will be available for inspection in the DOE Freedom of Information Reading Room, Forrestal Building, Room 5B–180, 1000 Independence Avenue, SW., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Any information you consider to be confidential must be so identified and submitted in one copy only. We reserve the right to determine the confidential status of the information and to treat it according to our determination. Public hearings are not required.

Issued in Washington, D.C. on June 4, 1980.

Hazel R. Rollins,

Administrator, Economic Regulatory Administration.

[FR Doc. 80-17645 Filed 6-10-80; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 52416-6120-22, 23-22; Docket No. ERA-FC-80-001]

Puget Sound Power & Light Co.; Public Hearing and Availability of Tentative Staff Determination

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of public hearing and availability of tentative staff determination.

SUMMARY: On October 2, 1979, Puget Sound Power & Light Company (Puget Sound) petitioned the Economic Regulatory Administration (ERA) of the Department of Energy for two permanent peakload powerplant exemptions from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA or the Act), which prohibits the use of petroleum or natural gas in new powerplants. Additional information was required and revised petitions were submitted on December 4, 1979. Puget Sound plans to install two 81,000 KW oil- and gas-fired combustion turbine units (Whitehorn Generating Station Units 2 and 3) and certifies that each of these units will be operated solely as peakload powerplants and will be operated only to meet peakload requirements for the life of the plants. ERA accepted the petitions on January 22, 1980, and published notice of its acceptance in the **Federal Register** on January 31, 1980 (45 FR 6896). Publication of the notice of acceptance commenced a 45-day public comment period pursuant to Section 701 of FUA. Interested persons were also afforded an opportunity to request a public hearing. The comment period ended March 17, 1980. Comments on Puget Sound's petitions were received from over 50 interested persons, including various commercial and industrial firms, educational institutions, municipalities, the Washington Utilities and Transportation Commission, and the Washington State Energy Office on behalf of the Governor of the State of Washington. Requests for a public hearing to be held in Seattle or the State of Washington on Puget Sound's petitions were received from the Oil Heat Institute of Washington (OHIW); the Northwest Towboat Association; the Washington Contract Loggers Association; the Washington State Grange; the Washington Dump Truck Association; and the Washington Log Truckers Conference.

ERA's staff has reviewed the information presently contained in the record of this proceeding. A Tentative Staff Determination has been issued which recommends that ERA issue an order granting the permanent peakload power plant exemptions to Puget Sound. A response to the comments made by interested persons on the petitions is contained in the Tentative Staff Determination. A copy of this Tentative Staff Determination is available from the Office of Public Information at the address listed below.

DOE's Office of Environment has determined that granting of the requested permanent exemptions would not be a major Federal action significantly affecting the quality of the human environment, within the meaning of the National Environmental Policy Act, 42 U.S.C. 4321 *et seq.* Therefore, no environmental impact statement or environmental assessment is required.

PUBLIC HEARING: A public hearing on Puget Sound's petitions and ERA's Tentative Staff Determination will be held in Washington, D.C., at a time and place to be determined later. Interested persons should submit to the presiding officer, Lawrence Gollomp, c/o FUA Public Hearing Staff, Economic Regulatory Administration, Case Control Unit (FUA), Box 4629, Rm 3114A, 2000 M St. NW., Washington D.C. 20461, request to participate in the public hearing. Pursuant to Section 501.33 of the regulations implementing FUA, the request must be in writing, signed, and include a description of the person's interest in the issue or issues involved and an outline of the anticipated content of his presentation. Requests to participate in the public hearing should be received by ERA no later than June 25, 1980.

Interested persons who have requested to participate in the public hearing are invited to attend a pre-hearing conference which will be held on June 30, 1980, in Seattle, Washington, at the 4th Floor Auditorium, Federal Building, 915 Second Avenue beginning at 9:00 am. At the prehearing conference, such persons will be given an opportunity to make oral statements which will be placed in the record of this proceeding. In addition, the presiding officer will establish further procedures for conducting the subsequent public hearing.

ADDRESSES: Fifteen copies of written comments shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 3114A, 2000 M

Street NW, Washington, D.C. 20461. Docket Number ERA–FC–80–001 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW, Room B–110, Washington, D.C. 20461, Phone (202) 653–4055.

Kathy Ewing, FUA Public Hearings Staff, Economic Regulatory Administration, Case Control Unit, Box 4629, Room 3114A, 2000 M St., NW, Washington, D.C. 20461, Phone (202) 653–3675.

Marilyn Ross, Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW, Room 6G–087, Washington, D.C. 20585, Phone (202) 252–2967.

SUPPLEMENTARY INFORMATION: Puget Sound Power & Light Company (Puget Sound) plans to install two 81,000 KW oil- and gas-fired combustion turbine units to be called Whitehorn Generating Station Units 2 and 3 (Whitehorn 2 and 3) at its Whitehorn station site in Whatcom County, Washington. Based upon estimates by Puget Sound for the 1980–1990 period, each of the proposed units is expected to consume the energy equivalent of approximately 210,000 barrels of oil per year (575 bbl/day). Whitehorn 2 and 3 are scheduled to begin commercial operation in the fall of 1980.

The Economic Regulatory Administration (ERA) published interim rules on May 15, 1979, and May 17, 1979 (44 FR 28530 and 44 FR 28950, respectively) to implement provisions of Title II of the Act. FUA prohibits the use of natural gas or petroleum in certain new major fuel burning installations and powerplants unless an exemption for such use has been granted.

On October 2, 1979, Puget Sound petitioned ERA for two permanent peakload powerplant exemptions from the prohibitions of the Act to use oil and gas in each of the proposed units. ERA required the submission of additional information and revised petitions were submitted by Puget Sound on December 4, 1979.

On April 1, 1980 Puget Sound requested that ERA permit the construction of the proposed units to commence on April 16, 1980. ERA denied the request on April 16, 1980, advising Puget Sound that, until such time as the exemption requests were acted upon by ERA, Puget Sound must comply with the prohibition contained in Section 201(2) of FUA.

On April 1, 1980; ERA made a formal request for additional information from Puget Sound which had previously been requested in the course of informal discussions held on March 12, 1980. Puget Sound subsequently supplied this information on May 1, 1980. On April 7, 1980, OHIW requested copies of such information and requested that the public comment period be reopened to allow submission of additional comments on Puget Sound's petitions, as supplemented. OHIW asserted that "Failure to reopen the comment period to allow public comment on this new information will result in an unfair limitation on the public's opportunity to place responsive material on the record prior to issuance of the tentative staff determination." ERA agrees that OHIW and other interested persons should have an opportunity to review and comment on the additional information requested by ERA and furnished by Puget Sound. However, ERA does not agree that such review and comment is necessary before a Tentative Staff Determination is issued. OHIW and other interested persons may furnish appropriate comments on any point prior to the close of the public hearing record.

Puget Sound submitted a sworn statement with each of the two petitions signed by Mr. D. H. Knight, Vice President of Puget Sound, as required by 10 CFR 503.41(b)(1). In his statement, Mr. Knight certified that each of the oil- and gas-fired combustion turbines (Whitehorn 2 and 3) would be operated solely as peakload powerplants and would be operated only to meet peakload demand for the life of each plant. He also certified that the maximum design capacity of each unit is 81,000 KW and that the maximum generation that each unit would be allowed during any 12-month period is the design capacity times 1,500 hours or 121,500,000 Kwh.

Puget Sound also furnished the information required by 10 CFR 502.11 (Petroleum and natural gas consumption), 502.12 (Conservation measures), and 502.13 (Environmental impact analysis).

Staff Determination

On the basis of Puget Sound's sworn statements and the information provided, the staff concludes that ERA should grant the peakload powerplant exemptions.

On the basis of the Department of Energy's (DOE) independent analysis of environmental information submitted by Puget Sound, DOE has concluded that no significant environmental impacts will occur as a result of the granting of these exemptions.

Terms and Conditions

Section 214(a) of the Act gives ERA the authority to attach terms and conditions to any order granting an exemption. Based upon information submitted by Puget Sound and upon the results of the staff analysis, the staff of ERA has tentatively determined and recommends that any order which would grant the requested peakload powerplant exemptions should, pursuant to Section 214(a) of the Act, be on the following conditions:

A. Puget Sound shall not produce more than 121,500,000 Kwh during any 12-month period with either of the proposed units.

B. Puget Sound shall comply with the reporting requirements set forth in 10 CFR 503.41(e).

C. Whenever petroleum is used in the proposed powerplants, Puget Sound shall use the lowest grade petroleum technically possible and available consistent with environmental requirements.

D. Any order granting an exemption shall not take effect earlier than the 60th calendar day after publication of the order in the **Federal Register.**

Issued in Washington, D.C., June 5, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80–17646 Filed 6–10–80; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. RM78–23 (Phase II)]

State of Louisiana First Use Tax in Pipeline Rate Cases; Order Instituting Show Cause Proceeding

April 24, 1980.

In July of 1978, the State of Louisiana adopted an act establishing the First Use Tax on Natural Gas.[1] In Order Nos. 10, 10–A, 10–B [2] and 10–C [3] the Commission established procedures for recovery of the First Use Tax in pipeline rate cases. Order No. 10–B [4], as revised

[1] 1978 La. Sess. Law Serv. 482 (Act No. 294), La. Rev. Stat. Ann. §§ 47:1301–47:1307 (West 1979 Supp.). Hereinafter referred to as "First Use Tax."

[2] 43 Fed. Reg. 45553 (October 3, 1978), 43 Fed. Reg. 60438 (December 28, 1978), 44 Fed. Reg. 13460 (March 12, 1979), petitions for review pending *sub nom. Tennessee Gas Pipeline Co., et al.* v. *FERC*, No. 78–3816 (5th Cir.).

[3] *State of Louisiana First Use Tax in Pipeline Rate Cases*, Docket No. RM78–23, Order No. 10–C (issued April 24, 1980).

[4] 44 Fed. Reg. 13464 (18 C.F.R. § 154.38(h)(6)).

by Order No. 10–C,[5] requires interstate "pipelines [collecting the First Use Tax pursuant to Section 154.38(h) to] take all legal action necessary to enforce contract provisions which could require any and all other contracting parties to pay for the First Use Tax * * *." In Order No. 10–C, the Commission acknowledged that in addition to contractual requirements, orders and certificates of public convenience and necessity issued by the Commission may govern which persons should bear the First Use Tax.[6] This show cause proceeding is instituted to resolve the question of whether persons other than natural gas consumers should pay the First Use Tax, subject to refund, while its constitutionality is litigated.

In many instances, the First Use Tax is imposed upon activities undertaken, or services rendered by interstate pipelines, on behalf of, or for, the owner of liquid and liquefiable hydrocarbons produced and/or transported in association with natural gas subject to the tax. For example, the tax is imposed upon "the transportation [of natural gas] in [Louisiana] to the point of delivery at the inlet of any processing plant[,] the transportation in [Louisiana] of unprocessed natural gas to the point of delivery at the inlet of any measurement or storage facility [as a preliminary step in the separation of liquid hydrocarbons from the gas stream or processing of the gas to extract liquid and liquefiable hydrocarbons,] transfer of possession or relinquishment of control at a delivery point in [Louisiana at the inlet of a separation or processing plant,] processing for the extraction of liquefiable component products or waste materials[,] * * * treatment[,] or other ascertainable action at a point within [Louisiana such as the separation of liquid hydrocarbons from the gas stream by the use of high-pressure or low-pressure separators]." La. Rev. Stat. § 47:1302(8).

This Commission has consistently and repeatedly held, and the courts have affirmed, that costs associated with, or incurred in, transporting liquid and liquefiable hydrocarbons and processing of natural gas to separate and extract such liquid and liquefiable hydrocarbons are not to be borne by natural gas consumers, but are to be charged to the owner(s) of the hydrocarbons since only they benefit from the incurrence of such costs.[7]

Accordingly, the Commission is ordering the owners of liquid and liquefiable hydrocarbons, which are separated or extracted from natural gas subject to the First Use Tax, and/or which are transported and delivered to processing and/or separation plants in Louisiana or other States, to show cause why the payments of the First Use Tax imposed on the interstate pipelines by reason of such activities, or charges equivalent to such tax payments, should not be billed to, and collected from, then subject to refund while the constitutionality of the First Use Tax is litigated, as charges incurred by the interstate pipelines for the benefit of such owners.

The show cause proceeding is instituted pursuant to Sections 4, 5, 7, 8, 10, 14, 15, and 16 of the Natural Gas Act (15 U.S.C. §§ 717c, 717d, 717f, 717g, 717i, 717m, 717n, 717o), and Part I of the Interstate Commerce Act (49 U.S.C. § 1, *et seq.*). This proceeding is instituted pursuant to the Interstate Commerce Act as well as the Natural Gas Act since the Courts have held that the Commission does not have jurisdiction over the transportation of liquid hydrocarbons by natural gas pipelines under the Natural Gas Act. *Mobil Oil Corp* v. *Federal Power Commission*, 483 F. 2d 1238, 1246–1249 (D.C. Cir. 1973). The Department of Energy Organization Act ("DOE Act"), 42 U.S.C. § 7101, *et seq.* (Supp. I 1977), however, vests the Commission with jurisdiction to set rates for the transportation of liquid hydrocarbons by common-carrier pipelines. DOE Act 402(b), 42 U.S.C. § 7172(b). And, any natural gas pipelines transporting liquid hydrocarbons on the Outer Continental Shelf onshore must operate as common-carriers. 43 U.S.C. § 1334(c).

The persons directed to respond to this order to show cause may file such legal memoranda or briefs, data, information, and sworn statements of witnesses as they desire as a part of their responses to this order. *See* 18 C.F.R. §§ 1.6(d), 1.9(c). To expedite consideration of the issues in this proceeding the Commission is directing the interstate pipelines who are collecting the First Use Tax pursuant to Section 154.38(h) to file certain information with the Commission and to serve that information on the persons for whom they transport liquid and liquefiable hydrocarbons.[8] Thereafter, the owners of the liquid and liquefiable hydrocarbons shall respond to this order, and other interested parties, including the pipelines, may reply to the owners' responses to this order.

The Commission Orders:

(A) Pursuant to Sections 4, 5, 7, 8, 10, 14, 15, and 16 of the Natural Gas Act (15 U.S.C. 717c, 717d, 717f, 717g, 717i, 717m, 717n, 717o) and Part I of the Interstate Commerce Act (49 U.S.C. § 1, *et seq.*), a proceeding, to be designated as Docket No. RM 78–23 (Phase II), is hereby instituted, and all persons owning, or claiming title to, liquid and/or liquefiable hydrocarbons, which are transported with, and/or extracted or separated from, natural gas subject to the First Use Tax, are directed to show cause why they should not be billed for, and pay, subject to refund, while the constitutionality of the First Use Tax is litigated, the First Use Tax, or charges equivalent thereto, when such tax must be paid by an interstate pipeline as a reuslt of the following, or similar, uses:

(1) the transportation in Louisiana of natural gas containing liquid and/or liquefiable hydrocarbons to the the inlet of a processing plant, or a measurement or storage facility as a preliminary step in the separation of liquid hydrocarbons from the gas stream and/or the processing of the gas to extract liquefiable hydrocarbons, whether in Louisiana or any other state;

---

[5] Order No. 10–C, page 24 (18 C.F.R. § 154.38(h)(6)).

[6] Order No. 10–C page 18.

[7] *Union Oil Company of California, et al.*, Docket Nos. CI77–828, *et al.*, order at 7, 10–11 (April 12, 1978); *Canadian Superior Oil (U.S.) Ltd., et al.*, Docket Nos. CI77–802, *et al.*, order at 4–5, 8–9 (March 28, 1978); *High Island Offshore System*, Docket Nos. CP75–104, *et al.*, order at 10, 16–17, 18 (June 4, 1976), order at 2–4 (December 22, 1978); *National Rates For Natural Gas*, Opinion No. 770, 15 P.U.R. 4th 21, 49–50 (1976), reh. denied, Opinion No. 770–A, 17 P.U.R. 4th 317, 346–347 (1976), affirmed *sub nom. American Public Gas Association* v. *Federal Power Commission*, 567 F.2d 1016 (D.C. Cir. 1977), cert. denied, 435 U.S. 907 (1978); *National Rates for Natural Gas*, Opinion No. 749, 54 F.P.C. 3090, 3096–3102 (1975), reh. denied, Opinion No. 749–C, 12 P.U.R. 4th 1, 12–14 (1976), affirmed *sub nom. Tenneco Oil Co.* v. *Federal Energy Regulatory Commission*, 571 F.2d 834, 844–845 (5th Cir. 1978); *Kansas-Nebraska Natural Gas Company, Inc.*, 53 F.P.C. 1691, 1702–1703 (1975), reh. denied, 54 F.P.C. 923 (1975); *Pipeline Costs Allocable to the Transportation of Liquids, Liquefiable Hydrocarbons, etc., for Others, 47 F.P.C. 208 (1972), reh. denied, 47 F.P.C. 969 (1972), reversed in part on other grounds sub nom. Mobil Oil Corp.* v. *Federal Power Commission*, 483 F.2d 1238 (D.C. Cir. 1973); *Area Rate Proceeding (Southern Louisiana Area)* 40 F.P.C. 530, 588, 611 (1968), affirmed *sub nom. Austral Oil Co.* v. *Federal Power Commission*, 428 F.2d 407 (5th Cir. 1970), cert. denied, 400 U.S. 950 (1970); *Tennessee Gas Pipeline Co., et al.*, 38 F.P.C. 691, 698 (1967); *Northern Natural Gas Co.*, 28 F.P.C. 1155, 1163–1165 (1962), affirmed *sub nom. Mid-America Pipeline Co.* v. *Federal Power Commission*, 330 F.2d 226 (D.C. Cir. 1964); *Continental Oil Co., et al.*, 27 F.P.C. 96, 107–108 (1962); *Panhandle Eastern Pipeline Co.*, 25 F.P.C. 787, 797–798 (1961), remanded *sub nom. Panhandle Eastern Pipeline Co.* v. *Federal Power Commission*, 305 F.2d 763, 767–768 (D.C. Cir. 1962), cert. denied, 372 U.S. 916 (1963), affirmed on remand, 32 F.P.C. 636 (1964), affirmed *per curiam*, 348 F.2d 340 (D.C. Cir.), cert. denied, 382 U.S. 944 (1965); *Tennessee Gas Transmission Co.*, 18 F.P.C. 428, 435, 474–479 (1957); *Texas Eastern Transmission Corporation*, 11 F.P.C. 435, 447 (1952).

[8] The preparation and filing of this information with the Commission should impose no great burdens on the pipelines as they have submitted identical or similar information to the State of Louisiana on Form FUT–1 in making their First Use Tax payments.

(2) transfer of possession or relinquishment of control at the inlet of a separation and/or processing facility within Louisiana;

(3) the processing of natural gas for the separation and/or extraction of liquid and/or liquefiable component products or waste materials;

(4) treatment of the gas within Louisiana;

(5) or other ascertainable action within Louisiana such as the separation of liquid hydrocarbons from gas by the use of high-pressure or low-pressure separators.

(B) The following procedures shall be followed in the proceeding instituted by paragraph (A) *supra:*

(1) within fifteen (15) days of the issuance of this order, all interstate pipelines collecting the First Use Tax pursuant to 18 C.F.R. § 154.38(h) shall (a) notify all persons for whom they transport liquid and/or liquefiable hydrocarbons which are produced and/or transported with, and extracted or separated from natural gas subject to the First Use Tax, of this order by (i) serving them with with a copy of the order or (ii) notifying them that the order has been issued, that it has been published in the **Federal Register** (giving the citation), and that they may obtain a copy of the order from the pipeline on request; and (b) submit to the Commission a list of all persons so notified;

(2) within twenty-five (25) days of the issuance of this order, such pipelines shall file with the Commission, and serve on all persons notified pursuant to paragraph (1) above, a statement setting forth:

(a) The First use Tax payments made by each pipeline, by month for every month to date commencing with April 1979, and by use as defined in La. Rev. Stat. § 47:1302(8).

(b) Those persons for whom the pipeline has rendered any service, or undertaken any activity, listed in paragraph (A), *supra,* or whom the pipeline has permitted, or allowed, to perform such service or activity; the volumes of gas "used" in such service or activity within the meaning of the First Use Tax; the First Use Tax payments, by month, attributable to such services or activities; the source of such gas, *e.g.,* Outer Continental Shelf, Barksdale Air Force Base, imported from Algeria; whether such gas is transported in interstate commerce, or is commingled with gas transported in interstate commerce; the volumes of gas not subject to the tax by reason of La. Rev. Stat. Ann. § 47:1303A, and the pertinent provisions of any contract, or any Commission order issuing a certificate of public convenience and necessity or prescribing rates, which requires, or may require, the owner of the liquid and liquefiable hydrocarbons to pay capital and/or operating costs associated with, or incurred in rendering or undertaking, the services and activities listed in paragraph (A), *supra,* or which concerns such matters. Thereafter, at the end of each calendar quarter, such pipelines shall submit additional statements for that quarter and any months not covered by a previous statement.

(3) within sixty (60) days of the issuance of this order, each person notified pursuant to paragraph (B)(1) above, if he desires to do so, may respond in writing showing cause why he should not be billed for, and pay, subject to refund while the constitutionality of the First Use Tax is litigated, the amounts of the First Use Tax Paid by one or more pipelines for services rendered for, or activities undertaken on behalf of, such person as set forth in paragraph (B)(2) above, and such future amounts so paid, or charges equivalent to such amounts.

(4) within ninety (90) days of the issuance of this order, any person, desiring to do so, may file a reply to any or all responses filed pursuant to paragraph (3) above, and shall serve such reply pursuant to paragraph (6) below.

(5) an original and fourteen (14) copies of all statements, responses, replies, and/or other pleadings shall be submitted. All pleadings including notices submitted herein shall be submitted on letter-sized paper (8½ inches by 11 inches), except financial and similar information may be submitted on paper of a larger size, provided that it is folded to 8½ inches by 11 inches. All pleadings shall conform to the provisions of 18 C.F.R. Part 1, particularly 18 C.F.R. § 1.29(d), except as otherwise expressly provided herein. Any persons submitting any pleading containing facts, financial information, or other data shall include in such materials an affidavit(s) attesting to the truth and accuracy of such materials.

(6) within thirty (30) days of the issuance of this order, any person, desiring to participate in this proceeding, including pipelines submitting a statement and any person notified pursuant to paragraph (1) above, shall submit a notice of intention to participate, containing the name of the person intending to participate, and the name, title if applicable, mailing address, and telephone number of the person(s) who should be served with any pleadings, orders, notices, and other communications submitted or issued in this proceeding, on the Secretary of the Commission. Within ten (10) days thereafter, the Secretary shall prepare, publish, and serve on all persons submitting notices of intention to participate, a service list of all persons submitting such notices. Thereafter, all persons named on such list shall serve copies of pleadings of any form or title submitted in this proceeding on all other persons named on such list.

(7) except as provided herein and unless otherwise directed by the Commission, the procedural rules set forth in 18 C.F.R. Part 1 shall be followed in this proceeding.

(C) The Secretary shall cause this order to be published promptly in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-17611 Filed 6-10-80; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1512-2]

Approval of PSD Permit to Abex Corp.

Notice is hereby given that on March 7, 1980, the Environmental Protection Agency issued a Prevention of Significant Deterioration permit PSD-AL-058 to Abex Corporation for approval to construct a fluid bed heat treat furnace in Calera, Alabama.

This federal permit to construct has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR Part 52.21), subject to certain conditions, General Conditions No. 1 through 7.

Special Condition No. 8. The particulate emissions from this equipment shall not exceed 1/12 pound/hour or 49.1 tons per year.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act as a locally-applicable final action, if a petition for review is filed on or before August 11, 1980.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region IV, Air Facilities Branch, Room 402, 345 Courtland Street, N.E., Atlanta, Georgia 30365

Alabama Air Pollution Control Commission, 645 South McDonough Street, Montgomery, Alabama 36130.

Date: May 20, 1980.

John A. Little,

Deputy Regional Administrator, Region IV.

[FR Doc. 80-17609 Filed 6-10-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180451; FRL 1512-6]

U.S. Department of Agriculture; Issuance of Specific Exemption To Use Oxyfluorfen To Control Witchweed in North Carolina and South Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Animal and Plant Health Inspection Service, U.S. Department of Agriculture (hereafter referred to as the "Applicant" or "USDA") to use oxyfluorfen (Goal 2E) on 2,000 acres of corn in a witchweed eradication program in 30 contiguous counties in North Carolina and South Carolina. the specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on August 31, 1980.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Registration Division (TS-767), Room: E-124, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, S.W., Washington, DC 20460, 202/426-0223.

SUPPLEMENTARY INFORMATION: According to the USDA, witchweed is an annual chlorophyll-producing, seed-bearing, semi-parasitic plant that affects corn, sorghum, sugarcane, and more than 60 other species of the grass family in this country. A single witchweed plant may produce up to 500,000 microscopic seeds. The pest was intitially identified in 1956 in North and South Carolina, and threatens corn, sorghum, and sugarcane crops having an estimated annual value of more than $16 billion in the United States.

Experience has demonstrated that if heavy infestations of witchweed are uncontrolled, complete corn crop failure can result. If witchweed were allowed to spread, research data indicate that annual corn crop losses would approach 50 percent. According to USDA, the spread of witchweed in the U.S. could cost farmers about $675 million in annual cost plus an estimated 10 percent yield loss.

According to the applicant, paraquat and 2,4-D are registered for witchweed control in corn; however, although these herbicides are effective when applied post-emergence, they fail to provide residual control. Because Goal 2E, which contains the active ingredient (a.i) oxyfluorfen, provides pre-emergence control of witchweed, the first application can be made in May or June, post-emergent to the corn but pre-emergent to the witchweed. A second application, if necessary, would be made in July or August. The Applicant has stated that two applications of Goal will control the pest throughout the season and that continous seasonal control is essential for eradication. Eradication efforts of previous years may be lost if viable seeds reinfest the area. The Applicant reported that under last year's specific exemption witchweed control was excellent.

The Applicant proposed to use a maximum of 4,000 pounds a.i. on a maximum of 2,000 acres of corn located in 30 contiguous counties in North Carolina and South Carolina. The total amount applied will not exceed 2 pounds a.i./acre/year. Data indicate that Goal is efficacious at the proposed rate.

EPA has determined that residues of oxyfluorfen in or on corn should not exceed 0.05 part per million (ppm) as a result of the proposed program. This level has been judged adequate to protect the public health.

Since oxyfluorfen is toxic to fish and invertebrates, EPA has imposed appropirate restrictions. If used in accordance with the conditions imposed, oxyfluorfen should pose no unreasonable adverse effect on the environment.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. accordingly, the applicant has been granted a specific exemption to use the pesticide noted above until August 31, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. Use of the product Goal 2E, manufactured by Rohm and Haas, is authorized;

2. A maximum of two applications may be made as a directed ground spray (pressure not to exceed 25 lbs./sq. inch). The first application shall be made in May or June post-emergence for corn and pre-emergence for witchweed, at a rate of ¾ to 1 pound a.i./20 gallons water/acre. The second application may be made in July or August at a rate of ½ to 1 pound a.i./20 gallons water/acre. The total quantity applied shall not exceed 2 pounds a.i./acre/year

3. A maximum of 4,000 pounds a.i. may be applied;

4. A maximum of 2,000 acres of corn located in 30 contiguous counties in North and South Carolina may be treated;

5. Treatments shall be made by personnel of the USDA Plant Protection and Quarantien Programs (PPQ) or by State-certified commercial applicators under the supervision of qualified PPQ personnel;

6. Applications will be made no closer that 60 feet to fish habitat and 120 feet to oyster habitat;

7. Application will not be made when wind speed is in excess of five miles per hour;

8. Oxyfluorfen is toxic to fish. It may not be applied where runoff is likely to occur. Water must not be contaminated by the cleaning of equipment or disposal of wastes;

9. Corn treated in accordance with the above provisions should not have residues of oxyfluorfen in excess of 0.05 ppm. Corn with residues of oxyfluorfen which do not exceed this level may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

10. All label restrictions and precautions on the Goal 2E label shall be observed;

11. The EPA shall be informed immediately of any adverse effects to man or the environment resulting from this program; and

12. A final report summarizing the results of this program shall be submitted to EPA by December 31, 1980.

(Sec. 18. as amended (92 stat. 819; 7 U.S.C. 136))

Dated: June 5, 1980.

James M. Conlon,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 17607 Filed 6-10-80; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180453; FRL 1512-3]

Michigan Department of Agriculture; Issuance of Specific Exemption To Use Acephate To Control European Corn Borer on Peppers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted a specific exemption to the Michigan Department of Agriculture (hereafter referred to as the "Applicant") to use a total of 1,000 pounds of acephate to control the European corn borer on a maximum of 500 acres of peppers (other than bell peppers) in Michigan. The specific exemption is issued under the Federal

Insecticide, Fungicide, and Rodenticide Act.

DATE: The specific exemption expires on September 30, 1980.

FOR FURTHER INFORMATION CONTACT: Jack E. Housenger, Registration Division (TS–767), Room: E–107, Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, 202/426–0223.

SUPPLEMENTARY INFORMATION: According to the Applicant, the European corn borer is a most significant pest affecting pepper production in Michigan. The first generation of Europen corn borers begins to emerge the last week of May or the first week of June. The populations peak about the second week of June and then drop sharply through the first two weeks of July. The second generation begins emerging in mid-July and reaches a peak about the second week of August. The second generation moths lay their eggs and the larvae bore into the peppers. Since the hot pepper processors cannot sort borer-infested peppers from clean peppers, any shipment received with one percent or greater borer infestation is rejected in total. Shipments of peppers which cannot be sold to the processors are generally considered a total loss. The Applicant estimates that the proposed use could save 95 out of 100 acres usually destroyed in the past. The Applicant states that the use of acephate could result in a savings of approximately $125,000 from yield losses. According to the Applicant, the chemicals registered for use on peppers other than bell peppers do not give a high enough degree of efficacy to be acceptable.

Acephate is currently registered for use on bell peppers, and permanent tolerances have been established for combined residues of acephate and its metabolite (methamidophos) at 4 parts per million (ppm) in or on bell peppers (of which no more than 1 ppm is the metabolite). EPA has determined that available residue data indicate that the proposed use pattern should not result in residues of acephate in excess of this level in or on peppers other than bell peppers. This level has been judged adequate to protect the public health. No unreasonable adverse effect to the environment are expected to result from the proposed use.

The Applicant proposed to make four applications at a rate of 1.0 pound active ingredient per acre at 7- to 10-day intervals beginning when egg masses of the first generation moths appear.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until Setpember 30, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Orthene 75S Soluble Powder, EPA Registration No. 239–2418, will be used. If an unregistered label is used it must contain the identical applicable precautions and restrictions which appear on the registered label;

2. Orthene 75S will be applied at a rate of 1.0 pound active ingredient per acre at 7- to 10-day intervals. A maximum of 4 applications may be applied at this rate until 21 days of harvest. A maximum of 2 additional applications may be applied at a rate of 0.5 pound active ingredient per acre;

3. No applications will be made within 7 days of harvest;

4. Applications will be made with ground equipment, using a minimum of 25 gallons and a maximum of 150 gallons of water per acre;

5. A maximum of 500 acres may be treated;

6. All applicable directions, restrictions, and precautions on the product label must be followed;

7. Peppers treated in accordance with the above conditions should not have residues of acephate in excess of 4 ppm (of which no more than 1 ppm is methamidophos). Peppers with residues that do not exceed this level may enter interstate commerce. The Food and Drug Adminsitration, U.S. Department of Health, Education, and Welfare, has been advised;

8. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the result of this program by January 31, 1981; and

9. The EPA shall be immediately informed of any adverse effects resulting from the use of this pesticide in connection with this exemption.

(Sec. 18, as amended, (92 Stat. 819; 7 U.S.C. 136))

Dated: June 5, 1980.

James H. Conlon,

Acting Deputy Assistance Administrator for Pesticide Programs.

[FR Doc. 80–17610 Filed 6–10–80; 8:45 am]

BILLING CODE 6560–01–M

[OPP–180449; FRL 1512–M]

North Dakota Department of Agriculture; Issuance of Specific Exemption To Use Trifluralin To Control Broadleaf Weeds and Grasses in Rape

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has issued a specific exemption to the North Dakota Department of Agriculture (hereafter referred to as the "Applicant") to use Treflan EC (trifluralin) on a maximum of 60,000 acres of rape. The specific exemption is issued under the Federal Insecticide, Fungicide, and Rodenticide Act to control broadleaf weeds and grasses.

DATE: The specific exemption expires on July 15, 1980.

FOR FURTHER INFORMATION CONTACT: Donald R. Stubbs, Registration Division (TS–767), Rm. E–124, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460, 202–426–0223.

SUPPLEMENTARY INFORMATION: Rape does not compete well against weed species. Broadleaf weeds and grasses reduce stand density, vigor, and seed yield by their competition for water, nutrients, space, light, and heat. They also increase production costs by increasing the harvesting and processing costs. There is no herbicide registered for use in rape. Data indicate that Treflan is currently the best choice for weed control in rape. The Applicant estimates losses could amount to $900,000 without Treflan.

The Applicant proposed to apply Treflan EC (EPA Reg. No. 1471–35) in a single pre-plant application at a rate of 0.5 to 1.0 pound active ingredient (a.i.) per acre. Application will be followed by incorporation into the soil.

The residue levels of trifluralin in or on rapeseed and rape straw are not expected to exceed 0.01 part per million (ppm). The EPA has determined that this level is adequate to protect the public health. No adverse effects to the environment are anticipated from this use of trifluralin.

After reviewing the application and other available information, EPA has determined that the criteria for an exemption have been met. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until July 15, 1980 to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. A single pre-plant application of the product Treflan EC may be made at dosage rates of one-half to one pound a.i. per acre;

2. Application must be made by ground equipment in a spray mixture of five to forty gallons of water per acre followed by soil incorporation;

3. Applications are limited to 60,000 acres of rape in North Dakota;

4. All applicable directions, restrictions, and precautions on the product label must be followed;

5. Any adverse effect from use of Treflan under this exemption must be reported immediately to the EPA;

6. Forage from treated rape may not be grazed or cut for forage;

7. Residues of trifluralin in or on rapeseed and rape straw are not likely to exceed 0.01 ppm. Rapeseed and rape straw with residue levels not exceeding 0.01 ppm may be shipped in interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action; and

8. The Applicant is responsible for assuring that all provisions of this specific exemption are met, and must submit a report summarizing the results of the program by December 31, 1980.

(Sec. 18, as amended (92 Stat. 819; 7 U.S.C. 136))

Dated: June 5, 1980.

James M. Conlon,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 80-17608 Filed 6-10-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. B-4]

FM Broadcast Applications Accepted for Filing and Notification of Cut off Date

Released: May 20, 1980.

Cutoff Date: July 18, 1980.

Notice is hereby given that the applications listed in the attached appendix are accepted for filing. Because the applications listed in the attached appendix are in conflict with applications which were accepted for filing and listed previously as subject to a cut-off; date for conflicting applications, no application which would be in conflict with the applications listed in the attached appendix will be accepted for filing.

Petitions to deny the applications listed in the attached appendix and minor amendments thereto must be on file with the Commission not later than the close of business on July 18, 1980. Any application previously accepted for filing and in conflict with the applications listed in the attached appendix may also be amended as a matter of right not later than the close of business on July 18, 1980. Amendments filed pursuant to this notice are subject to the provisions of Section 73.3572(b) of the Commission's Rules.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

BPH-790613AC (New), Forestport, New York, the Atwood Broadcasting Corporation, Req: 93.5 MHz; Channel No. 228A, ERP: 3 kW; HAAT: 257 ft. (Allocated to Remsen, NY.)

BPH-790730AK (New), St. Ignace, Michigan, Mighty-Mac Broadcasting Company, Req: 102.9 MHz; Channel No. 275C, ERP: 100 kW; HAAT: 374.5 ft.

BPH-790808AE (New), Mountain View, Arkansas, White River Broadcasting Co., Inc., Req: 103.3 MHz; Channel No. 227C, ERP: 100 kW; HAAT: 955 ft.

BPH-790924AA (New), Pigeon Forge, Tennessee, Judith G. Hayes, Req: 105.5 MHz; Channel No. 228A, ERP: 3 kW; HAAT: 64.13 ft. (Allocated to Gatlinburg, TN.)

BPH-791003AA (New), St. Marys, West Virginia, Seven Ranges Radio Company, Req: 101.7 MHz; Channel No. 269A, ERP: 3 kW; HAAT: 114 ft.

BPED-2617 (New), Little Rock, Arkansas, Arkansas Broadcasting Foundation, Inc., Req: 88.3 MHz; Channel No. 202C, ERP: 100 kW; HAAT: 768 ft.

BPED-781220AE (New), Boca Raton, Florida, Boca Raton Christian School, Req: 88.5 MHz; Channel No. 203A, ERP: 3 kW; HAAT: 281 ft.

BPED-790214AE (New), Owensboro, Kentucky, Western Kentucky University, Req: 89.5 MHz; Channel No. 208C, ERP: 100 kW; HAAT: 300 ft.

BPED-790813AR (New), Hazard, Kentucky, Appalachian Educ. Broadcasting, Inc., Req: 88.1 MHz; Channel No. 201C, ERP: 100 kW; HAAT: 359 ft.

BPED-791017AD (New), Cleveland, Ohio, Cleveland Public Radio, Req: 90.3 MHz; Channel No. 212B, ERP: 50 kW; HAAT: 500 ft. (Mutually exclusive with renewal of WBOE.)

BPED-791115AJ (WRTI), Philadelphia, Pennsylvania, Temple Univ., Commonwealth System, Has: 90.1 MHz; Channel No. 211B, ERP: 5 kW; HAAT: 400 ft. (LIC), Req: 90.1 MHz; Channel No. 211B, ERP: 27.1 kW; HAAT: 372 ft.

BMPED-790719AB (WJDZ), Levittown, Puerto Rico, Community Educational Group, Corp., Has: 88.9 MHz; Channel No. 205D, TPO: .01 kW. (LIC), Req: 88.9 MHz; Channel No. 205B, ERP: 3 kW; HAAT: 1,765 ft.

[FR Doc. 80-17605 Filed 6-10-80; 8:45 am]

BILLING CODE 6712-01-M

[Report No. B-5]

FM Broadcast Applications Accepted for Filing and Notification of Cutoff Date

Released: June 5, 1980.

Cutoff Date: July 30, 1980.

Notice is hereby given that the applications listed in the attached appendix are accepted for filing. Because the applications listed in the attached appendix are in conflict with applications which were accepted for filing and listed previously as subject to a cut-off date for conflicting applications, no application which would be in conflict with the applications listed in the attached appendix will be accepted for filing.

Petitions to deny the applications listed in the attached appendix and minor amendments thereto must be on file with the Commission no later than the close of business on July 30, 1980. Any application previously accepted for filing and in conflict with the applications listed in the attached appendix may also be amended as a matter of right not later than the close of business on July 30, 1980. Amendments filed pursuant to this notice are subject to the provisions of Section 73.3572(b) of the Commission's Rules.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

BPH-10776 (New), Mullens, West Virginia, Slab Fork Broadcasting Co., Req: 92.7 MHz; Channel No. 224a ERP: 3 kW; HAAT: 243 ft.

BPH-791106AF (New), Kaplan, Louisiana, Mid-Acadiana Broadcasting Corp., Req: 97.7 MHz; Channel No. 249A ERP: 3 kW; HAAT: 300 ft.

BPH-791114AE (New), Rome, New York, Tillis Communications of NY, Inc., Req: 102.5 MHz; Channel No. 2738 ERP: 50 kW; HAAT: 414 ft.

BPH-791114AG (New), Rome, New York, Promedia Communications, Inc., Req: 102.5 MHz; Channel No. 2738 ERP: 50 kW; HAAT: 462 ft.

BPH-800212AK (New), St. Augustine, Florida, Radio San Augustine, Inc., Req: 105.5 MHz; Channel No. 288A ERP: 3 kW; HAAT: 263 ft.

BPH-800317AC (New), St. Augustine, Florida, Rose Ella Feagin, Req: 105.5 MHz; Channel No. 288A, ERP: 3kW; HAAT: 296 ft.

BPH-800317AH (New), Baxley, Georgia, Appling County Broadcasters, Req: 94.5 MHz; Channel No. 233C ERP: 100 kW; HAAT: 432 ft.

BPED-2424 WRVU, Nashville, Tennessee, Vanderbilt Student Communications, Inc., Has: 91.1 MHz; #216, ERP: 0.43 kW; 150 ft. Req: 91.1 MHz; #216, ERP: 4.5 kW; 660 ft.

[FR Doc. 80-17606 Filed 6-10-80; 8:45 am]

BILLING CODE 6712-01-M

[Report No. A-10]

TV Broadcast Application Accepted for Filing and Notification of Cutoff Date

Released: June 5, 1980.

Cutoff date: July 21, 1980.

Notice is hereby given that the applications listed in the attached appendix are accepted for filing. They will be considered to be ready and available for processing after July 21, 1980. An application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on July 21, 1980 which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C. no later than July 21, 1980.

Petitions to deny any application on this list must be on file with the Commission no later than the close of business on July 21, 1980.

Federal Communications Commission,

William J. Tricarico,

Secretary.

Report No. A-10

BPCT-791019KE (new), Des Moines, Iowa, Greater Des Moines Vision, Ltd., Channel 17, ERP: Vis. 1005 kW; HAAT: 1996 ft.

BPCT-790727KE (new), Des Moines, Iowa, The Independent Broadcasting Corp., Channel 17, ERP: Vis. 3043 kW; HAAT: 1261 ft.

BPCT-790821KF (new), New Orleans, Louisiana, United Broadcasting Corp. of Louisiana, Channel 38, ERP: Vis. 2600 kW; HAAT: 901 ft.

BPCT-800109KF (new), New Orleans, Louisiana, Oak Television of New Orleans, Inc., Channel 38, ERP: Vis. 2576 kW; HAAT: 946 ft.

BPCT-800114KG (new), Charleston, West Virginia, Appalachian Broadcasting Corporation, Channel 23, ERP: Vis. 3243 kW; HAAT: 1187 ft.

BPCT-791029KH (new), Brownsville, Texas, Tierra Del Sol Broadcasting Corp., Channel 23, ERP: Vis. 5000 kW; HAAT: 1470 ft.

BPET-790606KG (new), Jacksonville, North Carolina, University of North Carolina, Channel 19, ERP: Vis. 1104 kW; HAAT: 1879 ft.

BPCT-791219KG (new), Portland, Maine, Crosby Family Telecasters, Inc., Channel 51, ERP: Vis. 205 kW; HAAT: 245 ft.

BPCT-800121KE (KCEN(TV)), Temple, Texas, Channel 6, Inc., Channel 6, Change site; change HAAT to 1866 ft.

BPCT-800122KH (new), Albany, New York, The Great Albany County Telecasting Corp., Channel 45, ERP: Vis. 5000 kW; HAAT: 875 ft.

BPCT-800123KE (new), Dayton, Ohio, Channel 45 Company, Channel 45, ERP: Vis. 1390 kW; HAAT: 1049 ft.

BPCT-800129KE (new), El Paso, Texas, Superior Broadcasting of Texas, Channel 26, ERP: Vis. 1162 kW; HAAT: 1932 ft.

BPCT-800130KH (new), Concord, New Hampshire, Crosby Telecasters, Inc., Channel 21, ERP: Vis. 205 kW; HAAT: 340 ft.

BPCT-800124KF (WCJB(TV)), Gainesville, Florida, Gainesvile Television, Inc., Channel 20, Change site; change ERP. Vis. to 2818 kW; change HAAT to 930 ft.

BPCT-800214KE (new), Des Moines, Iowa, Columbia Iowa Television, Ltd., Channel 17, ERP: Vis. 2630 kW; HAAT: 1990 ft.

BPCT-800213KF (new), Laurel Mississippi, Capitol Broadcasting Company, Inc., Channel 18, ERP: Vis. 789 kW; HAAT: 782 ft.

BPET-800226KE (new major amendment), Alexandria, Louisiana, Louisiana ETV Authority, Channel 25, ERP: Vis. 1070 kW; HAAT: 1360 ft., Change of site

BPCT-800206KE (new), Enid, Oklahoma, Red Carpet Country TV, Broadcasting Channel 20, ERP: Vis. 1600 kW; HAAT: 266 ft.

[FR Doc. 80-17602 Filed 6-10-80; 8:45 am]

BILLING CODE 6712-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was accepted by the Regulatory Reports Review Staff, GAO, on June 6, 1980. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before June 30, 1980, and should be addressed to Mr. John M. Lovelady, Senior Group Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street NW., Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Nuclear Regulatory Commission

The NRC an extension-without-change clearance of the application, recordkeeping and reporting requirements contained in 10 CFR Part 34, Licenses for Radiography and Radiation Safety Requirements of Radiographic Operations. Pursuant to Part 34 licensees must maintain records of the latest calibration of each radiation survey instrument; keep records of leak test results for each sealed source of radioactive material; maintain a record of the quarterly physical inventory of sealed sources; keep a utilization log for each sealed source; maintain records of the inspection or audits they conduct quarterly to monitor the performance of their radiographers; maintain records of training for radiographers and radiographer assistants; and maintain records of film badge reports and records of dosimeter readings. Section 34.25(d) requires that licensees report to NRC within 5 days of the leak testing, any results which indicate the presence of 0.005 microcurie of removable radiographic material. Section 34.51 requires an application be filed by any licensee if the licensee seeks exemption from any of the requirements contained in Part 34. NRC estimates respondents to number approximately 360 licensees holding licenses for industrial radiography and that the recordkeeping burden averages 64 hours annually. Reports filed under section 34.25(d) will require 8 hours per report and any application filed under section 34.51 will require 16 hours approximately.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 80-17618 Filed 6-10-80; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Minority Advisory Committee; Meeting Cancellation

In FR Doc. 80-15936 appearing on page 35423 in the issue of Tuesday, May 27, 1980, the June 18-20 meeting of the Minority Advisory Committee, ADAMHA was announced. This meeting has been postponed and will be rescheduled at a later date.

Dated: June 5, 1980.

Elizabeth A. Connolly,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 80-17580 Filed 6-10-80; 8:45 am]

BILLING CODE 4110-88-M

Office of the Secretary

President's Committee on Mental Retardation; Meeting

The President's Committee on Mental Retardation was established by Executive Order to provide advice and assistance in the area of mental retardation to the President including evaluation of the adequacy of the national effort to combat mental retardation; coordination of activities of Federal agencies; provision of adequate liaison between foundations and other private organizations; and development of information designed for dissemination to the general public.

The Committee will meet on Tuesday, June 24, 1980, in Room 800, HHH Bldg, 200 Independence Avenue, S.W., Washington, D.C., and Wednesday, June 25, 1980, in the Pan American Room of the Mayflower Hotel, 1127 Connecticut Avenue, N.W., Washington, D.C., from 9:00 a.m. to 5:00 p.m. At the meeting the Committee will discuss full citizenship rights, humane service systems, trends in residential facilities, public awareness and prevention of mental retardation.

These meetings are open to the public. A translator for the Deaf will be available upon advanced request. The Hotel is barrier free.

Further information on the President's Committee on Mental Retardation may be obtained from Mr. Fred J. Krause, Executive Director, Room 4025, ROB #3, 7th & D Streets, S.W., Washington, D.C., telephone: (202) 245–7634.

Dated: May 30, 1980.

Fred J. Krause,

Executive Director, President's Committee on Mental Retardation.

[FR Doc. 80–17585 Filed 6–10–80; 8:45 am]

BILLING CODE 4110–92–M

National Institutes of Health; Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 44 FR 66697, November 20, 1979) is amended to reflect the following changes in the National Heart, Lung, and Blood Institute: (1) change in title of the Etiology of Arteriosclerosis and Hypertension Program to the Arteriosclerosis, Hypertension and Lipid Metabolism Program and clarification of its functions; and (2) clarification of the functions being performed in its Divisions of Extramual Affairs and Intramural Research.

Section HN–B, Organization and Functions, is amended as follows:

Under the Heading *National Heart, Lung, and Blood Institute (HN),* make the following changes:

1. Change the title of the *Etiology of Arteriosclerosis and Hypertension Program (HNH22)* to read "Arteriosclerosis, Hypertension and Lipid Metabolism Program (HNH22)." Amend item (1) by deleting "the etiology of arteriosclerosis and hypertension" and substituting "arteriosclerosis, hypertension and lipid metabolism". Amend item (3) by deleting "recommends" and substituting "determines".

2. Under the heading *Division of Extramural Affairs (HNH5),* delete item (4) and substitute the following: "(4) prepares and provides information material concerning the Institute's grant and contracts programs;".

3. Under the heading *Division of Intramural Research (HNH6),* delete item (1) and substitute the following: "(1) Plans, conducts, and directs a program of general laboratory and clinical research in heart, blood vessel, lung and kidney diseases; certain blood diseases such as sickle cell anemia and thalassemia; and development of technology related to cardiovascular and pulmonary diseases;".

Date: June 2, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80–17636 Filed 6–10–80; 8:45 am]

BILLING CODE 4110–08–M

Office of Refugee Resettlement; Statement of Organization, Functions, and Delegations of Authority

Part A, Office of the Secretary, of the Statement of Organization, Functions, and Delegations of Authority is amended to establish the Office of Refugee Resettlement, the Director of which is responsible to and reports directly to the Under Secretary for assigned functions.

Section 1. Part A, Office of the Secretary, is amended by the addition of a new Chapter AR, to describe the Mission, Organization and Functions of the Office of Refugee Resettlement. This material reads as follows:

AR.00 Mission

Under the supervision of the Under Secretary, the Office of Refugee Resettlement (ORR) plans, develops, and directs implementation of a comprehensive program for domestic refugee resettlement assistance. The Office coordinates all activities within the Department of Health and Human Services (HHS) directed toward the resettlement of refugees into American society. The Office provides direction and technical guidance to the nationwide administration of programs funded from the ORR refugee resettlement appropriation. It develops, recommends, and issues program policies, procedures, and interpretations to provide program direction. The Office monitors and evaluates the performance of States and other public and private agencies in administering these programs and supports actions to improve them. It provides national leadership in the development and coordination of national, public, and private programs giving refugee assistance. The Office administers and supervises from a programmatic perspective the administration of HHS grant programs providing assistance or services to refugees.

Section AR.10 Organization. The Office of Refugee Resettlement, under the supervision of the Director, consists of: Immediate Office of the Director of Refugee Resettlement, Division of Financial Management and Administration, Division of Operations, Division of Policy and Analysis.

Section AR.20 Function.—1. *The Immediate Office of the Director of Refugee Resettlement* is the functional manager for refugee affairs and is responsible for planning, developing and directing implementation of a comprehensive program for domestic refugee resettlement assistance. It provides the Director and Deputy Director with staff assistance on the full range of their responsibilities. a. *The Director of the Office of Refugee Resettlement* is directly responsible to the Under Secretary for carrying out HHS's refugee program. These responsibilities include: Coordination with the lead refugee program offices of other Departments; providing leadership in representing HHS's refugee policy, program and administration to a variety of governmental and non-governmental parties; acting as the coordinator of the total HHS refugee resettlement effort, whether or not funded by Refugee Act funds. The Director provides general supervision to the major components of ORR, including the regional offices, approves ORR strategies for funding priorities and meeting the service needs of refugees, approves special project grants that provide assistance or services to refugees or providers of refugee services, and is responsible for the efficient and effective utilization of the resources of the office. b. *The*

Deputy Director of Refugee Resettlement assists the Director of Refugee Resettlement in carrying out his/her ORR-wide responsibilities and performs other duties as the Director of ORR may prescribe.

2. *The Division of Financial Management and Administration* formulates estimates for refugee program and administrative budgets. Supervises the preparation of budget briefing materials for budget presentation at the OS, Departmental, OMB, and Congressional levels. The Division performs budget execution responsibilities which include: reviewing the budget approved by the Congress, recommending a financial plan for its execution, making funds and personnel allocations to ORR headquarters and regional offices, within guidelines of the approved financial plan; maintains budgetary controls to ensure observance of established ceiling on both funds and personnel and monitors compliance therewith; preparing requests for apportionment of appropriated funds.

The Division is responsible for control of funds for grants to States and other participating organizations and control of the Federal refugee program administrative budget. It provides advice and assistance on financial management to the regional offices and State agencies and coordinates a program of financial review of refugee program expenditures. The Division provides administrative support and services to the ORR headquarters.

The Division provides centralized management and administration of discretionary grants for ORR headquarters awards. Assures that all awarded discretionary grants conform with applicable statutes, regulations, and policies in financial and administrative areas.

3. *Division of Operations* provides direction for the operation of the ORR resettlement programs. The Division recommends to the Director priorities among various types of refugee services. It directs the implementation of innovative programmatic approaches to resettlement service delivery, identifies successful and effective programs and projects, and develops procedures for sharing such information with all refugee service providers. It coordinates national demonstration programs to support State and local services to refugees.

The Division devises strategies for providing technical assistance to State and local agencies, refugee self-help groups, and voluntary agencies; guides the development of and approves technical assistance plans; and supervises the execution of contracts for the provision of technical assistance. It oversees the operations of regional offices and provides programmatic advice to State agencies, local governments, voluntary agencies and refugee self-help groups on program guidelines and procedures.

The Division oversees the provision of information services, and orientation programs and insures a comprehensive program of publications in various languages for this purpose. It directs a national government information service on refugee resettlement, establishes a locator service to match resettled refugees with arriving relatives and administers a program that places unaccompanied children in foster care and monitors their progress.

The Division plans and guides an ongoing monitoring program operated through ORR's regional structure; trains regional staff to carry out their monitoring responsibilities. It reviews regional recommendations regarding the approval/disapproval of State plans; reviews regional monitoring reports on grantee performance identifying program deficiencies, and provides guidance on corrective actions to the region.

4. *The Division of Policy and Analysis* directs the development and interpretation of policy and regulations for the refugee program. It develops priorities among various types of refugee assistance on services taking into consideration funding availability, predicted effectiveness of options and emergent needs of new refugees. In accomplishing these tasks, it derives and implements means for assuring adequate involvement, comment and review from a variety of interested and knowledgeable parties.

The Division develops goals, criteria and standards for the refugee program and, in order to determine the degree of accomplishment, develops an evaluation criteria, and designs evaluations overseeing the technical aspects of implementation. Based on reviews, analyses, assessments and evaluation, makes recommendations changes in program policy, operation and administration.

The Division collects data on the changing needs of the refugee population providing direction in the design of needs assessments conducted by itself or other entities. The Division provides leadership to identify data need and sources, formulates data and reporting requirements, and assists regional offices, States and private agencies on data reporting and the resolution of reporting problems. The Division has responsibility for assuring that legislative requirements are defined and met. It seeks legal interpretation where such requirements or intent may be unclear. Further, it makes recommendations concerning aspects of legislation that require amendment. The Division prepares reports required by statute, Congressional requests, and Department needs, and prepares legislative, regulatory, operational and policy recommendations based on program analysis.

Section 2. Part A, Chapter AD (42 FR 63221, December 15, 1977) Section AD.20 is amended, adding a new subsection F as follows:

F. The Regional Office of Refugee Resettlement (AD(1–X)M):

1. Provides supervision and technical direction for the refugee program in the region; establishes regional program priorities; supplies oversight and guidance to regional refugee program staff.
2. Participates in meetings with public and private agencies involved with resettlement to explain and seek support for refugee resettlment activities.
3. Acts as primary contact with State and local governments, voluntary resettlement agencies and refugee self-help groups in the region. Periodically conducts service delivery assessments of the regional refugee program. Advises States on what HHS-type services refugees require; and recommends to headquarters that these services be made available.
4. Provides guidance about national refugee policy for the use of State, local and community service providers; assures that adequate services are available to meet the needs of the refugee communities and recommends to headquarters alternative approaches to providing services.
5. Assists States in the development of State plans to ensure that they adequately reflect the needs of local refugees; provides technical assistance to State social services agencies concerning refugee needs and other program requirements; provides guidance to State agencies in the development of purchase of services contracts, to ensure that the services meet the needs of refugees in a particular community; and monitors the services being provided, to ensure they are being provided in accordance with the terms of the contract.
6. Evaluates the relative cost-effectiveness of the services to be provided under grant/contract applications, and recommends approval or disapproval; conducts periodic reviews of local project

operations to ensure refugees are receiving quality services; and coordinates State and local refugee projects with other Federal services to avoid duplication of efforts.

7. Performs financial reviews of regional refugee expenditures to provide management with information on the efficient and effective use of funds and to ensure proper accounting; and reviews State social services expenditures to assure funds are being properly used.
8. Provides interpreter services for regional staff and, as possible and needed, on behalf of various providers of services in the region, and works closely with HHS regional staff on such matters as cost allocation, service delivery assessment, public affairs, and intergovernmental affairs.

Section 3. Part S, Sections SF.00 and SF.20E.1, (44 FR 17223 and 44 FR 17224 respectively, March 21, 1979) are amended as follows: "Section SF.00 is amended by deleting the phrase 'the Cuban, Indochinese and Russian refugee programs' from the 11th and 12th lines." Section SF.20E, is deleted in its entirety, and each remaining subsection is then sequentially relettered, beginning with the letter E.

Section 4. Past S, Section S.00 (44 FR 17218–19, March 21, 1979) is amended as follows: Section S.00 is amended by deleting the phrase "* * * the Cuban, Indochinese and the Russian refugee programs * * *" from the 16th, 17th and 18th lines.

Section 5. Chapter SD, Section SD.00 (44 FR 52765, September 10, 1979) is amended as follows: Section DS.00 is amended by deleting the phrase "* * * the refugee programs * * *" from the 21st and 22nd lines.

Dated: May 29, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-17638 Filed 6-10-80; 8:45 am]

BILLING CODE 4110-12-M

Office of Human Development Services; Statement of Organization, Functions, and Delegations of Authority

Part D, Chapter D of the Statement of Organization, Functions and Delegations of Authority of the Department of Health, Education, and Welfare, Office of Human Development Services (43 FR 33327–47, July 31, 1978) is amended to place the Administration on Aging's Executive Secretariat and Administration functions in the Office of the Commissioner.

Section DG.20 *Functions* is amended as follows:

Under the *Office of the Commissioner (DG)* make the following changes:

1. At the end of the functions of the *Office of the Commissioner (DG)* add the following:

Coordinates with OAM/HDS in providing management services, including personnel and administrative services to AoA. Conducts internal management analysis and serves as liaison with counterpart HDS components;

In cooperation with Executive Secretariat/HDS, operates the AoA Executive Secretariat, including correspondence control functions and other work-flow control services for the Office of the Commissioner; and maintains special document files required to conform to Federal policies and internal management policies. Coordinates and controls the issuance of AoA policy documents, including program instructions, technical assistance memoranda, and other policy issuances; and administers AoA word processing system.

2. Delete the following, from the *Division of Management and Budget (DGQ2)*, first paragraph, line 22 beginning with "Coordinate with * * *" and the remaining portion of this section

Dated: June 3, 1980.

Patricia Roberts Harris,

Secretary.

[FR Doc. 80-17637 Filed 6-10-80; 8:45 am]

BILLING CODE 4110-92-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Colorado 30061]

Invitation To Participate in Coal Exploration License; Application of Mobil Oil Corp.

Correction

In FR Doc. 80–16535, appearing on page 37306, in the issue of Monday, June 2, 1980, make the following correction.

On page 37306, first column, the second paragraph from the bottom should have read:

"Such written notice must be received by the above indicated persons at the addresses shown on or before July 2, 1980."

Realty Action—Amendment, Sale of Public Lands in Nye County, Nev.

The Notice of Realty Action published on pages 16354 and 16355 of the **Federal Register** (Vol. 45, No. 51) on Thursday, March 13, 1980, is hereby amended to change the time, date, and place of the sale. Parcels N–20615 and N–20622 will be offered for sale at 10:00 a.m. on each Tuesday, starting June 17, 1980, and continuing until both parcels are sold, or until the appraisals are no longer valid. The place of the sale is the Tonopah Resource Area Office, Building 102, Military Circle, Tonopah, Nevada 89049.

Dated: June 4, 1980.

Wm. J. Malencik,

Chief, Division of Technical Services.

[FR Doc. 80-17633 Filed 6-10-80; 8:45 am]

BILLING CODE 4310-84-M

Socorro District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Public Law 94–579, that a meeting of the Socorro District Grazing Advisory Board will be held on Thursday, July 10, 1980.

The meeting will begin at 9:00 a.m. in the Hospitality Room of the First State Bank at 103 Manzanares Avenue NE, Socorro, New Mexico.

The agenda for the meeting will include:

(1) Consultation on range improvement projects for FY 1981.

(2) Update on the Section 8 consultations in the East Socorro Area.

(3) Update on the Stewardship Program.

(4) Public comment period.

(5) Arrangements for the next meeting.

The meeting is open to the public. Interested persons may make oral statements to the Board between 1:00 and 2:00 p.m. or file written statements for the Board's consideration. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meeting will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Arlen P. Kennedy,

District Manager.

[FR Doc. 80-17635 Filed 6-10-80; 8:45 am]

BILLING CODE 4310-84-M

Geological Survey

Oil and Gas and Sulphur Operations in the Outer Continental Shelf.

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Chevron U.S.A., Inc., Unit Operator of the Main Pass Block 40 Field Federal Unit Agreement No. 14–08–001–3847, submitted on May 27, 1980, a proposed Supplemental Plan of Development/Production describing the activities it proposes to conduct on the Main Pass Block 40 Field Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 4, 1980.

J. Rogers Pearcy,

Acting Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80–17624 Filed 6–10–80; 8:45 am]

BILLING CODE 4310–31–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: This Notice announces that Pennzoil Company, Unit Operator of the High Island Block A–351 Federal Unit Agreement No. 14–08–0001–16930, submitted on May 19, 1980, a proposed Annual Plan of Development/Production describing the activities it proposes to conduct on the High Island Block A–351 Federal Unit.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OSC Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public veview at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N. Causeway Blvd., Metairie, Louisiana 70002, Phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 4, 1980.

J. Rogers Pearcy,

Acting Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80–17625 Filed 6–10–80; 8:45 am]

BILLING CODE 4310–31–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a proposed supplemental development and production plan.

SUMMARY: Notice is hereby given that Gulf Oil Exploration and Production Company, has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 1256, Block 172, South Timbalier Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 4, 1980.

J. Rogers Pearcy,

Acting Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80–17626 Filed 6–10–80; 8:45 am]

BILLING CODE 4310–31–M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf.

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that Exxon Company, U.S.A., has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS–G 1096 and OCS–G 3188, Blocks 99 and 100, West Delta Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Geological Survey is considering approval of the Plan and that it is available for public review at the offices of the Conservation Manager, Gulf of Mexico OCS Region, U.S. Geological Survey, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: U.S. Geological Survey, Public Records, Room 147, open weekdays 9:00 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone 837–4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the U.S. Geological Survey makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised Section 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 4, 1980.

J. Rogers Pearcy,

Acting Conservation Manager, Gulf of Mexico OCS Region.

[FR Doc. 80-17627 Filed 6-10-80; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

[INT DES 80-40]

Availability, Draft Environmental Impact Statement and Draft General Management Plan for Lowell National Historical Park, Mass.; and Related Public Meetings

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, as amended (Pub. L. 91-190); 83 Stat. 852 (42 U.S.C. 4321-4346), the Department of the Interior has prepared a draft environmental impact statement for the Draft General Management Plan for Lowell National Historical Park (Pub. L. 95-290); 92 Stat. 292 (16 U.S.C. 410 cc 21(b)(1)). The draft environmental impact statement and draft general management plan are available from or may be inspected at the Superintendent's Office, Lowell National Historical Park, 171 Merrimack Street, Lowell, Massachusetts 01852 or the North Atlantic Regional Office, National Park Service, 15 State Street, Boston, Massachusetts 02109.

The draft statement describes the affected environment, four alternatives for development and use, and the impacts of each alternative with an emphasis on the preferred alternative. The draft plan focuses on the preferred alternative and provides a more detailed discussion of its features and implementation. The draft statement indicates the cooperation of the Lowell Historical Preservation Commission in the Service's planning work.

The four alternatives in the draft statement address interpretive and visitor use, resources management and general development of National Park Service related structures and sites. The alternatives differ primarily in the siting of the major Park Service interpretive facility, such as the Wannalancit Textile Mill, or at the Boott Mill, or a combination of interpretive facilities at the two mills and at old City Hall. The fourth alternative, no action, would be to sustain the present interpretive facility at the temporary Park Headquarters Office. An Economic Impact Statement has also been prepared and is available upon written request to the Park Superintendent.

Notice is also hereby given that the National Park Service will hold two public meetings to enable the public to comment on the draft Environmental Impact Statement and the draft General Management Plan for Lowell National Historical Park. The two public meetings will be held on the fourth floor of the Mack Building, 25 Shattuck Street, Lowell, Massachusetts. The first meeting will be held at 10:00 a.m. on June 25, 1980, and the second will be held at 7:30 p.m. on June 26, 1980.

Written comments on the draft environmental statement and the draft general management plan are invited and may be addressed to the Superintendent, Lowell National Historical Park, 171 Merrimack Street, Lowell, Massachusetts 01852. Comments will be accepted for 60 days from the date of this notice.

Dated: June 6, 1980.

James D. Webb,

Acting Assistant Secretary of the Interior.

[FR Doc. 80-17659 Filed 6-10-80; 8:45 am]

BILLING CODE 4310-70-M

Water and Power Resources Service

Draft Supplement to the Final Environmental Statement for Basin Alternatives, Water Allocations, and Reservoir Operations, New Melones Lake, Central Valley Project, California; Public Hearing

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft supplement to the final environmental statement for Basin Alternatives, Water Allocations, and Reservoir Operations, New Melones Lake, Central Valley Project, in Tuolumne, Calaveras, San Joaquin, and Stanislaus Counties in California. This statement (INT DES 80-38, dated June 5, 1980) was made available to the public on that date.

The three alternative "Stanislaus River Basin" areas, starting with the largest area and proceeding to the smallest, are as follows:

a. *Basin 3*—Topographic drainage basin and water rights and water agreement areas, the Farmington and Cooperstown subareas, and the Central San Joaquin Water Conservation District.

b. *Basin 2*—All of basin 3 less the Central San Joaquin Water Conservation District.

c. *Basin 1*—All of basin 2 less portions of the Farmington and Cooperstown subareas.

Along with discussing the use of water in the three basin areas, the statement discusses the use of the remaining New Melones supply in other "local" areas primarily adjacent to the "basins" and also in other areas elsewhere within the Central Valley Project without an assured water supply.

In addition to operating the New Melones Reservoir as authorized, the Secretary of the Interior requested consideration be given to three other possible alternative types of reservoir operations. The four alternative New Melones operating conditions evaluated are:

a. Alternative 1—Full Reservoir as authorized. New Melones storage at 2,400,000 acre-feet with a water surface elevation at 1,088 feet.

b. Alternative 2—Topographic Drainage Basin and Minimum Storage for D-1422. New Melones storage required of about 1,195,000 acre-feet at water surface elevation of 968 feet which does not include the storage required for flood control purposes.

c. Alternative 3—Minimum Storage for D-1422. New Melones storage required of about 605,000 acre-feet at a water surface elevation of 879 feet which does not include storage for flood control purposes. (This is the storage estimated by the Water and Power Resources Service (formerly the Bureau of Reclamation) to be needed to meet the initial conditions for the functions provided in Decision 1422 of the California State Water Resources Control Board.)

d. Alternative 4—Storage Below Parrotts Ferry Bridge. New Melones storage provided of about 300,000 acre-feet at water surface elevation 808 feet which does not include storage for flood control purposes.

Two public hearing dates have been scheduled to receive comments on the draft supplement from interested individuals and organizations. The locations, dates, and times for the hearings are as follows:

1. In Modesto, California, in the Forum Building, Room 110, of Modesto Jr. College at 435 College Avenue on July 16, 1980, starting at 7 p.m.

2. In Sacramento, California, in the Empire Room A of the Woodlake Quality Inn at Highway 160 and Canterbury Road, on July 17, 1980, starting at 7 p.m.

Each hearing will continue until all persons desiring to comment have been heard.

Individuals and representatives of organizations desiring to present their views at the hearing should contact the Regional Environmental Quality Officer, Water and Power Resources Service, 2800 Cottage Way, Sacramento, California 95825 (telephone 916-484-4792).

Requests for scheduling of oral presentations will be accepted until 4 p.m., July 14, 1980. Requests to speak can also be made at the registration desk at the hearings. Insofar as practicable, speakers will be scheduled according to the time preferences indicated in their requests.

The time permitted for oral presentations at the hearing may be limited to 10 minutes per speaker, depending on the number of presentations scheduled. Speakers will not be permitted to trade or consolidate their scheduled times to make longer individual presentations. However, the person presiding at the hearing may allow additional oral comments by anyone after all scheduled speakers have been heard. Written statements by persons who desire to supplement their oral presentations and by those unable to attend the public hearing may be submitted to the Regional Evnironmental Quality Officer (address given above) through July 30, 1980, for inclusion in the hearing record. Please label comments submitted by mail as "Public Hearing" comments on the draft supplement.

Copies of the draft supplement are available for public examination at the Mid-Pacific Regional Office of the Water and Power Resources Service, 2800 Cottage Way, Sacramento, California 95825. Single copies of the statement may be obtained without charge by writing to the Regional Director, Water and Power Resources Service, at the address given above for the Mid-Pacific Regional Office.

Dated: June 5, 1980.

Aldon D. Nielsen,

Acting Assistant Commissioner of Water and Power Resources.

[FR Doc. 80-17579 Filed 6-10-80; 8:45 am]

BILLING CODE 4310-09-M

Temporary Water Service Contract With Westlands Water District for 1981; Availability of the Proposed Contract for Public Review and Comment

The Department of the Interior, through the Water and Power Resources Service, has submitted to Congress for 90-day oversight a temporary water service contract with Westlands Water District. The major purpose of the contract is to provide the district with an agricultural and municipal, industrial, and domestic (M&I) water supply from the San Luis and Coalinga Canals and Mendota Pool, Central Valley Project (CVP), California.

The district is located west of the city of Fresno in Fresno and Kings Counties, California, and encompasses an area of approximately 600,000 acres.

The proposed contract would provide for 1,100,000 acre-feet of water from San Luis Unit facilities and 50,000 acre-feet of water from the Mendota Pool. The term of the proposed contract is for 1 year commencing January 1, 1981, and expiring December 31, 1981. The water rates in the proposed contract are: $8.00 per acre-foot for 900,000 acre-feet of agricultural water furnished from the San Luis Unit facilities; $8.10 per acre-foot for 50,000 acre-feet of agricultural water furnished from the Mendota Pool; $11.80 per acre-foot for 200,000 acre-feet of additional agricultural water furnished from the San Luis Unit facilities; $11.80 per acre-foot for any interim agricultural water furnished; and $21.80 per acre-foot for water used for M&I purposes.

For further information and copies of the proposed contract, please contact Mr. John Budd, Division of Water and Power Resources Management, Water and Power Resources Service, 2800 Cottage Way, Sacramento, California 95825, telephone No. (916) 484-4380.

Comments on the proposed contract will be received up to 30 days from the date of this notice. Any comments received on the proposed temporary water service contract will be considered in future negotiations with the district for a long-term water service contract. All written correspondence concerning the proposed contract is available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

Date: June 5, 1980.

R. Keith Higginson,

Commissioner of Water and Power Resources.

[FR Doc. 80-17586 Filed 6-10-80; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Application

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protests to an application may be filed with the Regional Office named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of the Property

Notice No. 35

MC 107403 (Sub-1286TA), filed October 11, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Petroleum products, in bulk, in tank vehicles,* (1) from Sidney, NE to Morgan County, CO, Goshen County, WY, and Shannon County, SD; (2) from Scottsbuff, NE to Sedgwick, Logan, Phillips, Yuma, Washington and Morgan Counties, CO; Goshen County, WY; and Shannon County, SD; and (3) from Denver, CO and points within 25 miles of Denver, CO to points in that part of NE west of a north-south line centering in N. Platte, NE and including N. Platte, NE, for 180 days. Supporting shipper(s): Spruce Oil Corp., 1776 Lincoln, Denver, CO 80217. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7 St., Philadelphia, PA 19106.

MC 111812 (Sub-693TA), filed September 13, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: Lamoyne Brandsma, P.O. Box 1233, Sioux Falls, SD 57101. Authority sought to operate as a *common* carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting: Self-contained portable aerial lifts, from the facilities of Continental Lift Corporation

located at or near Austin, MN to points in AZ and CA, for 180 days. Supporting shipper: Continental Lift Corporation, Old Highway 218 South, Austin, MN 55912. Send protests to: Mr. James L. Hammond, District Supervisor, Bureau of Operations and Compliance, Interstate Commerce Commission, 455 Federal Building, Pierre, SD 57501.

MC 135762 (Sub-11TA), filed December 26, 1979. Applicant: JOHN H. NEAL, INC., P.O. Box 3877, Ft. Smith, AR 72913. Representative: Don A. Smith, P.O. Box 43, Ft. Smith, AR 72902. Contract carrier over irregular routes: (1) *New furniture,* crated and uncrated, from Ft. Smith, AR to points in the U.S. (except AK and HI), (2) *Equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1) from points in the U.S. (except AK and HI) to Ft. Smith, AR for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Garrison Furniture Company, Ft. Smith, AR 72901. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 141403 (Sub-1TA); filed November 19, 1979. Applicant:ROBERT RUPPRECHT d.b.a. REPCO, 900 N. Watertown Rd., Jefferson, WI 53549. Representative: Michael Varda, 121 S. Pinckney St., Madison, WI 53703. *Malt beverages* from Milwaukee, WI to points in the UP of MI, except Sault Ste. Marie, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): S & S Beverage Co., 122–24 W. Ayer, Ironwood, MI 49938. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 144622 (Sub-145TA), filed January 31, 1980. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Chemical products, refractories, and foundry supplies* from Chicago, IL to all points in TX, for 180 days. Supporting shipper(s): Foseco, Inc., 20200 Sheldon Rd., Brookpark, OH 44142. Send protests to: Ruth Allport, TCS, ICC, 411 W. 7th St., Suite 600, Ft. Worth, TX 76102.

MC 145623 (Sub-7TA), filed September 26, 1979. Applicant: O K MESSENGER SERVICE, INC., 9107 Telegraph Road, Taylor, MI 48180. Representative: Edwin M. Snyder, Sullivan and Leavitt, P.C., 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167, (313) 349–3980. Authority sought to operate as a *contract carrier* by motor vehicle over *irregular* routes in the transportation of *structural steel beams, angles, channels, and plates from Plymouth, MI to points in AL, AR, FL, GA, ID, IA, KS, LA, MD, MN, MS, MO, NE, NH, NJ, OK, RI, SC, TX, UT under a continuing contract with Federal Pipe and Steel Corporation,* for 180 days. Supporting shipper(s): Federal Pipe and Steel Corporation, 41600 Joy Road, Plymouth, MI 48170. Send protests to: Everett McKinley, Dirksen Bldg., Rm. 1386, 219 South Dearborn Street, Chicago, IL 60604.

MC 148272 (Sub-1TA), filed September 25, 1979. Applicant: ERICK W. BEUTE & DAUGHTERS INC., 3901 Bell St., Lawrence Park, PA 16511. Representative: Joseph F. MacKrell, 120 West 10 Street, Erie, PA. 16501. *Contract carrier;* irregular route: (1) *Scrap iron and pig iron,* from the facilities of General Electric Company, Erie, PA, and from the dock facilities of the Port of Erie, Erie, PA to the facilities of General Electric Company, Elmira, NY; and (2) *Iron casting,* from the facilities of General Electric Company, Elmira, NY, to the facilities of General Electric Company, Erie, PA, for 180 days. An underling ETA seeks 90 days authority. Supporting shipper(s): General Electric Company, 100 Woodlawn Ave., Elmira, NY 14902; General Electric Company, 2901 East Lake Rd., Erie, Pa 16511. Send protests to: I.C.C., Fed. Res. Bank Budg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 148703 (Sub-1TA), filed December 18, 1979. Applicant: HUGH MADEWELL & BILLY MADEWELL, INC., P. O. Box 386, Jones, OK 73049. Representative: Ray K. Babb, Jr., 1108 N. W. 16th, Oklahoma City, OK 73106. *Corrosive scrap metal, materials and supplies used in the manufacture of lead ingots and lead ingots,* between the facilities of Refined Metals Corporation in Memphis, TN, Birmingham, AL, St. Louis & Kansas City, MO, Burlington, IA, Dallas, TX, Oklahoma City, OK, Logansport, IN, Lonoke, AR, & Jacksonville, FL, for 180 days. Supporting shipper(s): Refined Metals Corporation, 1108 N.W. 16th, Oklahoma City, OK 73106. Send protests to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street Suite, 600, Fort Worth, TX 76102.

MC 148952 filed November 27, 1979. Applicant: JOHN G. GALVIN, d.b.a. INSTANT CARGO EXPRESS, P.O. Box 658, Derry, NH 03038. Representative: John G. Galvin (same address as above). *General commodities* (except those of unsual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in MA on the one hand, and on the other, points in NH, and Caledonia, Orange, Rutland, Washington, Winham, Windsor, Counties, VT., and York, Androscoggin, Cumberland, Oxford and Kennebec Counties, NE., for 180 days. Supporting shipper(s): Ford Aerospace & Communications Corporation, P.O. Box 4677, Manchester, NH 03108; Littleton Savings Bank, 85 Main Street, Littleton, NH 03561. Send protests to: ICC, 150 Causeway St., Room 501, Boston, MA 02114.

Notice No. F–32

The following applications were filed in Region I. Send protests to Regional Authority Center, Interstate Commerce Commission, 150 Causway St., Rm. 501, Boston, MA 02114.

MC 150909 (Sub-1–1TA), Filed May 30, 1980. Applicant: ROBERT B. HEBERT AND REGINALD L. HEBERT, d.b.a. HEBERT BROS., R.F.D. Box 61, Madawaska, Maine 04756. Representative: John C. Lightbody, Esq., Murray, Plumb & Murray, 30 Exchange Street, Portland, Maine 04101. *Contract carrier,* irregular routes, in the transportation of paper and paper mill materials and supplies, pursuant to a bilateral contract with Fraser Paper Limited between the premises of Hebert Bros. in Madawaska, ME and points in CT, DE, MD, MA, NH, NJ, NY, PA, RI, and VT.

MC 148127 (Sub-103TA), filed May 30, 1980. Applicant: LINEHAUL EXPRESS CORPORATION, Post Office Box 5078, Manchester, New Hampshire 03108. Representative: Neal R. Michaud, Post Office Box 5078, Manchester, New Hampshire 03108. *Pet food and foodstuffs* (except in bulk, in tank vehicles) from the facilities of the Ralston Purina Company at or near Dunkirk, NY to points in CT, ME, MA, NH, RI, and VT restricted to shipments destined to the named destination states. Supporting shipper: Ralston Purina Co., Checkerboard Square, St. Louis, MO 63188.

MC 59640 (Sub-1–5TA), filed May 29, 1980. Applicant: PAULS TRUCKING CORPORATION, Three Commerce Drive, Cranford, New Jersey 07016. Representative: Michael A. Beam, 301 Blair Road, Woodbridge, New Jersey 07095. *Contract carrier:* irregular routes; *Such commodities as are dealt in by toy and variety stores, and materials, equipment and supplies used in the conduct of such businesses,* (except commodities in bulk), between Dallas and Houston, TX, Compton and San Jose, CA, on the one hand, and, on the other, those points on and east of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County,

MN, then north along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada. Supporting shipper: Lash-Tamaron Distributors, Div. of Toys "R" Us, Inc., Rochelle Park, NJ. Hearing site: Newark, NJ, or New York, NY.

MC 143989 (Sub-1–1TA), filed May 28, 1980. Applicant: BREEN MOUNTAIN CARRIERS, INC., P.O. Box 1319, Albany, New York 12201. Representative: Gordon L. Sands, P.O. Box 1319, Albany, New York 12201. *Contract, Irregular Plastic materials,* between Pittsfield, MA, and Selkirk, NY and from Pittsfield, MA to points in New Jersey and New York. Restricted to transportation in temperature controlled equipment. Supporting shipper: General Electric Company of Pittsfield, MA.

MC 141932 (Sub-1–5TA), filed May 27, 1980. Applicant: POLAR TRANSPORT, INC., 176 King Street, Hanover, MA 02339. Representative: Alton C. Gardner, 176 King Street, Hanover, MA 02339. *Chemicals,* and materials, equipment and supplies used in the manufacture, application and distribution of chemicals (except commodities in bulk and commodities the transportation of which, because of size or weight, requires the use of special equipment), from points in DE, FL, GA, IL, MD, MO, NJ, NY, PA, TN, VA and WV to points in CT, ME, MA, NH and RI. Restricted to the transportation of traffic for E. & F. King & Co., Inc., Supporting shipper: E. & F. King & Co., Inc. of Norwood, MA.

MC 148802 (Sub-1–1TA), filed May 27, 1980. Applicant: R. P. M. MESSENGER SERVICE, 3387 Quakerbridge Road, Mercerville, NJ 08619. Representative: John M. Ballenger, Major, Sage and King, 6121 Lincolnia Rd., Suite 400, Alexandria, VA 22312. *General commodities* (except Class A & B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and articles of unusual value) between points in Somerset, Mercer and Middlesex Counties, NJ, Philadelphia, Montgomery and Bucks Counties, PA, New York, NY, and Nassau County, NY, restricted against the transportation of packages or articles weighing in the aggregate more than 50 pounds from one consignor to one consignee at any one time, in express package delivery service. There are eight supporting shippers.

MC 148632 (Sub-1–3TA), filed May 27, 1980. Applicant: DIXON LEASING CO., INC., a corporation, 2620 Old Egg Harbor Road, Lindenwold, NJ 08021. Representative: Robert B. Einhorn, Esquire, 3220 P.S.F.S. Building, 12 South 12th Street, Philadelphia, PA 19107. *Insulation materials, expanded plastic insulation,* with aluminum pre-attached. *From* Moorestown, NJ *to* points and places in the States of AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, IA, KS, KY, LA, ME, MI, MN, MS, MO, MT, NB, NV, NH, NM, NC, OH, OK, OR, PA, SC, TN, TX, UT, VT, WA, WV, WI, and WY. Supporting shipper: Thermacon Industries, Inc., of Moorestown, New Jersey.

MC 148632 (Sub-1–2TA), filed May 27, 1980. Applicant: DIXON LEASING CO., INC., a corporation, 2620 Old Egg Harbor Road, Lindenwold, NJ 08021. Representative: Robert B. Einhorn, Esquire, 3220 P.S.F.S. Building, 12 South 12th Street, Philadelphia, PA 19107. *Fibrous glass products* and *materials and supplies* used in the installation thereof. From the facilities of Owens-Corning Fiberglas Corporation located at or near Conroe, TX and Waxahachie, TX, to all points in the United States in and east of ND, SD, NB, KS, OK, and TX. Supporting shipper: Owens-Corning Fiberglas Corporation of Toledo, Ohio 43659.

MC 145702 (Sub-1–1TA), filed May 27, 1980. Applicant: TRANSURFACE CARRIERS, INC., P.O. Box 271, Northboro, MA 01532. Representative: Bernard P. Rome, 31 Milk Street, Boston, MA 02109. *Contract carrier:* irregular routes: (1)(a) *Such commodities as are used or dealt in by wholesale and retail chain stores* (except in bulk); (b) *such commodities as are used in the manufacture of food and beverage products* (except in bulk); and (c) *such commodities as are used in the manufacture of industrial, pharmaceutical, agricultural and household products* (except in bulk), from Groton, CT to points in AL, MN, and SC; (2) *oxide of iron, lamp black, paint, barytes, silica, earth pigment, and umber* (except in bulk), from Easton, PA to points in AL, AZ, MO, and NM; (3) *oxide of iron, lamp black, paint, barytes, silica, earth pigment, and umber* (except in bulk), from East St. Louis, IL to points in AZ; (4) *oxide of iron, lamp black, paint, barytes, silica, earth pigment, and umber* (except in bulk), from Slatington, PA to points in AL, AR, AZ, CA, CT, FL, GA, IL, IN, KY, LA, MA, MI, MO, MN, NJ, NM, NY, NC, OH, OR, SC, TN, TX, and WI; (5)(a) *such commodities as are used in the manufacture of food and beverage products* (except in bulk); (b) *such commodities as are used in the manufacture of industrial, agricultural, and household products* (except in bulk); (c) *medical products* (except in bulk); and (d) *pharmaceuticals* (except in bulk), from Terre Haute, IN to points in NM; (6) *pyrophylite, talc, and clay* (except in bulk), from Victorville, CA to points in NM; (7) *lime and limestone* (except in bulk), from Lucerne Valley, CA to points in NM; and (8) *iron oxide, earth pigment, and chromium oxide* (except in bulk), from Emeryville, CA to points in AZ and NM for the account of Pfizer, Inc. Supporting shipper: Pfizer, Inc., 235 East 42nd Street, New York, NY 10017.

MC 140846 (Sub-1–1TA), filed May 28, 1980. Applicant: CENTRAL DELIVERY SERVICE OF MASSACHUSETTS, INC., 125 Magazine Street, Boston, MA 02119. Representative: Jeremy Kahn, Suite 733, Investment Building, 1511 K Street NW., Washington, DC 20005. Contract, Irregular, *Such commodites* as are dealt in or used by promotional discount department stores, between the facilities of Caldor, Inc. at or near Norwalk, CT, on the one hand, and, on the other, the facilities of Caldor, Inc. at or near Bedford, NH, Framingham, Northampton, Saugus, Methuen, Burlington, Salem, Weymouth, Springfield, Stoneham, Chicopee, Brighton, Worcester, Chelmsford, Westfield, and Norwell, MA and Woonsocket, RI, restricted (1) to transportation performed under a continuing contract or contracts with Caldor, Inc. Norwalk, CT; (2) against the transportation of any package or article weighing more than 50 pounds, and each package or article shall be considered as a separate and distinct shipment; (3) against the transportation of packages or articles weighing in the aggregate more than 100 pounds from one consignor at one location to one consignee at one location on any day; and (4) to the delivery of shipments within 12 hours of the time tendered for transportation. Supporting shipper: Caldor, Inc. of Norwalk, CT.

MC 26639 (Sub-1–1TA), filed May 28, 1980. Applicant: DEL TRANSPORT, INC., 4 Crow Point Road, Lincoln, RI 02865; (P.O. Box 6125) Providence, RI 02940). Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. (1) *Scrap plastic,* from Warren, RI to Mansfield, TX, and (2) *plastic sheets,* from Mansfield, TX to Warren, RI for 180 days. Supporting shipper: American Tourister, Inc., 91 Main Street, Warren, RI 02885.

MC 124328 (Sub-1–6TA), filed May 29, 1980. Applicant: BRINK'S, INCORPORATED, Thorndal Circle, Darien, CT 06820. Representative: Richard H. Streeter, Wheeler & Wheeler, 1729 H Street NW., Washington, DC 20006. *Contract carrier,* irregular routes, transporting *precious metal chemcial products* between Huntsville, Alabama

and Freeport, Texas under continuing contract with Dow Chemical U.S.A.

MC 150903 (Sub-1–1TA), filed May 29, 1980. Applicant: H-N TRUCKING CO., INC., 886 Cranston Street, Cranston, RI 02920. Representative: Richard M. Peirce, Roberts, Carroll, Feldstein & Tucker, Inc., Ten Dorrance Street, Providence, RI 02903. *Liquors, alcoholic (including Wines and High Wines) including those in bond; malt liquor including ale, beer, beer tonic, cereal, Porter or Stout; non-alcoholic beverages inculuding carbonated and non-carbonated liquids, juices and syrups; and dry mixers for beverages, alcoholic or non-alcoholic in glass, bottles, metal cans, or containers, decanters or figurine-type inner containers, glass in wicker baskets, glass in metal containers, boxes, barrels, carboys, in bulk in barrels, tank trucks or containerized freight shipments, and empty beverage containers of all types, including bottles, cans, barrels, glass in metal containers and wicker baskets, carboys and boxes,* between the following points: CT, DE, KY, MD, ME, MA, NH, NJ, NY, NC, PA, RI, VA, VT and WV. Supporting shippers: (1) Wayne Distributing Co., Inc., 404 Walcott Street, Pawtucket, RI 02860. (2) Providence Newport Distributing Co., 491 Silver Spring Street, Providence, RI. (3) Considine Boston Distributing Co., Inc., 245 University Avenue, Westwood, MA 02090.

MC 150899 (Sub-1–1TA), filed May 28, 1980. Applicant: F. L. LOWE TRUCKING COMPANY, 27 Crossman Street, Mattapan, MA 02126. Representative: Grimes Oil Co., Inc., 165 Norfolk Street, Dorchester, MA 02124. *Petroleum products,* from Boston, MA and its commercial zone to points in NH. Supporting shipper: Grimes Oil Co., Inc., 165 Norfolk Street, Dorchester, MA 02124.

MC 150186 (Sub-1–1TA), filed February 27, 1980. Applicant: BEVERAGE TRUCKING, INC., 60 Robbins Road, Springfield, MA 01104. Representative: Patrick A. Doyle, 60 Robbins Road, Springfield, MA 01104. *Contract carrier,* irregular routes, *flour and such commodities as are dealt in or used by manufacturers and distributors of baking matter (except commodities in bulk)* between points in Buffalo, NY to points in MA and CT for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Thompson Bakery Supplies, Inc., West Springfield, MA 01089.

MC 145914 (Sub-1–4TA), filed May 22, 1980. Applicant: COASTAL TRUCK LINES, INC., How Lane, P.O. Box 2015, New Brunswick, NJ 08903. Representative: Lawrence S. Burstein, Esq., One World Trade Center, Suite 2373, New York, NY 10048. Contract, irregular: *bakery goods, No. 1, other than frozen, dishes or ice cream cones, edible No 1, dust, meal or bread crumbs, chips, twists or puffs, sandwich spreads, No. 1, including cheese spreads, peanuts;* (2) material, equipment and supplies used in manufacture, distribution and sale of products in (1) above in Truckload lots between the facilities of Nabisco, Inc., site of Nabisco, Inc., Henrico City, VA, near Sandston, VA, on the one hand, and on the other, Baton Rouge, LA, Lafayette, LA, New Orleans, LA, Jacksonville, FL, Miami, FL, Orlando, FL, Pensacola, FL, Riviera Beach, FL, and Tampa, FL. Supporting shipper: Nabisco, Inc., East Hanover, NJ 07936.

MC 93147 (Sub-1–2TA), filed May 22, 1980. Applicant: DELTA TRANSPORT CORPORATION, 844 Union Street, P.O. Box 546, West Springfield, MA 01089. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in NY, MA, and RI, on the one hand, and points in the contiguous 48 states, to shipments originating at the named origins and destined to the named destinations of Premoid Corporation. Supporting shipper: Premoid Corporation, West Springfield, MA 01089.

MC 93147 (Sub-1–1TA), filed May 22, 1980. Applicant: DELTA TRANSPORT CORPORATION, 844 Union Street, West Springfield, MA 01089. Representative: James M. Burns, 1383 Main Street, Suite 413, Springfield, MA 01103. Expandable Polystyrene, Equipment, materials and supplies used in the manufacture, sale and distribution of expandable polystyrene, except commodities in bulk, between points in MA and points in the contiguous 48 states. Restricted to shipments originating at the named origins and destined to the named destinations of Korfil Incorporated. Supporting shipper: Korfil Incorporated, P.O. Box 123, Chicopee, MA 01014.

MC 142082 (Sub-1–1TA), filed May 27, 1980. Applicant: OLIVER BROWN TRUCKING CO., INC., 700 South Avenue, Middlesex, NJ 08846. Representative: Eugene M. Malkin, Suite 1832, Two World Trade Center, New York, NY 10048. *Contract carrier,* irregular routes: *General commodities* (except articles of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities utilized by E. I. du Pont de Nemours and Company, under a continuing contract(s) with E. I. du Pont de Nemours and Company. Supporting shipper(s): E. I. du Pont de Nemours and Company, 1007 Market Street, Wilmington, DE 19898.

MC 148292 (Sub-1–2TA), filed May 27, 1980. Applicant: J. POSA, INC., One N. First St., Fulton, NY 13069. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. (1) *Malt beverages, in containers and related advertising materials,* from the facilities of Stroh's Inc. at Detroit, MI to points in NC, NY, PA, TN, VA, and WV, (2) *Materials, supplies and equipment used in the manufacture, sale, and distribution of malt beverages, and empty returned malt beverage containers,* from points in the destination states in (1) above to the facilities of Stroh's Inc. at Detroit, MI. Supporting shipper(s): There are 25 statements in support attached to this application which may be examined at the I.C.C. Regional Office, in Boston, MA.

MC 143552 (Sub-1–1TA), filed May 27, 1980. Applicant: CELEWEND ASSOCIATES, INC., 1 Whitfield Court, Caldwell, NJ 07006. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Contract carrier:* irregular routes: *Washing, cleaning and scouring compounds, fabric or textile softeners, soap and soap powders (except commodities in bulk in tank vehicles),* From points in the Brockport, NY; Bristol, PA; Wilmington, DE; and Columbus, OH Commercial Zones, To points in the states of CA, CO, FL, GA, IL, LA, MA, MN, MO, OH, PA, TX, VA, and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Purex Corporation, 1414 N. Radcliffe St., Bristol, PA 19007.

MC 150878 (Sub-1–1TA), filed May 27, 1980. Applicant: HOWARD MARTIN TRUCKING, INC., R.D. #1, Bruyer, Rd., Cassadaga, NY 14718. Representative: Gregory B. Fraser, Ronald W. Malin, Bankers Trust Bldg., Jamestown, NY 14701. *Contract Carrier, Irregular Routes:* (1) *malt beverages and* (2) *empty malt beverage containers,* (1) from Columbus, OH and Detroit, MI to Jamestown, NY and (2) from Jamestown, NY to Columbus, OH and Detroit, MI. Supporting shipper: Arthur R. Gren Co., Inc., 712 W. Eighth St., Jamestown, NY 14701.

MC 124004 (Sub-1–3TA), filed May 27, 1980. Applicant: RICHARD DAHN, INC., 120 West Mountain Road, Sparta, NJ 07871. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Paper and Paper Products, and materials, equipment, and supplies used in the manufacture and distribution of Paper and Paper Products,* between Baltimore, MD; Philadelphia, PA; and Ridgefield Park, NJ, on the one hand, and, on the other, points in NJ, NY, PA, MA, CT, ME, OH, SC, NC, GA, DE, FL, AR, IL, MD, MO, RI, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Simkins Industries, Inc., 259 East Street, New Haven, CT 06508.

MC 123233 (Sub-1–5TA), filed May 27, 1980. Applicant: PROVOST CARTAGE INC., 7887 Grenache Street, Ville d'Anjou, PQ, Canada H1J IC4. Representative: Gilbert G. Beriault (same address as applicant). *Amorphous Polypropylene, in bulk, in tank vehicles,* from the Ports of Entry on the International Boundary Line between the United States and Canada to Crowley, LA. Supporting shipper: Hercules Canada Limited, 56 Aberfoyle Crescent, Toronto, ON, Canada M3X 2W4.

MC 150791 (Sub-1–1TA), filed May 22, 1980. Applicant: INDUSTRIAL FREIGHT SERVICES, INC., 241 Erie Street, Waverly, NY. Representative: Donald C. Carmien, 501 Midtown Mall, Binghamton, NY 13902. *Contract, Irregular, Machine parts and raw materials* used in the manufacture of air power tools, between Athens, PA and points in NY, PA, NJ and MA. Supporting shipper: Ingersoll-Rand Company of Athens, PA. 18810.

MC 150884 (Sub-1–1TA), filed May 27, 1979. Applicant: FROZEN TRANSPORTATION, INC., 11 Taft Road, P.O. Box 384, Totowa, NJ 07512. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. *Contract, Irregular foodstuffs (except commodities in bulk),* between the facilities of Swift & Company at Totowa, NJ, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, VA and WV. Supporting shipper: Swift & Company, 115 W. Jackson Boulevard, Chicago, IL 60604.

The following applications were filed in Region 2. Send protests to: ICC, Federal Reserve Bank Bldg., 101 N. 7th St. Room 620, Philadelphia, PA 19106.

MC 150895 (Sub-II–1TA), filed May 27, 1980. Applicant: RAY AND DEE TAYLOR, d.b.a. DERACO ENTERPRISES, R.D. No. 1, Box 196A, Corsica, PA 15829. Representative: Maxwell A. Howell, 1100 Investment Bldg., 1511 K St., NW., Washington, DC 20005. *Iron and steel angles and channels, particle board, and shelving and equipment, and materials and supplies used in the installation and assembly thereof (except commodities in bulk, in tank vehicles),* (1) from Hannibal, MO to pts. in the states of GA, IL, MD, WI, OH, PA, IN, KS, MI, MN, NJ, TN, LA, NE, VA, NY and FL. (2) from Weirton, WV and Monrovia, CA to Hannibal, MO. The transportation service authorized herein is restricted to traffic originating at or destined to the facilities of New Idria, Inc., Metals Division. An underlying ETA seeks 90 days authority. Supporting shipper: New Idria Distribution, No. 3 Industrial Dr., Hannibal, MO 63401.

MC 3114 (Sub-II–2TA), filed May 28, 1980. Applicant: T. H. COMPTON, INC., R.F.D. No. 1, Berkeley Springs, WV 25411. Representative: Herbert Alan Dubin, 818 Connecticut Ave., NW., Washington, DC 20006. *Sand, in bulk,* from Mapleton Depot (Huntingdon County), PA to pts. in VA. An underlying ETA seeks 90 days authority. Supporting shipper: Pennsylvania Glass Sand Corp., Three Penn Center, Pittsburgh, PA 15235.

MC 61470 (Sub-II–1TA), filed May 27, 1980. Applicant: BRYAN TRUCK LINE, INC., 610 E. Wilson St., Bryan, OH 43506. Representative: James Duvall, 220 W. Bridge St., Dublin, OH 43017. *Plastics, plastic articles and materials, equipment and supplies used in the manufacture, sale and distribution of plastics and plastic articles,* between Forest City, AR, Bryan, OH, Kenton, Lebanon and Memphis, TN. An underlying ETA seeks 90 days authority. Supporting shipper: Bryan Custom Plastics Div., United Screw & Bolt, 918 S. Union St., Bryan, OH 43506.

MC 150555 (Sub-II–1TA), filed May 27, 1980. Applicant: BRANNOCK'S BUS SERVICE, INC., 6 Maryland Ave., Pasadena, MD 21224. Representative: Steven L. Weiman, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. *Passengers and their baggage* in round trip charter operations beginning and ending at Anne Arundel County and Baltimore, MD and pts. in its commercial zone and extending to pts. in PA, DE, VA, WV, NY, NJ, and DC. An underlying ETA seeks 90 days authority. Supporting shippers: There are 10 supporting shippers. Their statements may be examined at the ICC Regional Office, Phila., PA.

MC 117613 (Sub-II–4TA), filed May 27, 1980. Applicant: D. M. BOWMAN, INC., Rt. 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 580 Northern Ave., Hagerstown, MD 21740. Contract, irregular: *Business forms, computer tapes, off-track betting tickets, lottery tickets, carbon paper, tissue paper, and materials and supplies (except in bulk) used in the manufacture thereof,* between Ashland, VA, Hunt Valley, Chestertown and Hagerstown, MD, Chambersburg, PA, Canton and Solon, OH, Kings Mountain, NC, Greenville, SC, Winstead, CT, Smyrna, DE and Phoenix, AZ, and their respective commercial zones, on the one hand, and, on the other, all points in the United States (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Arnold Graphics, Inc., Hood and Commerce St., Chambersburg, PA 17201.

Note.—Dual operations may be involved.

MC 146148 (Sub-II–1TA), filed May 27, 1980. Applicant: B–BRIGHT TRUCKING CO., 492 Old St., Rt. 7, Pottery Addition, Steubenville, OH 43952. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. *Roofing materials,* from the facilities of Koppers Co., Inc. in Youngstown, OH; Wickliffe, OH; Heath, OH and Follansbee, WV to points in IN, KY, MI, NY, PA, WV, VA, DC, DE, MD, NJ, CT, RI, MA, VT, NH and ME, for 180 days. Supporting shipper: Koppers Co., Inc., 850 Koppers Bldg., Pittsburgh, PA 15219.

MC 146820 (Sub-II–2TA), filed May 27, 1980. Applicant: B & G TRUCKING, INC., P.O. Box 581, Worthington, OH 43085. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. Contract; irregular *(1) paper and paper products; (2) scrap and waste paper; (3) plastic articles; and (4) materials, equipment and supplies used in the manufacture and distribution of the commodities in (1) and (3) above (except commodities in bulk)* between points in IL, IN, IA, KY, MI, MO, NY, PA, OH, TN, VA, WV, and WI for the account of St. Regis Paper Co. for 180 days. Restricted to traffic originating at or destined to the facilities of St. Regis Paper Co. Supporting shipper: St. Regis Paper Co., 7 Parkway Ctr., Pittsburgh, PA 15220.

MC 108452 (Sub-II–1TA), filed May 27, 1980. Applicant: ATWOOD'S TRANSPORT LINES, INC., 5500 Tuxedo Rd., Tuxedo, MD 20781. Representative: L. C. Major, Jr., Suite 400, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312. *Passengers and their baggage, in the same vehicle with passengers, in charter operations,* beginning and ending at points in the Baltimore, MD commercial zone and extending to points in the United States (excluding HI) limited to transportation in vehicles with a seating capacity not to exceed 20 passengers. (Said service to

be provided by means of luxurious customized motor buses containing many special features not found in standard or conventional intercity motor buses. See Commission Dec. in MC–C–10095, Petition for Declaratory Order Executive Coach Service (1979), 131 M.C.C. 706) for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: There are 5 supporting shippers. Their statements may be examined at the ICC Regional Office, Philadelphia, PA.

MC 140243 (Sub-II–2TA), filed May 27, 1980. Applicant: APPLE HOUSE, INC., 3726 Birney Ave., Scranton, PA 18505. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Rope, synthetic cording and strapping and tools, seals and buckles used with synthetic strapping, oakum and packing and synthetic twine,* from Honesdale, PA to New Orleans, LA, Jacksonville, FL and Tampa, FL; From New Orleans, LA and Lafayette, LA to Jacksonville & Tampa, FL; From Lafayette, LA to Honesdale, PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Amer. Mfg. Co., 206 Willow Ave., Honesdale, PA 18431.

MC 143851 (Sub-II–1TA), filed May 28, 1980. Applicant: AIRPORTS PASSENGER SYSTEM, INC., 1414 Calcon Hook Rd., Sharon Hill, PA 19079. Representative: Leonard C. Zucker, 321 Brookline Ave., Cherry Hill, NJ 08002. *Passengers and their Baggage,* in special operations in non scheduled door to door service, limited to the transportation of not more than 16 passengers in any one vehicle, not including the driver, and not inlcuding children under 10 years of age, who do not occupy a seat or seats, Between Delaware County, PA, and five miles thereof and Atlantic & Cape May Counties N.J., for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: There are 30 supporting shippers. Their statements may be examined at the Philadelphia Regional ICC Office.

MC 107012 (Sub-II–35TA), filed May 29, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Airboats and parts and accessories for airboats,* from the facilities of The Panther Airboat Corp., at or near Cocoa, FL, to points in CA, NE, and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: The Panther Airboat Corp., 300 Wilson Ave., Cocoa, FL 32922.

Note.—Common control may be involved.

MC 106001 (Sub-II–3TA), filed May 29, 1980. Applicant: DENNIS TRUCKING COMPANY, INC., 6951 Norwitch Dr., Philadelphia, PA 19153. Representative: James W. Patterson, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. *Building materials and supplies (except in bulk),* from points in Bradford County, PA to points in CT, DE, DC, GA, KY, MA, MD, ME, MI, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT and WV, restricted to traffic originating at Bradford County, PA and destined to the named states, for 180 days. Supporting shipper(s): Masonite Corp., Eastern Hardboard Div. P.O. Box 311, Towanda, PA 18848.

MC 110525 (Sub-II–9TA), filed May 29, 1980. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Ave., Downingtown, PA 19335. Representative: Thomas J. O'Brien (same as applicant). *Talc, dry, in bulk, in tank vehicles* from Johnson, VT to points in US (ex AK and HI). Supporting shipper: Englehard Minerals & Chemicals, Menlo Park, Edison, NJ 08817.

MC 123744 (Sub-II–6TA), filed May 29, 1980. Applicant: BUTLER TRUCKING CO., P.O. Box 88, Woodland, PA 16881. Representative: Dwight L. Koerber, Jr., 666 11th St., NW., Washington, DC 20001. *Iron and steel articles, and materials, equipment and supplies used in the manufacture or distribution of iron and steel articles (except commodities in bulk in tank vehicles),* between Perth Amboy, NJ, on the one hand, and on the other, those pts. in the US, in and east of MN, IA, MO, OK, and TX. An underlying ETA seeks 90 days authority. Supporting shipper: Raritan River Steel Co., 225 Elm St., P.O. Box 309, Perth Amboy, NJ 08862.

MC 107012 (Sub-II–36TA), filed May 30, 1980. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Plastic articles,* from Mooresville and Sanford, NC to Webster City, and Jefferson, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Webster City Products Co., 600 Stockdale, Webster City, IA 50595.

Note.—Common control may be involved.

MC 150915 (Sub-II–1TA), filed May 30, 1980. Applicant: P.M.C. SYSTEMS, INC., P.O. Box 4128, Station F, Cincinnati, OH 45204. Representative: Andrew Jay Burkholder, 275 E. State St., Columbus, OH 43215. *Contract; irregular: (1) iron and steel; iron and steel articles; and bolts and nuts; and (2) equipment, materials and supplies used in the manufacture of the commodities named in (1) above, (except commodities in bulk),* between the facilities of Consolidated Metal Products, Inc., at Cincinnati, OH, on the one hand, and, on the other, points in and east of TX, OK, KS, NE, SD, and ND for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Consolidated Metal Products, Inc., 1028 Depot St., Cincinnati, OH 45204.

MC 135364 (Sub-II–4TA), filed May 30, 1980. Applicant: MORWALL TRUCKING, INC., R.D. 3, Box 76C, Moscow, PA 18444. Representative: J. G. Dail Jr., P.O. Box LL, McLean, VA 22101. *Contract; Irregular: Paper and equipment used in the distribution of paper,* between points in and east of MN, IA, MO, AR, and LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Tri Mark, Inc., P.O. Box 81221, Atlanta, GA 30366.

MC 2245 (Sub-2–1TA), filed May 27, 1980. Applicant: THE O. K. TRUCKING CO., 300 E. Crescentville Rd., Cincinnati, OH 45241. Representative: Robert H. Kinker, P.O. Box 464, Frankfort, KY 40602. *Iron and steel rough forgings and castings,* from Bushnell, IL to the facilities of Bendix Heavy Vehicle Systems Group at or near Frankfort, KY. From Bushnell, IL over IL Hwys 116 and 41 to Peoria, IL, then over Interstate Hwy 74 to Indianapolis, IN, then over Interstate Hwy 65 to Louisville, KY, then over Interstate Hwy 64 to the facilities of Bendix Heavy Vehicle Systems Group at or near Frankfort, KY. Supporting shipper: Bendix Heavy Vehicle Systems Group, 901 Cleveland, Elyria, OH 44036.

MC 1824 (Sub-2–7TA), filed May 27, 1980. Applicant: PRESTON TRUCKING CO., INC., 151 Easton Blvd., Preston, MD 21655. Representative: Thomas M. Auchincloss, Jr., Suite 700, 918 16th St., NW., Washington, DC 20006. *Common; regular: General commodities, except those of unusual value, classes A & B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,* (1) between Cleveland, OH and St. Louis, MO, (a) from Cleveland over I-Hwy 71 to junction US Hwy 50, then over US Hwy 50 to St. Louis, and return over the same route, (b) from Cleveland over I-Hwy 71 to junction I-Hwy 70, then over I-Hwy 70 to St. Louis, and return over the same route; (2) between Toledo, OH and St. Louis, MO, from Toledo over I-Hwy 75 to junction I-Hwy 70, then over I-Hwy 70 to St. Louis, and return over the same route; (3) between Ft. Wayne, IN and Indianapolis, IN, from Ft. Wayne over US Hwy 24 to junction I-Hwy 69, then over I-Hwy 69 to Indianapolis, and return over the same route; (4) between

South Bend, IN and Columbus, IN, from South Bend over US Hwy 31 to junction I-Hwy 65, then over I-Hwy 65 to Columbus, and return over the same route; (5) between Chicago, IL and Indianapolis, IN, from Chicago over I-Hwy 94 to junction I-Hwy 65, then over I-Hwy 65 to Indianapolis, and return over the same route; (6) between Chicago, IL and Danville, IL, from Chicago over IL Hwy 1 to junction US Hwy 136, then over US Hwy 136 to Danville, and return over the same route; (7) between Cleveland, OH and Peoria, IL, from Cleveland over I-Hwy 71 to junction I-Hwy 70, then over I-Hwy 70 to junction I-Hwy 74, then over I-Hwy 74 to Peoria, and return over the same route; (8) from junction US Hwys 30 and 119 to St. Louis, MO, from junction US Hwys 30 and 119 over US Hwy 119 to junction I-Hwy 70, then over I-Hwy 70 to St. Louis, and return over the same route; (9) between Pittsburgh, PA and St. Louis, MO, from Pittsburgh over US Hwy 22 to junction I-Hwy 70, then over I-Hwy 70 to St. Louis and return over the same route, serving all intermediate points in connection with the routes named in (1) through (9) above, and as off-route points, those points in IN on and north of US Hwy 50. Applicant intends to tack authority sought with authority held under Docket No. MC 1824 and all subs thereunder. Applicant intends to interline with present connecting carriers at authorized points including but not limited to St. Louis, MO, Chicago, IL, Cleveland, OH, Baltimore, MD and Norfolk, VA. Supporting shippers: There are 113 supporting shippers. Their statements may be examined at the ICC Regional Office, Philadelphia, PA.

MC 150844 (Sub-II–1TA), filed May 23, 1980. Applicant: WILLIAM J. KLEIN, P.O. Box 334, U.S. Rt. 422 Douglassville, PA 19518. Representative: Nicholas E. Chimides, 1719 Packard Bldg., Philadelphia, PA 19102. *Passengers and their baggage,* in charter bus operations, from the Townships of Amity, Colebrookdale, Douglass, Union and the Borough of Birdsboro, Berks County; the Townships of Warwick and North Coventry, Chester County; and the Borough of Pottstown, Montgomery County, PA to point in NJ, DE, MD, VA, and Washington, DC, for 180 days. Restricted to traffic originating from the territories indicated to the destinations indicated and return to the points of origin. An underlying ETA seeks 90 days authority. Supporting shipper(s). Susan Banker, 771 W. Cedarville Rd., Pottstown, PA; James I. Long, 142 Hook St. Birdsboro, PA.

MC 150896 (Sub-II–1TA), filed May 28, 1980. Applicant: HUMCO, INC., SUITE TC–106, East Furnace Branch Rd., Glen Burnie, Md 21061. Representative: Richard P. Taylor, 1250 Connecticut Ave., NW., Washington, DC 20036. *New and used automobiles and small trucks and vans* in subsequent and secondary movements in professional driveway service between points in CT, DE, FL, IL, MN, NJ, NY, NC, OH, PA, SC, VA, WV and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): U.S. Govt. Despatch Agency, 403 U.S. Custom House Bldg., Baltimore, MD 21202; Masterack Div. of Leggett & Platt, Inc., 302 E. Church St., Frederick, MD 21701.

MC 145930 (Sub-II–2TA), filed May 27, 1980. Applicant: WILLIAM E. MOROG, d.b.a. JONICK & CO., 2815 E. Liberty Ave. Vermilion, OH 44089. Representative: Michael M. Briley, P.O. Box 2088, Toledo, OH 43603. (1) *Steel castings* from the facilities of McKeesport Steel Castings Co. located at or near McKeesport, PA to points in CT, IL, NJ, NY, OH and TN; and (2) *Sand,* in bulk, and in bags, and *equipment, materials and supplies used in the manufacture and distribution of steel castings* from points in NJ and OH to the above-named facilities, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McKeesport Steel Castings Co., 200 25th St., Mckeesport, PA 15132.

MC 127579 (Sub-II–6TA), filed May 27, 1980. Applicant: HAULMARK TRANSFER, INC., 1100 N. Macon St., Baltimore, MD 21205. Representative: Glenn M. Heagerty (same as applicant). *Printed matter and materials and supplies used in the manufacture or distribution of printed matter* (except commodities in bulk) between points in the U.S. (except AL and HI), for 180 days. Restricted to shipment originating or terminating at the facilities of R. R. Donnelley & Sons Co., Harrisonburg, VA. An underlying ETA seeks 90 days authority. Supporting shipper(s): R. R. Donnelley & Sons Co., 1400 Kratzer Rd., Harrisonburg, VA 22801.

MC 146704 (Sub-II–5TA), filed May 27, 1980. Applicant: FALCON MOTOR TRANSPORT, INC., 1250 Kelly Avenue, Akron, OH 44306. Representative: Paul A. Englehart (same address as applicant). Contract carrier: Irregular routes: *Beer in bottles, cans or kegs and Empty Containers,* between Girard, OH, on the one hand, and, on the other, Milwaukee, WI and South Volney, NY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper, Union Distributing Co., 1141 State St., Girard, OH 44420.

MC 108589 (Sub-II–7TA), filed May 27, 1980. Applicant: EAGLE EXPRESS COMPANY, 11425 Williamson Rd., Cincinnati, OH 45241. Representative: Michael Spurlock, 275 E. State St., Columbus, OH 43215. Common: Regular: *General commodities,* (except those of unusual value, Classes A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), between Lexington, KY and Georgetown, KY, from Lexington, KY over U.S. Route 25 to Georgetown, KY and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Applicant seeks to tack with existing authority and interline at Cincinnati, OH, Knoxville and Nashville, TN, Lexington and Louisville, KY. Supporting shipper(s): There are nine (9) supporting shippers. You may review their statements at the ICC Regional Office in Phila., PA.

MC 48386 (Sub-II–1TA), filed May 27, 1980. Applicant: GRAVER TRUCKING, INC., Rte. 7, Box 7655, Stroudsburg, PA 18360. Representative: Joseph F. Hoary, 121 S. Main St., Taylor, PA 18517. *Rope, synthetic cording and strapping and tools, seals and buckles used with synthetic strapping, oakum and packing and synthetic twine,* from Honesdale, PA to New Orleans, LA, Jacksonville, FL and Tampa, FL; From New Orleans, LA and Lafayette, LA to Jacksonville and Tampa, FL; From Lafayette, LA to Honesdale, PA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Amer. Mfg. Co., 206 Willow Ave., Honesdale, PA 18431.

MC 4963 (Sub-II–12TA), filed May 27, 1980. Applicant: JONES MOTOR CO., INC., Bridge St., & Schuylkill Rd., Spring City, PA 19475. Representative: William H. Peiffer (same as applicant). *Plastic Articles* between Bryan, OH and points in TN for 180 days. An underlying ETA seeks 90 days authority. supporting shipper(s): Bryan Custom Plastics, 918 South Union, Bryan, OH 43506.

MC 146689 (Sub-II–2TA), filed May 27, 1980. Applicant: LARK LEASING COMPANY, 261 Maplewood Dr., Pottstown, PA 19464. Representative: Christian V. Graf, 407 N. Front St., Harrisburg, PA 17101. *Glass containers,* from Royersford and Linfield, PA to points in MA, restricted to transportation to be performed under a continuing contract with Diamond Glass Company of Royersford, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Diamond Glass Company, First Ave., Royersford, PA 19468.

MC 29510 (Sub-II–2TA), filed May 27, 1980. Applicant: EVANS

TRANSPORTATION CO., 7800 Route #13, Levittown, PA 19057. Representative: Peter R. Gilbert, 1919 Pennsylvania Ave. NW., Suite 850, Washington, DC 20006. *Iron and steel articles and equipment materials and supplies used in the manufacture thereof,* between points in DE, GA, MD, NC, NJ, NY and SC and points in the Counties of Adams, Berks, Bucks, Cambria, Carbon, Chester, Columbia, Cumberland, Delaware, Dauphin, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montgomery, Northampton, Pike, Schuylkill and York, PA, on the one hand, and, on the other, points in GA, IL, IN, MI, MO, NC, OH, SC and WV and points in the Counties of Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Centre, Clarion, Clearfield, Crawford, Erie, Fayette, Franklin, Greene, Indiana, Jefferson, Lawrence, Mercer, Somerset, Venango, Warren, Washington and Westmoreland, PA, for 180 days. Supporting shipper(s): Majestic Steel Service, 30901 Carter St., Solon, OH 44139; Worldwide Metals, Inc., 1500 N. Kings Hwy., Suite 203, Cherry Hill, NJ 08034; Primary Metals, Inc., 979–981 Lunt Ave., Schaumburg, IL 60193.

MC 143790 (Sub-II–1TA), filed May 27, 1980. Applicant: FEDERAL FREIGHT SYSTEMS, INC., 3830 Kelley Ave., Cleveland, OH 44114. Representative: John P. McMahon, 100 E. Broad St., Columbus, OH 43215. *Such commodities as are dealt in by manufacturers and distributors of plastic flakes, plastic granules, plastic powder, plastic articles, and rubber products* (except commodities in bulk) and *materials, equipment and supplies used in the manufacture and distribution of above commodities,* between the facilities used by Goodsmith & Eggleton, Inc. in the U.S. (except AK and HI), on the one hand, and, on the other, points in the U.S. (except AK and HI), for 180 days. Supporting shipper(s): Goldsmith & Eggleton, Inc., 2550 Gilchrist Rd., P.O.B. 1784, Akron, OH 44309.

MC 146704 (Sub-II–6TA), filed May 27, 1980. Applicant: FALCON MOTOR TRANSPORT, INC., 1250 Kelly Avenue, Akron, OH 44306. Representative: Paul A. Englehart (same address as applicant). Contract carrier: Irregular routes; *Beer in bottles, cans or kegs and Empty Containers* between Steubenville, OH and Milwaukee, WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper, Fort Pitt Distributing Co., 630 N. 3rd St., Steubenville, OH 43952.

MC 56244 (Sub-II–8TA), filed May 27, 1980. Applicant: KUHN TRANSPORTATION COMPANY, INC., P.O. Box 98, R.D. #2, Gardners, PA 17324. Representative: J. Bruce Walter, 410 North Third St., P.O. Box 1146, Harrisburg, PA 17108. *Such commodities* as are dealt in or used by foodstuff producers and distributors between Humboldt and Memphis, TN, on the one hand and, on the other, points in DE, IL, IN, MD, MI, NJ, NY, OH, PA, VA, and DC, restricted to the transportation of shipments originating at or destined to the facilities of Hunt Wesson Foods, Inc., for 180 days. Supporting shipper: Hunt Wesson Foods, Inc., 1645 West Valencia Drive, Fullerton, CA 92634.

MC 81908 (Sub-II–1TA), filed May 27, 1980. Applicant: GARNER TRUCKING, INC., Route #4, Findlay, OH 45840. Representative: John L. Alden, 1396 W. Fifth Ave., Columbus, OH 43212. (1) *Canned and preserved foodstuffs;* (i) from the facilities of Heinz USA at or near Holland, MI, Fremont and Toledo, OH, to points in AL, FL, GA, MS and SC, and the facilities of Heinz USA at or near Muscatine and Iowa City, IA; and (ii) from the facilities of Heinz USA at or near Muscatine and Iowa City, IA to points in IN, KY, MI, OH, WV and points in PA, on and West of U.S. Highway 219; (2) *canned fruit juice* from points in FL to the facilities of Heinz USA at or near Pittsburgh, PA, Toledo, OH and Iowa City, IA; (3) *materials, equipment and supplies,* used in the manufacturing and packaging of foodstuffs and fruit juices, except commodities in bulk, in the reverse direction in (1) and (2) above. Restricted to traffic originating at or destined to the above named territories. An underlying ETA seeks 90 days authority. Supporting shipper: Heinz USA, Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230.

MC 124821 (Sub-II–10TA), filed May 27, 1980. Applicant: GILCHRIST TRUCKING, INC., 105 N. Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. *Canned goods,* from the facilities of Duffy-Mott Co., Inc., at Aspers, Hanover and Mechanicsburg, PA, on the one hand, and, on the other, to points in NJ, NY and PA, for 180 days. Supporting shipper: Duffy-Mott Co., Inc., 370 Lexington Ave., New York, NY 10017.

MC 56244 (Sub-II–9TA), filed May 27, 1980. Applicant: KUHN TRANSPORTATION COMPANY, INC., P.O. Box 98, R.D. #2, Gardners, PA 17324. Representative: J. Bruce Walter, 410 North Third St., P.O. Box 1146, Harrisburg, PA 17108. *Such commodities* as are dealt in by wholesale, retail and chain grocery and food business houses (except commodities in bulk) between points in PA, on the one hand, and, on the other, points in IA, IL, IN, MI, MO, and TN, restricted to the transportation of shipments originating at or destined to the facilities of Dauphin Distribution Services Co., for 180 days. Supporting shipper: Dauphin Distribution Services Co., P.O. Box 427, Camp Hill, PA 17011.

MC 148275 (Sub-II–1TA), filed October 15, 1979. Applicant: J. L. McCORY, INC., P.O. Box 525, Ravenswood, WV 26164. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. *Parts, materials, supplies and equipment used in the manufacture and production of automobiles, (except commodities in bulk),* between South Charleston, WV, on the one hand, and on the other, Westmoreland, PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Volkswagen of America, 27621 Parkview Blvd., Warren, MI 48092.

MC 42605 (Sub-II–1TA), filed May 22, 1980. Applicant: CARL H. BETZ, R.D. No. 1, Orefield, Lehigh County, PA 18069. Representative: Paul B. Kemmerer, 1620 N. 19th St., Allentown, PA 18104. *Gypsum, rock, crushed and sized, in bulk in dump vehicles,* from Camden, NJ to pts. in Berks, Lehigh and Northampton Counties, PA. An underlying ETA seeks 90 days authority. Supporting shippers: Paul Blum Co., Inc., 189 Van Rensselaer St., P.O. Box 1026, Buffalo, NY 14210.

MC 150875 (Sub-II–1TA), filed May 22, 1980. Applicant: CENTRAL INTERMODAL CORP., 2801 Spring Grove Ave., Cincinnati, OH 45225. Representative: A. Charles Tell, 100 E. Broad St., Columbus, OH 43215. *Paper and paper products, and materials, supplies and commodities used or useful in the manufacture and distribution of paper and paper products (except commodities in bulk),* between pts. in IL, IN, KY, MI and OH on the one hand, and, on the other, pts. in AR, CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, OK, TX and WI, restricted to traffic moving on freight forwarder bills of lading, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Central Forwarding Co., P.O. Box 89, Hamilton, OH 45012.

MC 110525 (Sub-II–8TA), filed May 23, 1980. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Ave., Downingtown, PA 19335. Representative: Thomas J. O'Brien (same as applicant). Magnesium oxide, in bulk, in tank vehicles, from Manistee, MI to Bridgeport, CT. Supporting shipper: Martin Marietta Chemicals, Refractories Div., Executive Plaza II, Hunt Valley, MD 21030.

MC 112588 (Sub-II–3TA), filed May 23, 1980. Applicant: RUSSELL TRUCKING LINES, INC., 2011 Cleveland Rd., Sandusky, OH 44870. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. (1)(a) *Prefabricated metal building products,* and (b) materials and supplies used in the manufacture of prefabricated metal building products between Ambridge, PA and Connersville, IN, on the one hand, and, on the other, points in IN, KY, MI, NY, OH, PA, and WV and (2)(a) *ventilators, ventilator parts, air louvers, and prefabricated building metal work,* and (b) materials and supplies used in the manufacture of ventilators, ventilator parts, air louvers, and prefabricated building metal work, between Batavia, OH, on the one hand, and, on the other, points in IN, KY, MI, NY, OH, PA, and WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: H. H. Robertson Co., P.O. Box 2793, 400 Holiday Dr., Pittsburgh, PA 15230.

MC 129086 (Sub-II–3TA), filed May 23, 1980. Applicant: SPENCER TRUCKING CORPORATION, Rt. 2, Box 254A, Keyser, WV 26726. Representative: Dixie C. Newhouse, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. *Coal and coke,* from points in PA west of the Susquehanna River to points in Preston, Grant, Mineral and Jefferson Cos., WV; Garrett, Allegany, Washington and Frederick Cos., MD; and Warren, Frederick, Clarke, Fairfax, Arlington, Prince William, Fauquier, Loudoun, Shenandoah, Stafford and Chesterfield Cos., VA and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Roger W. Junkins, Rt. 1, Box 330H, Keyser, WV 26726.

MC 116763 (Sub-II–12TA), filed May 23, 1980. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: Gary J. Jira (same as applicant). (1) Such commodities as are dealt in and distributed by grocery, hardware and drug stores; (2) Cleaning and building maintenance materials and supplies; (3) Swimming pool, spa and hot tub products; (4) Chemicals; and (5) Materials, equipment and supplies used in the manufacture, sale and distribution of the commodities named in (1) through (4) above. Between Marion, OH on the one hand, and on the other, points in the United States in and east of MT. WY, CO and NM, for 180 days. An underlying ETA seeks 90 days authority. Restricted against the transportation of commodities in bulk, in tank vehicles. Further restricted to traffic originating at or destined to the facilities of Purex Corporation. Supporting shipper(s): Purex Corporation, 26000 S. Main St., Box 6200, Carson, CA 90749.

MC 145583 (Sub-II–1TA), filed May 23, 1980. Applicant: XPRESS TRUCK LINES, INC., 2500 E. Butler St., Philadelphia, PA 19137. Representative: Anthony A. Cerone, 3348 Morrell Ave., Philadelphia, PA 19114. *Alcohol, alcoholic beverages, wines & malt liquor's,* having a prior or subsequent movement by rail or water, between points in PA, DE, CT, NY, NJ, MD, RI, MA, NH, VA, VT, and DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bacardi Imports, Inc., 2100 Biscayne Blvd., Miami, FL 33137.

MC 41951 (Sub-II–1TA), filed May 22, 1980. Applicant: WHEATLEY TRUCKING, INC., P.O. Box 458, Cambridge, MD 21613. Representative: Gary E. Thompson, 4304 East-West Highway, Washington, DC 20014. *Dry chemicals* (except in bulk) from points in Syracuse, Buffalo, Niagara Falls, Seneca Falls, and Watkins Glen, NY; Caderet, Grisslie, and South Brunswick, NJ; and Claymont, DE, to Baltimore, MD; Washington, D.C., and their respective Commercial Zones, and points in DE, MD, and VA, east of the Chesapeake Bay and south of the Chesapeake & Delaware Canal for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Robinson Chemical Company, Inc., P.O. Box 264, Cambridge, MD 21613.

MC 21866 (Sub-II–22A), filed May 23, 1980. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1430 Land Title Building, Philadelphia, PA 19110. *Stoves* and *stove parts,* from the facilities of The Cawley Stove Company, Inc., at Boyertown (Berks County), PA, to points in CA and OR for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Cawley Stove Company, Inc., 27 N. Washington Street, Boyertown, PA 19512.

MC 148443 (Sub-II–2TA), filed May 22, 1980. Applicant: SOUTH SHORE EQUIPMENT CORP., 1284 Miller Rd., Avon, OH 44011. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. (1) *Electrical products, portable lighting products, manufactured electrical products, motors, manufactured portable lighting products, batteries, manufactured metal products, and signs, (2) materials, supplies, components, and machinery used in the manufacturing, installation, distribution, and operation of the above products* between Cleveland, OH and its commercial zone and Atlanta, GA and its commercial zone, on the one hand, and, on the other, points in the U.S., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Winko-matic, 659 Miller Rd., Avon Lake, OH 44012.

MC 96009 (Sub-II–1TA), filed May 23, 1980. Applicant: RAYMOND L. SHELTON, P.O. Box 6, Stuart, VA 24171. Representative: Raymond L. Shelton (same as applicant). *Iron Oxide,* from the facilities of Hoover Color Corporation located at or near Hiwassee, VA to points in CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hoover Color Corporation, P.O. Box 218, Hiwassee, VA 24347.

The following applications were filed in Region 3. Send protests to ICC, Regional Authority Center, P.O. Box 7520, Atlanta, GA 30357.

MC 146646 (Sub-3–12TA), filed May 21, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355 A, Birmingham, AL 35217. Representative: James W. Segrest (address same as applicant). *Roofing and materials, equipment and supplies moving in 45 ft. volume van equipment.* Between the facilities of the Elk Corporation, and its suppliers located at Tuscaloosa, AL; Ennis TX; Stephens AR; Little Rock, AR; Franklin, OH and the Mexican Border at or near El Paso, TX. Supporting shipper: Elk Corporation, P.O. Box 2450, Tuscaloosa, AL 35401.

MC 128720 (Sub-3–3TA), filed May 22, 1980. Applicant: MERCHANTS FREIGHT LINE, INC., 1185 Omohundro Drive, Nashville, TN 37210. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. *General Commodities (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* between Nashville, TN, on the one hand, and, on the other, points in IL. Supporting shipper(s): There are approximately 99 supporting shippers.

Note.—Applicant intends to tack with MC 128720 and various subs and interline at Nashville, TN and at points in IL.

MC 61264 (Sub-2–2TA), filed May 21, 1980. Applicant: PILOT FREIGHT CARRIERS, INC., A North Carolina corporation, P.O. Box 615, Winston-Salem, NC 27102. Representative: (Mrs.) Pansy Beroth, P.O. Box 615, Winston-Salem, NC 27102. *Regular routes, General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and those injurious and contaminating

to other lading), (1) Between Murphy, NC and Blue Ridge, GA: from Murphy over U.S. Hwy 64 to junction NC Hwy 60, at or near Ranger, NC, then over NC Hwy 60 to junction GA Hwy 60, then over GA Hwy 60 to junction U.S. Hwy 76, then over U.S. Hwy 76 to Blue Ridge, and return over the same route, serving all intermediate points in NC and GA; (2) Between Cleveland, TN and Blue Ridge, GA: from Cleveland over U.S. Hwy 64 to junction TN Hwy 68 at Ducktown, TN, then over TN Hwy 68 to junction GA Hwy 5, then over GA Hwy 5 to Blue Ridge, and return over the same route, serving all intermediate points in GA. Applicant intends to tack with its MC-61264 authority and to interline with other carriers. Supporting shipper: Chatham Manufacturing Co., P.O. Box 620, Elkin, NC 28621 and Clup, Inc., 2020 Logan Street, High Point, NC 27261.

MC 2473 (Sub-3-5TA), filed May 21, 1980. Applicant: BILLINGS TRANSFER CORP., INC., Green Needles Road, Lexington, NC 27292. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue, N.W., Washington, D.C. 20036. *Textiles and textile products,* (1) from Richmond, Hopewell and Norfolk, VA and points in South Carolina and Virginia within 100 miles of Forsyth, Guilford, Davidson and Stokes Counties, NC to points in Washington, DC, Baltimore, MD, Wilmington, DE, points in New Jersey, points in New York within 20 miles of New York, NY, including New York, NY and to Union County, PA, and points in Pennsylvania on and within the boundaries of a line along the west bank of the Subsquehanna River beginning at the Pennsylvania-Maryland State Line and extending north to U.S. Highway 6, then east along U.S. Highway 6 to the Pennsylvania-New Jersey State Line, then south along the Pennsylvania-New Jersey State Line to the Pennsylvania-Maryland State Line then west along this line to the point of beginning; and (2) between Richmond, Hopewell and Norfolk, VA and points in NC, SC, and VA, within 100 miles of Forsyth, Guilford, Davidson and Stokes Counties, NC. Supporting shipper: None. The purpose of the application is to substitute single-line service for interline service on traffic involved.

MC 138882 (Sub-3-16TA), filed May 21, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, Alabama 36081. Representative: John J. Dykema (same address as applicant). *(1) Roofing and Roofing Materials and (2) Materials Equipment and Supplies used in the Manufacturing or Distribution of Commodities in (1) above (except commodities in bulk in tank vehicles),* between the facilities of Tamko Asphalt Products located at or near Frederick, MD on the one hand, and, on the other, points in CT, DE, DC, IN, KY, MA, ME, MI, NC, NH, NJ, NY, OH, PA, TN, VA, VT, and WV. Supporting shipper: Tamko Asphalt Products, 220 W 4th St., Joplin, MO 64801.

MC 150883 (Sub-3-1TA), filed May 22, 1980. Applicant: PDR TRUCKING, INC., 6048 South York Road, Highway 21 South, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW., Washington, DC 20005. *Plastic pipe and pipe fittings, and materials and accessories used in the production and distribution thereof,* from Cleveland OH, and points in its commercial zone, to Los Angeles, CA, and points in its commercial zone and points in and east of TX, OK, KS, NE, IA, and MN. Supporting shipper: R & G Sloane Manufacturing Company, Inc., 7606 North Clybourn Avenue, Sun Valley, CA 91352.

MC 144715 (Sub-3-3TA), filed May 22, 1980. Applicant: ANDERSON & WEBB TRUCKING CO., INC, 542 West Independence Blvd., Mt. Airy, NC 27030. Representative: Eric Meierhoefer, Suite 423, 1511 K St., NW., Washington, DC 20005. *Cotton and synthetic sewing thread,* from Mt. Holly, NC, and points in its commercial zone to Dallas and El Paso, TX, and Los Angeles, CA, and points in their commercial zones. Supporting shipper: American & Effird Mills, Inc., P.O. Box 507, Mt. Holly, NC 28120.

MC 107515 (Sub-3-24TA), filed May 22, 1980. Applicant: REFRIGERGATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Rd., N.E., 5th Floor-Lenox Towers South, Atlanta, GA 30326. *Plastic articles* from facilities of Union Carbide Corporation at or near Cartersville, GA; East Hartford, CT; Rogers, AR; and Southampton, PA to points in the US (except AK and HI). Supporting shipper: Union Carbide Corporation, 270 Park Avenue, New York, NY 10017.

MC 146646 (Sub-3-11TA), filed May 22, 1980. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 6355 A, Birmingham, AL 35217. Representative: James W. Segrest (same address as applicant). *Corn flour and corn meal* from the facilities of J. R. Short Milling Co., located at or near Mt. Vernon and Kankakee, IL to points in MO and AR. Supporting shipper: J. R. Short Milling Co., 233 S. Wacker Drive, Chicago, IL 60606.

MC 138882 (Sub-3-17TA), filed May 22, 1980. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, Alabama 36081. Representative: John J. Dykema (same address as applicant). *(1) Electric Storage Batteries, spent batteries, accessories and supplies used in connection with batteries, and (2) materials, equipment and supplies used in the manufacture and distribution of commodities in (1) above, including lead pigs and ingots (except commodities in bulk in tank vehicles.)* Between the facilities of ESB, Incorporated division of Exide Corporation and its subsidiaries on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Supporting shipper: ESB, Incorporated, 101 Gibraltar Road, Horsham, PA 19044.

MC 146451 (Sub-3-7TA), filed May 23, 1980. Applicant: WHATLEY-WHITE, INC., P.O. Box 6, Dothan, Alabama 36302. Representative: Bruce E. Mitchell, Suite 520, Lenox Towers South, 3390 Peachtree Road, N.E., Atlanta, Georgia 30326. *Cleaning compounds, bleach, liquid softeners and household cleaning products* (1) from the facilities of Purex Corp. at or near Auburndale, FL; Atlanta, GA and Roanoke, VA to points in AL, GA, NC, SC, FL and LA and (2) From the facilities of Purex Corp. at or near Bristol, PA to Atlanta, GA and Roanoke, VA. Supporting shipper: Purex Corporation, 1414 N. Radcliffe Street, Bristol, PA, 19007.

MC 148360 (Sub-3-2TA), filed May 23, 1980. Applicant: PDR TRUCKING, INC., 6048 South York Road, Highway 21 South, Gastonia, NC 28052. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW., Washington, DC 20005. *Contract carrier,* Irregular *Department store merchandise,* from Charlotte and Hickory, NC, and points in their commercial zones to Pittsburgh, PA, and points in its commercial zone (under continuing contract(s) with Kaufmann's Department Store of Pittsburgh, PA). Supporting shipper: Kaufmann's Department Store, 400 Fifth Avenue, Pittsburgh, PA 15219.

MC 150882 (Sub-3-1TA), filed May 23, 1980. Applicant: SCAN DELIVERY SYSTEMS, a Div. of S. CENTRAL ASSOCIATED NETWORK CORP., 1200 Handy Avenue, Jackson, MS 39204. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. *Garments and materials, equipment and supplies dealt in or used by retail department stores (except in bulk)* between Columbus, OH; West Memphis, AR; Jackson, MS; Memphis, TN; and Birmingham, AL; and points in their commercial zones, on the one hand, and, on the other, points in

AL, FL, GA, LA, MS, TN and TX restricted to shipments originating at or destined to facilities utilized by The Limited Stores, Inc. Supporting shipper: The Limited Stores, Inc., One Limited Parkway, Columbus, Ohio 43216.

MC 75840 (Sub-3–5TA), filed May 21, 1980. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: Frank D. Hall, Postell & Hall, P.C. Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. (1) *Aluminum, aluminum products, and materials, equipment and supplies used in the manufacture and production of aluminum and aluminum products,* from the facilities of National Aluminum Corporation at or near Salisbury, NC, to points in MD, DE, and DC; and (2) *Chemicals, resins, cleaning compounds, and related materials* (except commodities in bulk), from the facilities of Brin-Mont Chemicals, at or near Greensboro, NC, to points in VA, WV, MD, PA, DE, NJ, OH, NY, SC, KY, GA and TX. Supporting shippers: National Aluminum Corporation, 2800 Grant Bldg., Pittsburgh, PA 15219; and, Brin-Mont Chemicals, Inc., P.O. Box 7322, Greensboro, NC 27407.

MC 124896 (Sub-3–3TA), filed May 21, 1980. Applicant: WILLIAMSON TRUCK LINES, INC., Corner Thorne and Ralston Streets, P.O. Box 3489, Wilson, NC 27893. Representative: Jack H. Blanshan, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Petroleum and petroleum products* (except in bulk), (1) From Seawarren, NJ; Bradford, PA and Marcus Hooks, PA to points in GA, FL, NC, SC, and VA. (2) From Charleston, SC to points in GA, FL, NC and VA. (3) From Chesapeake, VA to points in GA, FL, NC and SC. Supporting shipper: Wilson Petroleum Company, 422 S. Douglas St., Wilson, NC 27893 and Witco Chemical Corp., Bradford, PA 16701.

MC 2934 (Sub-3–4TA), filed May 21, 1980. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: W. G. Lowry, 9998 North Michigan Road, Carmel, IN 46032. *Carpet and carpet padding,* from Trenton, NJ, Philadelphia, PA and Eddystone, PA to points and places in the States of AL, FL, GA, IL, IN, KY, MI, MO, NC, OH, SC, TN, VA and WV. Supporting shipper: General Felt Industries, Inc., Park Plaza West-One, Saddlebrook, NJ 07662.

MC 121568 (Sub-3–4), filed May 21, 1980. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Ave., Nashville, TN 37211. Representative: James G. Caldwell (same as applicant). *Cash register paper, printed forms, computer paper, printing paper, ribbons, film plastic duplicating, chemicals, micro film viewing machines and materials, equipment, and supplies used in the manufacturing and distribution of these commodities (except in bulk),* between the facilities utilized by NCR Corporation located at or near Morristown, TN and Humboldt, TN on the one hand, and, on the other, all points in the States of AR, LA, MS, OK, and TX. Supporting shipper: NCR Corporation, 9095 Washington Church Road, Miamisburg, OH 45342. Applicant intents to tack with exist authority and interline at Memphis and Nashville, TN and all other authorized points.

MC 144827 (Sub-3–3TA), filed May 21, 1980. Applicant: DELTA MOTOR FREIGHT, INC., P. O. Box 18423, Memphis, TN 38118. Representative: R. Conner Wiggins, Jr., Suite 909, 100 N. Main Bldg., Memphis, TN 38103. *Plastic articles* from facilities of Bryan Custom Plastics Co. at or near Bryan, OH, to facilities of Sharp Manufacturing Co. of America at Memphis, TN, restricted to shipments originating at and destined to the named facilities. Supporting shipper(s): Sharp Manufacturing Co. of America, Sharp Plaza Blvd., Memphis, TN 38193.

MC 148283 (Sub-3–1TA), filed May 21, 1980. Applicant: ABC TRANSPORTATION COMPANY, State Docks Road, Eufaula, AL 36027. Representative: W. W. Riley (same as above). *Contract carrier: (1) Carbon steel vessels; storage racks; hand trucks, carts or wagons and fabricated parts (iron or steel) used in the fibre industry, textile mills and chemical processing plants; (2) Parts and accessories for the commodities in (1) above; and (3) Materials, equipment and supplies (except in bulk) used in the manufacture, sale and assembly of the commodities in (1) above,* between the facilities of Opelika Welding, Machine, and Supply, Inc., at or near Opelika, Lee County, AL on the one hand, and , on the other, all points in AL, DE, GA, IL, IN, KY, LA, MD, MS, NJ, NC, OH, PA, SC, TN, TX, VA and WV, under a continuing contract(s) with Opelika Welding, Machine, and Supply, Inc. of Opelika, AL. Supporting shipper(s): Opelika Welding, Machine, and Supply, Inc., Opelika, AL 36801.

MC 91306 (Sub-3–2TA), filed May 21, 1980. Applicant: JOHNSON BROTHERS TRUCKERS, INC., 1858 9th Avenue, NE., Hickory, NC 28601. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW., Washington, DC 20005. *Plastic tips and holders used in the manufacture of cigars,* from Gastonia, NC, and points in its commercial zone to Philipsburg, PA, and points in its commercial zone. Supporting shipper(s): General Cigar and Tobacco Company, P.O. Box 2000, Dayton, NJ 08810.

MC 146293 (Sub-3–13TA), filed May 21, 1980. Applicant: REGAL TRUCKING CO., INC., 95 Industrial Park Circle, N.E., Lawrenceville, GA 30245. Representative: Richard M. Tettelbaum, Esq., 3390 Peachtree Road, N.E., 5th Floor, Lenox Tower South, Atlanta, GA 30326. *Such commodities as are dealt in by manufacturers and distributors of electronic equipment* from the facilities utilized by Gold Star Electronics International, Savannah, GA to points in GA, FL, AL, LA, MS, NC, SC, TN and VA. Supporting shipper(s): Gold Star Electronics International, Inc., 330 Madison Avenue, New York, NY 10017.

MC 102285 (Sub-3–1TA), filed May 23, 1980. Applicant: MIAMI TRANSFER CO., INC., 10340 N.W. 37th Avenue, Miami, FL 33147. Representative: Norman J. Bolinger, 1729 Gulf Life Tower, Jacksonville, FL 32207. *Contract carrier,* irregular *such commodities as are dealt in by retail stores, and equipment, materials and supplies used in the conduct of such businesses (except in bulk), in containers or trailers,* between points in Dade, Broward, and Palm Beach Counties, FL, restricted to traffic having a prior or subsequent movement by rail or water, under continuing contract(s) with Best Products Co., Inc., of Richmond, VA. Supporting shipper: Best Products Co., Inc., P.O. Box 26303, Richmond, VA 23260.

MC 149498 (Sub-3–5TA), filed May 20, 1980. Applicant: RIVER BEND TRANSPORTATION, INC., P.O. Box 5808, Pearl MS 39208. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. *Such commodities as are dealt in or used by manufacturers of (1) hardward, (2) building and construction materials, (3) electrical and gas products, (4) tools and dies (5) machinery products, (6) mill works, (7) lumber, lumber products, wood products and byproducts, pallets and furniture and fixtures,* between points in MS on the one hand, and, on the other points in the U.S. (except AK and HI). Restricted against transportation in bulk. Supporting shippers: Perfection Mill Works, 135 So. College St., Brandon, MS 39042; National Pallet Co., Inc., P.O. Box 9, Brandon, MS 39042; Solar Hardware Corp., Ampcor Anderson Metal Prod. Corp. Fellowship Rd., P.O. Box 537, Taylorsville, MS.

MC 149498 (Sub-3–4TA), filed May 23, 1980. Applicant: RIVER BEND TRANSPORTATION, INC., P.O. Box 5808, Pearl MS 39208. Representative:

Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. *Such commodities as are dealt in or used by lawn and garden equipment manufacturers (except in bulk),* between Tupelo, MS, on the one hand, and, on the other, points in the United States (except AK and HI). Supporting shipper: Aircap Manufacturers, Inc., P.O. Box 1070, Tupelo, MS 38801.

MC 134247 (Sub-3–1TA), filed May 21, 1980. Applicant: SEVERANCE TRUCK LINE, INC., P.O. Box 1630, Lake City, FL 32055. Representative: Sol H. Procter, 1101 Blackstone Bldg., Jacksonville, FL 32202. *Pallets and Pallet Lumber,* from Homerville, GA to points in FL. Supporting shipper: Peagler Pallet Co., Star Route, Homerville, GA 31634.

MC 143956 (Sub-3–6TA), filed May 22, 1980. Applicant: GARDNER TRUCKING CO., INC., P.O. Drawer 493, Walterboro, SC 29488. Representative: Steven W. Gardner, Suite 770, Century Boulevard NE., Atlanta, GA 30345. *Electronic calculators, cash registers, and parts thereof,* between Atlanta, GA; Baltimore, MD; Boston, MA; Chicago, IL; Cleveland, OH; El Paso, TX; Hartford, CT; New York, NY; and Philadelphia, PA. Supporting shipper: Victor Business Products, a subsidiary of Walter Kidde, Inc., 9555 Plaza Circle, El Paso, Texas 79907.

MC 2900 (Sub-3–7TA), filed May 22, 1980. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road., P.O. Box 2408–R, Jacksonville, FL 32203. Representative: S. E. Somers, Jr., (same address as applicant). *Foodstuffs,* between Kansas City, KS, on the one hand, and on the other, points in the U.S., restricted to traffic originating at the facilities of Breddo Foods. Supporting shipper: Breddo Food Products Corp., 18th and Kansas Ave., Kansas City, KS 66105.

MC 95540 (Sub-3–11TA), filed May 22, 1980. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). *Such merchandise as is dealt in by retail sewing centers* from Trumann, AR to FL. Supporting shipper: Singer Company, 313 Underhill Blvd., Syosset, NY 11791.

MC 61403 (Sub-3–3TA), filed May 22, 1980. Applicant: THE MASON AND DIXON TANK LINES, INC., P.O. Box 969, Kingsport, TN 37662. Representative: Mr. James P. Ray (same as above). *Chemicals,* in bulk, in tank vehicles, from Terre Haute, IN to points in the US in and east of ND, SD, NE, CO, OK and TX. Supporting shipper: International Minerals & Chemical Corp., 421 E. Hawley St., Mundelein, IL 60060.

MC 136384 (Sub-3–1TA), filed April 14, 1980. Applicant: PALMER MOTOR EXPRESS, INC., P.O. Box 103, Dean Forest Road, Savannah, GA 31402. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. General Commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment). 1. Between Atlanta and McRae, Georgia, from Atlanta over U.S. Highway 23 to McRae, and return, serving all intermediate points. 2. Between Vidalia and Atlanta, Georgia, from Vidalia over U.S. Highway 280 to Columbus, GA., thence over Alternate U.S. Highway 27 to Manchester, GA, thence over Georgia Highway 85 to its junction with U.S. Highway 19–41 to Atlanta and return, serving all intermediate points. 3. Between Richland and Savannah, Georgia, from Richland over Georgia Highway 55 to Dawson, GA, thence over U.S. Highway 82 to its junction with U.S. Highway 17, thence over U.S. Highway 17 to Savannah and return serving all intermediate points. 4. Between Macon and Waycross, Georgia, from Macon over U.S. Highway 41 to Valdosta, thence over U.S. Highway 84 to Waycross and return, serving all intermediate points and the off route point of Warner Robins, GA.5. Between McRae and Waycross, Georgia, from McRae over U.S. Highway 23 and 341 to Hazlehurst, thence over U.S. Highway 23 to Waycross and return, serving all intermediate points. 6. Between Macon and Columbus, Georgia, from Macon over U.S. Highway 80 to Columbus and return, serving all intermediate points. 7. Between Eatonton and Valdosta, Georgia, from Eatonton over U.S. Highway 129 to Ray City, GA, thence over Georgia Highway 125 to Valdosta and return, serving all intermediate points. 8. Between Valdosta and Atlanta, Georgia, from Valdsodsa over Interstate 75 to Atlanta and return, for operating convenience only, serving no intermediate points. 9. Between Columbus and Atlanta, Georgia, from Columbus over U.S. Highway 27 to LaGrange, thence over U.S. Highway 29 to Atlanta and return, serving all intermediate points. 10. Between Albany and Bainbridge, Georgia, from Albany over Georgia Highway 91 to its junction with Georgia Highway 253. Thence over Georgia Highway 253 to Bainbridge and return, serving all intermediate points. 11. Between Bainbridge and Valdosta, Georgia, from Bainbridge over U.S. Highway 84 to Valdosta and return serving all intermediate points. 12. Between Albany and Valdosta, Georgia, from Albany over Georgia Highway 133 to its junction with Georgia Highway 33 at or near Moultrie, Georgia, thence over Georgia Highway 33 to its junction with Georgia Highway 94, at or near New Rock Hill, Georgia, thence over Georgia Highway 94 to its junction with U.S. Highway 84, thence over U.S. Highway 84 to Valodsta and return, serving all intermediate points. 13. Between Hazlehurst and Jesup, Georgia, from Hazlehurst over U.S. Highway 341 and 25 to Jesup and return serving all intermediate points. There are 130 statements of support which may be examined at the I.C.C. Regional Office, Atlanta, GA.

MC 145794 (Sub-3–1TA), filed April 24, 1980. Republication—originally published in **Federal Register** of May 7, 1980, Page 30153, Volume 45, No. 90. Applicant: ARDS TRUCKING COMPANY, INC., P.O. Box 362, Darlington, SC 29532. Representative: Martin S. Driggers, Sr., P.O. Box 519, Hartsville, SC 29550. *Plastic and plastic products, and wood and lumber and wood and lumber products,* between facilities of Sweetapple Plastics Corp. in Green City., GA and facilities of Darlington Veneer Co. in Darlington City., SC, on the one hand, and, on the other, points in NC, VA, GA, WV, MD, DE, NJ, PA, NY, FL, AL, TN, KY, OH, IN, MO, SC, MS, LA, TX, AR, OK, KS, IL, DC, CT, RI, MA, WI, and MI. Supporting shipper(s): Sweetapple Plastics Corp., P.O. Box 38, Greensboro, GA 30642 and Darlington Veneer Company, P.O. Box 492, Darlington, SC 29532.

MC 107515 (Sub-3–23TA), filed May 21, 1980. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, Esq., 3390 Peachtree Rd., N.E., Atlanta, GA 30326. *Plumbing Fixtures and Fittings and Accessory Parts and Supplies* from the facilities of American Standard at (1) Tiffin, OH to points in AR, LA, MN, ND, OK, SD, and TX; and (2) New Orleans, LA to points in AL, AZ, AR, CA, GA, KS, MS, MO, NM and TX. Supporting shipper: American Standard, Inc., P.O. Box 2003, New Brunswick, NJ 08903.

MC 147665 (Sub-3–1TA), filed March 28, 1980. Applicant: BASSETT FURNITURE INDUSTRIES OF NORTH CAROLINA, INC., d.b.a. BASSETT TRUCKING COMPANY, Post Office Box 47, Newton, NC. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Building, Charlotte, NC. *Contract carrier irregular routes,* (a) *pails and/or drums,* from the facilities of Calig Steel Drum Co. in the State of PA to points in VA, NC, SC, GA, TN and WV; (b)

refused and rejected shipments of pails and/or drums, from points in VA, NC, SC, GA, TN and WV to the facilities of Calig Steel Drum Co. in the State of PA; and (c) *empty shipping containers and shipping devices used in the transportation of pails and/or drums,* from points in VA, NC, SC, GA, TN and WV to the facilities of Calig Steel Drum Co. in the State of PA. Supporting shipper: Calif Steel Drum Company, 1400 Fleming Avenue, McKees Rocks, PA.

MC 141145 (Sub-3–2TA), filed April 23, 1980. Republication—originally published in **Federal Register** of May 7, 1980, Page 30153, Volume 45, No. 90. Applicant: REYNOLDS & COMPANY, INC., One Railroad Avenue, P.O. Box 227, Waynesboro, GA 30830. Representative: Thomas L. Reynolds, Wood Valley Road, Waynesboro, GA 30830. *Lumber, forest products, bark, sawdust, wood chips and wood fuel,* from the facilities of the Forest Products Division, Kimberly-Clark Corporation at or near Waynesboro, GA to points in NC, SC and TN. Supporting shipper(s): Kimberly-Clark Corp., 1414 West Larsen Road, Neenah, WI 54956.

MC 121081 (Sub-3–2TA), filed April 18, 1980. Republication—originally published in **Federal Register** of April 30, 1980, Page 28834, Volume 45, No. 85. Applicant: COLUMBUS MOTOR LINES, INC., P.O. Box 26741, Charlotte, NC 28213. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Plastic containers,* (1) From the facilities of Sewell Plastics, Inc. at Charlotte, NC to points in GA, MD, PA, SC, TN and VA. (2) From the facilities of Sewell Plastics, Inc. at Mauldin, SC to points in GA, NC and TN. (3) From the facilities of Sewell Plastics, Inc. at or near Havre de Grace, MD and New Stanton, PA to points in NC, SC and VA, and *Plastic container parts; equipment; and materials and supplies used in the distribution, production and sale of plastic containers,* (4) From points in GA, MD, NC, PA, SC, TN and VA to the facilities of Sewell Plastics, Inc. at Charlotte, NC and Mauldin, SC. Supporting shipper(s): Sewell Plastics, Inc., P.O. Box 8051, Charlotte, NC 28208.

MC 121107 (Sub-3–1TA), filed March 25, 1980. Republication—originally published in **Federal Register** of April 23, 1980, Page 27552, Volume 45, No. 80. Applicant: PITT COUNTY TRANSPORTATION COMPANY, P.O. Box 207, Farmville, NC 27828. Representative: Harry J. Jordan, 1000 16th Street, NW., Washington, DC 20036. *(1) Newsprint paper,* from Laurens County, GA to points in AL, AR, DE, FL, CA, IL, IN, KY, LA, MD, MS, MO, NC, NJ, NY, OH, OK, PA, SC, TN, TX, VA, WV and DC; and *(2) Waste newspapers, cores and supplies, materials and equipment, excluding materials in bulk, used in the manufacture or distribution of newsprint,* from points in the states described in Item (1) to Laurens County, GA. Supporting shipper(s): Southeast Paper Manufacturing Company, P.O. Box 1169, Dublin, GA 31021.

MC 56679 (Sub-3–12TA), filed April 22, 1980. Republication—originally published in **Federal Register** of May 7, 1980, Page 30154, Volume 45, No. 90. Applicant: BROWN TRANSPORT CORP., 352 University Ave., SW., Atlanta, GA 30315. Representative: Leonard S. Cassell, P.O. Box 6985, Atlanta, GA 30310. *(1) Rovings or yarn, glass fibre; or strand, glass fibre, in continuous lengths or chopped; (2) Mineral wool (clay, rock, slag, or glass wool) batts, batting, blankets, sheets blocks, or other,* (1) From the facilities of Johns-Manville at or near Winder, GA to points in AL, AR, FL (Wet of the Appalachicola River), LA, MS and (2) From the facilities of Johns-Manville at or near Etowah, TN to points in FL (West of the Appalachicola River), AL, MS and LA. Supporting shipper(s): Johns-Manville Sales Corp., P.O. Box 4487, Atlanta, GA 30202.

MC 146782 (Sub-3–4TA), filed April 23, 1980. Republication—originally published in **Federal Register** of May 7, 1980, page 30151, volume 45, No. 90. Applicant: ROBERTS CONTRACT CARRIER CORPORATION, 300 First Avenue, South, Nashville, TN 37201. Representative: Stephen L. Edwards, 806 Nashville Bank and Trust Building, Nashville, TN 37201. (1) *Iron and steel articles* and, (2) *Materials, equipment and supplies used in the manufacture of the commodities described in (1) above* (except commodities in bulk), between the facilities of Exposiac Wire Company located at Mount Airy, NC on the one hand, and, on the other, points in KY, IN, IL, OH, PA, TN and WV. Supporting shipper: Exposaic Wire Co., P.O. Box 1122, Mt. Airy, NC 27030.

MC 146782 (Sub-3–4TA), filed April 23, 1980. Republication—originally published in **Federal Register** of May 7, 1980, page 30151, volume 45, No. 90. Applicant: ROBERTS CONTRACT CARRIER CORPORATION, 300 First Avenue, South, Nashville, TN 37201. Representative: Stephen L. Edwards, 806 Nashville Bank and Trust Building, Nashville, TN 37201. (1) *Iron and steel articles* and, (2) *Materials, equipment and supplies used in the manufacture of the commodities described in (1) above* (except commodities in bulk), between the facilities of Exposaic Wire Company located at Mount Airy, NC on the one hand, and, on the other, points in KY, IN, IL, OH, PA, TN and WV. Supporting shipper: Exposaic Wire Co., P.O. Box 1122, Mt. Airy, NC 27030.

MC 134105, filed April 1, 1980. Applicant: CELERYVALE TRANSPORT, INC., 1706 Rossville Ave., Chattanooga, TN 37408. Representative: L. D. Miller III (same address as applicant). *Lighting fixtures and parts therefor* from the facilities of Lithonia Lighting at Chattanooga, TN to points in AR, CO, FL, IL, IN, IA, KS, KY, LA, MI, MN, MO, NE, NM, ND, OH, OK, SD, TX, VA, WV, WI, and WY. Supporting shipper: Lithonia Lighting Company, 1335 Industrial Blvd., P.O. Box A, Conyers, GA 30207.

The following applications were filed in Region 4. Send protests to: ICC, Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 808 (Sub-4–3TA), filed May 27, 1980. Applicant: ANCHOR MOTOR FREIGHT, INC., 29201 Telegraph Rd., Suite 522, Southfield, MI 48034. Representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. *Contract:* Irregular; *Motor vehicles,* in truckaway movements, (1) from Baltimore, MD to points in AL and MS; and, (2) from Framingham, MA to points in AL, FL, GA, MS and SC, under continuing contract or contracts with General Motors Corporation. Supporting shipper: General Motors Corporation, GM Logistics Operations, 755 W. Big Beaver Rd., Ste. 1300, Troy, MI 48084.

MC 15975 (Sub-4–5TA), filed May 27, 1980. Applicant: BUSKE LINES, INC., 123 W. Tyler Ave., Litchfield, IL 62056. Represenative: Howard H. Buske (same address as applicant). *General commodities,* with the usual exceptions, between St. Louis, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI). Restricted to traffic originating at or destined to the facialities of All Type Container Corp. An underlying ETA seeks up to 90 days authority. Supporting shipper: All Type Container Corp., 1420 North Broadway, St. Louis, MO 66102.

MC 20356 (Sub-4–1TA), filed May 16, 1980. Applicant: BADGER FREIGHTWAYS, INC., 2720 N. 19th Avenue, Sheboygan, WI 52081. Representative: Stanley A. Pinski, 2200 S. Laflin Street, Chicago, IL 60608. *General Commodities, (except those of unusual value, Classes A and B explosives, Household Goods as defined by the Commission, commodites in bulk, and those requring special equipment):* Between Chicago, IL, on the one hand, and, on the other, points and places in Dane, Sauk, Juneau, Monroe, La Crosse, Jackson, Trempealeau, Clark, Buffalo,

Eau Claire, Pepin, Chippewa, Rusk, Taylor, Pierce, Dunn, St. Croix, Polk, Burnett, Washburn and Barron Counties, WI, St. Paul and Minneapolis, MN. Applicant intends to take authority and interline. There are 45 supporting shippers.

MC 37473 (Sub-4–1TA), filed May 28, 1980. Applicant: DETROIT-PITTSBURGH MOTOR FREIGHT, INC., 1725 Miller Road, Dearborn, MI 48120. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *General commodities* (except those of unusual value and except dangerous explosives, livestock, household goods as defined by the Commission and commodities in bulk), serving the site of the stamping plants of The Ford Motor Co. located at or near Chicago, IL; Detroit (including points in its Commercial Zone), Monroe, and Woodhaven, MI; Cleveland and Maumee, OH; and Buffalo, NY, as off-route points in connection with carrier's authorized regular route operations between Canton, OH, and Pittsburgh, PA; Detroit, MI; Buffalo, NY; and Chicago, IL. Supporting shipper: Ford Motor Co., 1 Parklane Blvd., Dearborn, MI 48126.

Republication

MC 48441 (Sub-4–3TA), filed May 28, 1980. Applicant: R.M.E. INC., P.O. Box 418, Streator, IL 61364. Representative: Michael D. Bromley, Suite 805, 666 Eleventh Street NW., Washington, DC 20001. *Malt beverages,* from the facilities of Stroh's Brewery at Detroit, MI to Cleveland and Wisconsin Dells, WI. Supporting shipper(s): Lewis Distributing, Inc., 855 Hickory Street, Cleveland, WI 53015, and Kaiser Distributor, Inc., P.O. Box 23, Wisconsin Dells, WI 53965.

MC 69833 (Sub-4–8TA), filed May 27, 1980. Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Avenue NW., 6th Floor, Grand Rapids, MI 49503. Representative: Harry Pohlad, (same address as applicant). Common, *regular: Magnesite, High Temperature Bonding Mortar,* serving Butler, PA as an off-route point in connection with carrier's presently authorized routes. Supporting shipper: S. G. Weldon, Jr., Martin Marietta Chemicals, Refractories Division, Executive Plaza II, Hunt Valley, MD 21030.

MC 106674 (Sub-4–18TA), filed May 27, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). *Decorative Stone, Weed Killer and Herbicides* from Groton, CT; Jackson, FL; Atlanta, GA; Chicago, IL; Quincy, IL; Ottawa, KS; Elizabethtown, KY; Louisville, KY; Minneapolis, MN; St. Paul, MN; Detroit, MI; St. Louis, MO; Closter, NJ; Charleston, SC; Buchanan, VA; Snowden, VA; and Wheeling, WV to points in and east of CO, MT, OK, TX, and WY. Supporting shipper: Old Dutch Materials Co., 350 Pfingster Rd., Northbrook, IL.

MC 106674 (Sub-4–19TA), filed May 27, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). *Preservatively Treated Forest Products,* from Jackson, TN; Louisville, MS; and Pensacola, FL to points in IL, IN, KY, MI, OH, PA, NY, WI, MO, KS, IA, and NE. Supporting shipper: American Creosote Works, Inc., Meadow St., Box 1444, Jackson, TN 38301.

MC 108393 (Sub-4–6), filed May 27, 1980. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 East Ogden Avenue, Hinsdale, Illinois 60521. Representative: T. B. Hill, 201 East Ogden Avenue, Hinsdale, Illinois 60521. *Contract,* irregular; *Such merchandise, equipment and supplies, sold, used or distributed by a manufacturer of cosmetic, toilet preparations and jewelery* (except commodities in bulk, in tank vehicles) for the account of Avon Products, Inc. A. From Atlanta, GA and its commercial zone on the one hand to Attalla, Birmingham, Dothan, Mobile, Montgomery, AL; Fort Myers, Jacksonville, Miami, Orlando, Pensacola, Tallahassee, Tampa, FL; Baton Rouge, New Orleans, Shreveport, LA; Jackson, Meridian, Philadelphia, Tupelo, MS; Asheville, Charlotte, Greensboro, Greenville, Hickory, NC; Charleston, Columbia, Greensville, SC; Jackson, Kingsport, Knoxville, Memphis, Nashville, TN; on the other and B. From Morton Grove, IL; Corinth, MS; Hoboken, NJ; Suffern, NY; Springdale, OH; and Lynchburg, VA on the one hand to Atlanta, GA and its commercial zone on the other under continuing contract or contracts with Avon Products, Inc. Supporting shipper: Avon Products, Inc., 9 W. 57th St., NY, NY.

Note.—Common control and dual operations may be involved.

MC 108453 (Sub-4–1TA), filed May 21, 1980. Applicant: G & A TRUCK LINE, INC., 404 West Peck Ave., White Pigeon, MI 49099. Representative: Edward Malinzak, 900 Old Kent Bldg., Grand Rapids, MI 49503. *Contract,* irregular; *Paper mill products and materials and supplies used in the manufacture and distribution thereof,* between Spartan Paperboard, Inc., at or near Kalamazoo, MI, and points in IN, IL, OH, WI, NY, KY, MO and IA, restricted against the transportation of commodities in bulk, under a continuing contract with Spartan Paperboard, Inc. Supporting shipper: Spartan Paperboard, Inc., 1111 3rd Street, Three Rivers, MI 49093.

MC 108649 (Sub-4–2TA), filed May 20, 1980. Applicant: STURM FREIGHTWAYS, INC., 8919 North University, Peoria, IL 61614. Representative: Leonard R. Kofkin, 39 South La Salle Street, Chicago, IL 60603. Common, *regular: General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Danville, IL and Indianapolis, IN, serving all points in the Indianapolis, IN commercial zone as intermediate or off-route points; From Danville over Interstate Hwy 74 to Indianapolis and return over the same route. 74 supporting shippers.

MC 116519 (Sub-4–2TA), filed May 27, 1980. Applicant: FREDERICK TRANSPORT, LIMITED, R.R. No. 6, Chatham, Ontario, Canada N7M 5J6. Representative: Jeremy Kahn, Suite 733, Investment Building, 1511 K Street, N.W., Washington, D.C. 20005. *Asbestos cement pipe,* from the facilities of Johns-Manville at or near Denison, TX, and Manville, NJ to ports of entry on the U.S.-Canada Boundary Line, located in MI and NY, restricted to foreign commerce. Supporting shipper: Johns-Manville Canada, Inc., 295 The West Mall, Etobicoke, Ontario, Canada M9C 4Z7.

MC 118989 (Sub-4–1TA), filed May 27, 1980. Applicant: CONTAINER TRANSIT, INC., 5223 S. 9th St., Milwaukee, WI 53221. Representative: Eugene R. Kraklow, Jr. (same address as applicant). (1) *Containers, container ends and closures,* (2) *commodities manufactured or distributed by manufacturers and distributors of containers when moving in mixed loads with containers,* (3) materials, equipment and supplies used in the manufacture and distribution of containers, container ends and closures, between all points in the United States (except AK and HI). Restricted against the transportation of commodities in bulk. There are 18 supporting shippers.

MC 123294 (Sub-4–6TA), filed May 27, 1980. Applicant: WARSAW TRUCKING CO., INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). *Waste and scrap paper,* from Angola, IN, to points in IL, MI, OH, and WI. An underlying ETA seeks 90 days authority. Supporting shipper: Paper & Pulp Fibers, Inc., 1400 E. Touhy, Room 452, Des Plaines, IL 60018.

MC 123407 (Sub-4–33TA), filed May 28, 1980. Applicant: WARSAW TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). *Plastic containers and closures,* from Louisiana, MO, to points in the U.S. (except AK and HI). An underlying ETA seeks 90 days authority. Supporting shipper: Louisiana Plastics, Inc., 9645 Clayton Rd., St. Louis, MO 63124.

MC 124170 (Sub-4–5TA), filed May 28, 1980. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521. *Such commodities as are dealt in and used by manufacturers, distributors and wholesalers of health and beauty aids,* between the Los Angeles Commercial Zone, CA, on the one hand, and, on the other, points and places in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, UT, VT, VA, WV, & WI. An underlying ETA seeks 90 days authority. Supporting shipper: Vidal Sassoon, Inc., 6940 Owensmouth Avenue, Chatsworth, CA 91311.

MC 134730 (Sub-4–4), filed May 28, 1980. Applicant: METALS TRANSPORT, INC., 528 South 108th Street, West Allis, WI 53214. Representative: M. H. Dawes (same address as applicant). *Contract,* irregular, *Fabricated Metal Products and Iron and Steel Articles, and Parts, Materials, Equipment, and Supplies used in the manufacture and repair of Fabricated Metal Products and Iron and Steel Articles,* between Appleton, WI, on the one hand, and, on the other, points in the U.S., including AK but excluding HI, under a continuing contract(s) with Abel Manufacturing Co., Inc., Appleton, WI. Supporting shipper: Abel Manufacturing Co., Inc., 3100 North McCarthy Road, Appleton, WI 54911.

MC 136881 (Sub-4–1TA), filed May 28, 1980. Applicant: GARRITY TRUCKING, INC., 110 Main Street, Fortville, IN 46040. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Contract,* irregular; *Plastic sheets,* from Ottowa, IL and Milford, DE to Indianapolis, IN, Phoenix and Flagstaff, AZ, restricted to service to be performed under a contract or continuing contracts with Envirotech Corporation. Supporting shipper: Envirotech Corporation, 3000 Sand Hill Road, Menlo Park, CA 94025.

MC 141216 (Sub-4–1TA), filed May 27, 1980. Applicant: DARREL K. OAKLEY, d.b.a. OAKLEY ENTERPRISES, P.O. Box 387, Rapid City, SD 57709. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701. *Plastic and paper containers, set up, empty,* From Norfolk, NE and Powell, WY to Rapid City, SD. Supporting shipper: Gillette Dairy of the Black Hills, Inc., P.O. Box 2553, Rapid City, SD 57709.

MC 143853 (Sub-4–3TA), filed May 15, 1980. Applicant: S.M.E. EXPRESS, INC., 101 E. Washington, St., Upland, IN 46989. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. *Paper, paper products, plastic, plastic products, and materials, equipment and supplies* used in the manufacture and distribution thereof, from the facilities of Crown Zellerbach Corp. at Hazelwood, MO, Greensburg, IN, Florence, KY, New Castle, DE, and Orange, TX, to points in AL, AR, CT, DE, FL, GA, IL, IN, KY, MD, MA, MI, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT and WV, restricted to a continuing contract(s) with Crown Zellerbach Corp. An underlying ETA seeks 90 days authority. Supporting shipper: Crown Zellerbach Corporation, One River St., South Glens Falls, NY 12801.

MC 145246 (Sub-4–1), filed May 27, 1980. Applicant: A. E. SCHULTZ CORPORATION, 901 Lyndale Avenue, Neenah, WI 54956. Representative: Frank M. Coyne, 25 West Main Street, Madison, WI 53703. *Corn starch,* in bulk from points in IA, MN, MS, TN, IN, IL to points in WI. Supporting shippers: Kerwin Paper Co., Appleton, WI 54911, Midtec Paper Corp., Kimberly, WI 54136; Central Paper, Menasha, WI 54932.

MC 145485 (Sub-4–1TA), filed February 22, 1980. Applicant: DAVIS CARTAGE COMPANY, P.O. Box 96, Corunna, MI 48817. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Fertilizer,* from the facilities of USS Agri-Chemicals, Division U.S. Steel Corporation, at Chicago Heights, IL, to points in MI. Supporting shipper: USS Agri-Chemicals, Division U.S. Steel Corporation, 233 Peachtree St., Atlanta, GA 30303.

MC 145664 (Sub-4–3), filed May 27, 1980. Applicant: STALBERGER, INC., 223 S. 50th Ave. W. Duluth, MN 55807. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Bricks, Blocks, Slabs, Tiles, Ground Materials and Related Articles,* from Pigeon River, MN a point on the International Boundary Line between the U.S. and Canada to Davenport and Des Moines, IA, Chicago, Joliet, and Springfield, IL, to Detroit, Lansing, and Sault Ste. Marie, MI, Duluth, Minneapolis, and St. Cloud, MN, Bismarck, Fargo, and Grand Forks, ND and Eau Claire, Green Bay, Janesville, Madison, and Milwaukee, WI, restricted to the traffic of Thunderbrick, Ltd. An underlying ETA seeks 90 days authority. Supporting shipper: Thunderbrick Ltd., R.R. No. 5, Rosslyn Road, Thunder Bay, Ontario P7C 5M9.

MC 146643 (Sub-4–19TA), filed May 27, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., formerly known as DAVID CREECH TRANSPORTATION SYSTEMS, INC., 655 East 114th St., Chicago, IL 60628. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Contract;* irregular: *household and industrial cleaning products (except in bulk),* (1) from Chicago, IL, to points in IA, (2) from St. Louis, MO, to IN, KS, the Lower Peninsula of MI, MN, Chicago, IL, OH, WI, and IA and (3) from Toledo, OH, to Chicago, IL. Supporting shipper: Purex Corp., 6901 McKissock, St. Louis, MO 63147.

MC 146643 (Sub-4–18TA), filed May 27, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th St., Chicago, IL 60628. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Contract;* irregular: *paper and paper products, and materials and supplies used in the manufacture and processing of paper and paper products,* between the facilities of Georgia Pacific Corp. at or near Gary, IN, on the one hand, and, on the other, points in IL, IA, KS, MI, MN, MO, PA and WI. Supporting shipper: Georgia Pacific Corporation, 2nd Place and Waite St., Gary, IN 46404.

Republication

MC 146837 (Sub-4–1TA), filing date May 28, 1980. Applicant: SOUTHERN MINNESOTA GROCERY COMPANY, 202 Southwest Second, Waseca, MN 56093. Representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Salt,* from Hutchinson, KS to IA, MN, Tomah and Prairie du Chien, WI, Hannibal, Mexico and Rolla, MO. An underlying ETA seeks 90 days authority. Supporting shipper: Big Bear Supply, P.O. Box 1247, St. Cloud, MN 56301.

MC 148166 (Sub-4–1TA), filed May 23, 1980. Applicant: H. DERBY TRANSPORT, Grenfell, Saskatchewan SOG 2B0. Representative: Peter W. Glendinning, Barrister and Solicitor, 2042 Cornwall Street, Regina, Saskatchewan S4P 2K5. Common; *Regular; Fertilizer and fertilizer ingredients,* in bulk, in tank vehicles, from United States and Canada border at Portal and Northgate, ND to points in MN. Supporting shipper: Martex

Incorporated, P.O. Box 159, Chanhassen, MN 55317.

MC 149151 (Sub-4–1), filing date May 28, 1980. Applicant: SCHUH TRANSPORT, INC., P.O. Box 207, Kaukauna, WI 54130. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Contract,* irregular: *Anhydrous ammonia,* in bulk, in tank vehicles, from Clinton and Dubuque, IA and Pine Bend, MN, to Larson, New London, Weyauwega, and Chilton, WI. Restricted to transportation to be performed under a continuing contract(s) with: Cooperative Service Oil Company, Chilton, WI; Larson Cooperative, Larson, WI; New London Co-op, New London, WI; and Weyauwega Union Co-op, Weyauwega, WI. Five supporting shippers.

MC 149224 (Sub-4–1), filed May 28, 1980. Applicant: B & M HEAVY EQUIPMENT TOWING, INC., 3711 South California Avenue, Chicago, Illinois 60632. Representative: Martin J. Kennedy, 120 West Madison Street, Suite 718, Chicago, Illinois 60602. *Wrecked or disabled buses, tractors, trailers, semi-trucks, or parts thereof, self-propelled highway and off-highway vehicles, machinery, and equipment; also, trailers, wrecked mobile offices, wrecked travel trailers, and dollies (fifth wheel converters) and replacement vehicles* between points in AR, IL, IN, IA, KY, MI, MN, MO, MS, NE, OH, PA, TN, WI, ND and SD. Supporting shippers: Emergency Demolition Contractors, 3425 S. Kedzie Ave., Chicago, IL., Aggressive Leasing, 3415 S. Kedzie Ave., Chicago, IL, Tucker Freight Lines, Inc., 3000 W. 35th St., Chicago, IL, and Power-Lift, Inc., 12635 Hamlin Ct., Alsip, IL.

MC 150409 (Sub-4–2TA), filed May 27, 1980. Applicant: MITCH–MORTRUCKING, INC., Route 1, Becker, MN 55308. Representative Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Aluminum die castings,* from Minneapolis, MN to Milwaukee, WI and Bloomington, IL. An underlying ETA seeks 90 days authority. Supporting shipper: Strite Anderson Co., 7585 Viron Rd. NE., Minneapolis, MN 55432.

MC 150886 (Sub-4–1TA), filed May 27, 1980. Applicant: KID GLOVE SERVICE, INC., 4601 Kercheval Drive, Indianapolis, IN 46226. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Contract:* Irregular: *Appliances,* (a) from the facilities of Robco Distributing, Inc. at Indianapolis, IN to Columbus and Cincinnati, OH, Louisville, KY and Robinson, IL; and (b) from St. Louis, MO, Columbus and Mansfield, OH, Bloomington, IL, Amana, IA, Ripon, WI and Fayettsville, TN, to the facilities of Robco Distributing, Inc. at Indianapolis, IN. Restricted to a continuing contract(s) with Robco Distributing, Inc. An underlying ETA seeks 90 days authority. Supporting shipper: Robco Distributing, Inc., Indianapolis, IN.

MC 126276 (Sub-4–8TA), filed May 19, 1980. Applicant: FAST MOTOR SERVICE, INC., 9100 Plainfield Road, Brookfield, IL 60513. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Contract;* irregular: *Charcoal, charcoal briquettes, fireplace logs, hickory chips, barbecue items used in outdoord cooking, and materials, equipment and supplies used in the manufacture, sale and distribution of the foregoing commodities* (except commodities in bulk in tank vehicles and commodities which, because of size or weight, require the use of special equipment), from Burnside, KY to points in WI, IL, MI and OH, and from Parsons, WV to points in MD, PA, NJ, NY, VT, OH, ME, MA, RI, CT, DE and DC, under a continuing contract or contracts with the Kingsford Company. Supporting shipper: Kingsford Company, Louisville, KY 40201.

MC 150823 (Sub-4–1TA), filed May 16, 1980. Applicant: DATA DISPATCH, INC., 850 Florida Avenue South, Minneapolis, Minnesota 55426. Representative Timothy H. Butler, Lindquist & Vennum, 4200 IDS Center, 80 South Eighth Street, Minneapolis, MN 55402. *Contract;* irregular: *Merchadise, equipment, and supplies sold, used, or distributed by a manufacturer of cosmetics* between Minneapolis, MN on the one hand and points in the Minnesota counties of Winona, Scott, Meeker, Ramsey, Olmsted, Nicollet, Sibley, Wabasha, Carver, Carlton, Goodhue, McLeod, St. Louis, Dodge, Hennepin, Washington, Todd, Dakota, Anoka, Mille Lacs, Mower, Steele, Wright, Kanabec, Brown, Rice, Sherburne, Pine, Waseca, Isanti, Morrison, Kandiyohi, Le Sueur, Chisago, Stearns, Blue Earth, Benton, Aitkin, Renville, Fillmore and Houston and the Wisconsin counties of Burnett, Chippewa, Pepin, Washburn, Taylor, Buffalo, Polk, Douglas, Jackson, Barron, Clark, Trempealeua, Marathon, St. Croix, Eau Claire, Rusk, Dunn and Pierce, on the other. Supporting shipper: Avon Products, Inc., 6901 Gulf Rd., Morton Grove, IL.

MC 133689 (Sub-4–19TA), filed May 19, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naple St. NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Steel shelving, pallet racks, industrial furniture, storage cabinets, hardware, and materials, supplies used in the assembly and distribution of above named commodities* (except commodities in bulk), from Hatfield, PA to points in IA, NE, ND, MN, MO, SD and WI. Supporting shippers: Mid American Systems, Inc., Materials Handling Center, P.O. Box 3803, Davenport, IA 52802; Storage Equipment, Inc., 6504 Walker Street, Suite 211, Minneapolis, MN 55426.

MC 133689 (Sub-4–18TA), filed May 19, 1980. Applicant: OVERLAND EXPRESS, INC., 8651 Naples St. NE., Blaine, MN 55434. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Gas or electrical appliances and parts, materials, supplies and equipment used in the distribution or repair of appliances,* from Whirlpool facilities at St. Joseph, MI; Clyde, Marion and Findlay, OH to points in ND, SD, NE, MN, IA, WI, IL, NJ, MA, RI, CT, NY, PA, MD, DE and VA. Supporting shipper: Whirlpool Corporation, U.S. 33 North, Benton Habor, MI.

MC 146058 (Sub-4–2TA), filed May 20, 1980. Applicant: HAUPT CONTRACT CARRIERS, INC., P.O. Box 1023, Wausau, WI 54401. Representative: Elaine M. Conway, 10 S. LaSalle St., Chicago, IL 60603. *Agriculture tractors and implements; cranes and parts; grading and road making equipment, military goods and equipment; oil, water and gas well outfits and supplies, and shipping containers;* between points in AR, CA, FL, GA, IA, IL, IN, KS, KY, LA, MD, MI, MN, MO, NC, NJ, OH, OK, OR, PA, SC, TN, TX, VA, WA, and WI. Restricted to the transportation of traffic having a prior or subsequent movement by water. Supporting shipper(s): Tipton Shipping Co., 327 S. LaSalle St., Chicago, IL 60604; Barber Steamship Lines, Inc., 17 Battery Place, New York, NY 10004; Waterman Steamship Lines, 120 Wall St., New York, NY 10005; J. I. Case, 700 State St., Racine, WI 53404.

MC 111496 (Sub-4–3TA), filed May 15, 1980. Applicant: TWIN CITY FREIGHT, INC., 2550 Long Lake Road, Roseville, MN 55113. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58126. *Common carrier:* Regular routes: *General commodities,* except those of unsual value, classes A and B explosives, household goods as defined by the Commossion, commodities in bulk, and those requiring special equipment, Between Williston, ND and Billings, MT, serving the intermediate points of Glendive and Miles City, MT. From Williston over U.S. Hwy. 85 to

junction ND Hwy. 200, then over ND Hwy. 200 to junction MT Hwy. 16, then over MT Hwy. 16 to junction I Hwy. 94, then over I 94 to Billings, and return over the same route, for 180 days. There are 27 supporting shippers.

MC 118696 (Sub-4–14TA), filed May 19, 1980. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Road, Hammond, IN 46234. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204. *Furniture, furniture parts, and materials, equipment and supplies* used in the manufacture, distribution, and sale thereof, (except in bulk), (1) between the facilities of Simmons, U.S.A. at Janesville, WI; Atlanta, GA; Columbus, OH; Elizabeth, NJ; Kansas City, KS; and Dallas, TX; (2) between the facilities of Simmons, U.S.A. at Columbus, OH, on the one hand, and, on the other, points in the states of IL, IN, and MI; and (3) between the facilities of Simmons, U.S.A. at Janesville, WI on one hand, and, one the other, points in the states of IL, IN, IA, KY, MI, OH, PA, NE, MO, TN, and MN, for 180 days. Supporting shipper: Peter F. Meehan, Simmons, U.S.A., 6 Executive Park Dr., Atlanta, GA 30348.

MC 118776 (Sub-4–6TA), filed May 15, 1980. Applicant: GULLY TRANSPORTATION, INC., 3820 Wisman Lane, Quincy, IL 62301. Representative: Herman W. Huber, Attorney, 101 East High Street, Jefferson City, MO 65101. (1) *Scrap Aluminum and Aluminum Foil* with paper back, from the facilities of Alufoil Packaging Co., Inc., Fort Madison, IA to Terre Haute, IN, (2) *Aluminum Foil* without paper back, from Terre Haute, IN to the facilities of Alufoil Packaging Co. Inc., Fort Madison, IA. An underlying ETA seeks 90 days authority. Supporting shipper, Alufoil Packaging Co., Inc. Rte 3. Box 15, 1800 33rd St., Fort Madison, IA 52627.

MC 144596 (Sub-4–1TA), filed May 12, 1980. Applicant: BEN FRAZIER, INC., 120 East Julius Street, Fergus Falls, MN 56537. Representative: Charles E. Johnson, P.O. Box 1982, Bismarck, ND 58501. *Contract; irregular; Roofing and Roofing Materials,* from Franklin, OH, to points in ND and MN under contract with Georgia Pacific Corporation, Fargo, ND. Supporting shipper: Georgia Pacific Corporation, Box 5452, Fargo, ND 58105.

MC 134866 (Sub-4–1TA), filed May 19, 1980. Applicant: COURY MOTOR FREIGHT, 580 Ottawa Ave., St. Paul, MN 55107. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), from points in the towns of Balsam Lake, Garfield, Lincoln, Osceola, St. Croix Falls, Polk County, WI to Minneapolis-St. Paul, MN and points in their commercial zones as defined by the Commission. Supporting shippers: There are 12 supporting shippers involved. See actual Certificates of Support.

MC 118696 (Sub-4–15TA), filed May 19, 1980. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Road, Hammond, IN 46234. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204. (1) *Materials, equipment, and supplies used in the manufacture and distribution of television sets,* from Decatur, IN; Atlanta, GA; and Newton, NC to Lebanon, TN and Nashville, TN, and (2) *television sets,* from Lebanon, TN to Dallas, TX and its Commercial Zone; New Orleans, LA and its Commercial Zone; Atlanta, GA and its Commercial Zone and St. Louis, MO and its Commercial Zone. Supporting shipper: Toshiba America, Inc., 1420 Toshiba Drive, Lebanon, TN 37087.

MC 110988 (Sub-4–33TA), filed May 19, 1980. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Avenue, Appleton, WI 54911. Representative: Patrick M. Byrne, P.O. Box 2298, Green Bay, WI 54306. *Vegetable oils,* from the facilities of Cargill, Inc. at Minneapolis, MN to the facilities of Cargill, Inc. at Carpentersville, IL. Supporting shipper: Cargill, Inc., Cottage Avenue and Lake Marian Road, Carpentersville, IL 60110.

MC 69833 (Sub-4–6TA), filed May 19, 1980. Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Avenue N.W., 6th Floor, Grand Rapids, MI 49503. Representative: Harry Pohlad (same address as applicant). Common, *regular; General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Eldorado, IL as an off-route point in connection with carrier's presently authorized routes. Supporting shipper: H. R. Schroeder, Colgate Palmolive Company, Jeffersonville, IN.

MC 138283 (Sub-4–1TA), filed May 19, 1980. Applicant: DANA TRUCKING CORPORATION, P.O. Box 6, Round Lake, MN 56167. Representative: Michael J. Ogdorn, P.O. Box 82028, Lincoln, NE 68501. *Contract,* Irregular: (1) *Malt beverages* (except in bulk), *and advertising materials,* from St. Louis, MO and LaCrosse, WI to Worthington, MN; and (2) *Empty containers,* from Worthington, MN to St. Louis, MO and LaCrosse, WI. Supporting shipper: Hagen-Cooper Distributing Company, 626 Oxford Street, Worthington, MN 56187.

MC 150103 (Sub-4–5TA), filed May 20, 1980. Applicant: SCHWEIGER INDUSTRIES, INC., 116 West Washington Street, Jefferson WI 53549. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Contract;* Irregular; *Packaging and cushioning material,* from Carlstadt, NJ and Hanging Rock, OH to Milwaukee, WI and its commercial zone and Chicago, IL and its commcerial zone. Restricted to service to be performed under a continuing contract(s) with Republic Packaging Corporation. Underlying ETA seeks 90 day authority. Supporting shipper: Republic Packaging Corporation, 9160 South Green Street, Chicago, Illinois 60620.

MC 146643 (Sub-4–17TA), filed May 20, 1980. Applicant: INTER-FREIGHT TRANSPORTATION, INC., 655 East 114th Street, Chicago, IL 60628. Representative: Joel H. Steiner, Axelrod, Goodman, Steiner & Bazelon, 39 South LaSalle Street, Chicago, IL 60603. *Refractory products, steel mill and foundary supplies,* from Cleveland, OH, and points in its commercial zone to Chicago, IL, and Milwaukee, WI, and points in their respective commercial zones. An underlying ETA seeks 90-day authority. Supporting shipper: Foseco, Inc., 20200 Sheldon Road, Brookpark, OH 44142.

MC 140168 (Sub-4–1TA), filed May 20, 1980. Applicant: FANETTI TRANSPORT, INC., Route 2, 2024 21st Avenue, Bloomer, Wisconsin 54724. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minnesota 55118. *Chemicals and Solvents* (except in bulk), from points in and east of ND, SD, NE, KS, OK, TX to Wausau, WI. Restricted to traffic destined to the facilities of Wausau Chemical Corporation at Wausau, WI. Supporting shipper: Wausau Chemical Corporation, Box 953, Wausau, Wisconsin 54401.

MC 110988 (Sub-4–34TA), filed May 19, 1980. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Avenue, Appleton, WI 54911. Representative: Patrick M. Byrne, P.O. Box 2298, Green Bay, WI 54306. *Petroleum and petroleum products,* from Petrolia and Bradford, PA to points in OH, IN, KY, IL, MI, WI, MN, IA, and MO. Supporting shipper: Witco Chemical Corporation, Bradford, PA 16701.

MC 52657 (Sub-4–1), filed May 21, 1980. Applicant: ARCO AUTO CARRIERS, INC., 16 W. 151 Shore Court,

Burr Ridge, IL 60521. Representative: James Bouril (same address as applicant), Phone: 312/986–8100. *Foreign-made motor vehicles,* in secondary truckaway service, from Port Newark, New Jersey to Delaware, Maine, New Hampshire, Rhode Island, and Vermont. Supporting shipper: American Motors Corporation, 14250 Plymouth Road, Detroit, MI 48232.

MC 124078 (Sub-4–20TA), filed May 19, 1980. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Cement,* from Fairmont, WV to points in Maryland. Supporting shipper: The Marquette Company, 2200 1st American Center, Nashville, TN 37238.

MC 145748 (Sub-4–1TA), filed May 19, 1980. Applicant: MEYERS TRANSFER, INC., Rt. 64 East, Mt. Morris, IL 61054. Representative: Abraham Diamond, 29 S. La Salle Street, Chicago, IL 60603. *Contract;* irregular; *Machinery, machine parts and trailers* from Oregon, IL, to points in the 48 States, excluding AK and HI, *and used machinery and trailers and supplies used in the manufacture of machinery, machine parts and trailers* from 48 States, excluding AK and HI, to Oregon, IL. Supporting shipper: Ed McEntyre & Co., 200 Jefferson St., Oregon, IL.

MC 145348 (Sub-4–1), filed May 18, 1980. Applicant: CHARLES REBEDEW, d.b.a. REBEDEW TRUCKING, 561 Monmouth Street, Fond du Lac, WI 54935. Representative: Ronald E. Laitsch, 117 S. Third Street, Watertown, WI 53094. *Contract; irregular; Components of buildings and canopies,* from Waupun, WI, to points in the United States, except HI, AK, MN, IL, IN, OH, and MO, *restricted* to movements in shipper owned trailers, under a continuing contract or contracts with King Manufacturing Corp., of Waupun, WI. Supporting shipper: King Manufacturing Corp., Waupun, WI.

MC 144696 (Sub-4–1TA), filed May 19, 1980. Applicant: MEEUWSEN PRODUCE, INC., 9525 Ransom Street, Zeeland, MI 49464. Representative: Edward N. Button, 580 Northern Avenue, Hagerstown, MD 21740. *Contract;* irregular; *Pet food, material and supplies, (except in bulk), used in the manufacture thereof,* between Zanesville, OH, on the one hand, and on the other, points in IL, IN, MI, MO, WI, KS, FL, GA, NC, SC, PA, MD, VA, CT, and MA, for 180 days. Supporting shipper: Benco Pet Foods, Inc., P.O. Box 270, Zanesville, OH 43701.

MC 150746 (Sub-4–2TA), filed May 14, 1980. Applicant: DFC TRANSPORTATION COMPANY, 45 East Main Street, Huntley, IL 60142. Representative: Edward G. Bazelon, 39 South La Salle Street, Chicago, IL 60603. *Coffee,* from the facilities of the Coca-Cola Company at Omaha, NE, to points in IA and WI. Supporting shipper: Coca-Cola Company, Food Division, 711 South 10th Street, Omaha, NE 68001.

MC 51146 (Sub-4–44TA), filed May 19, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr. (same address as applicant). *Malt beverages,* from Columbus, OH and St. Louis, MO to Appleton, WI. Supporting shipper: Tri-Company Distributing, Inc., 1341 W. Spencer Street Appleton, WI 54911.

MC 51146 (Sub-4–45TA), filed May 19, 1980. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr. (same address as applicant). *Glass and stoneware products,* from Sebring, OH to Milwaukee, WI. Supporting shipper: Brielmaier Supply Company, 1303 N. 4th Street, Milwaukee, WI 53212.

MC 120737 (Sub-4–4TA), filed May 21, 1980. Applicant: STAR DELIVERY & TRANSFER, INC., P.O. Box 39, Canton, IL 61520. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Irrigation systems and parts, and attachments for irrigation systems,* from Havana, IL to points in FL, GA and OK. Supporting shipper: AG-Rain Inc., 600 S. Schrader, Havanna, IL 62644.

MC 143636 (Sub-4–1TA), filed May 21, 1980. Applicant: ROM SMITH TRUCKING, INC., R.R. No. 2, Box 4, Newman, IL 60050. Representative: Douglas G. Brown, P. C., The INB Center, Suite 555, One North Old State Capital Plaza, Springfield, IL 62701. *Fertilizer and fertilizer ingredients,* between points in IL on and north of Interstate Highway 64 and south of Interstate Highway 80, on the one hand, and, on the other, points in IN. Supporting shipper: Charles J. Ramsey, Manager, Traffic Services, Kaiser Agricultural Chemicals, P.O. Box 246, Savannah, GA 31402.

MC 134551 (Sub-4–2TA), filed May 21, 1980. Applicant: LANTER REFRIGERATED DISTRIBUTING CO., No. 3 Caine Drive, Madison, IL 62060. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Such commodities as are dealt in by wholesale and retail warehouses and stores* (except in bulk) in vehicles equipped with mechanical refrigeration, between Madison, IL, on the one hand, and, on the other, points in IL. Supporting shipper: Sunmark, Inc., 10795 Watson Rd., St. Louis, MO 63127.

MC 134551 (Sub-4–5TA), filed May 21, 1980. Applicant: LANTER REFRIGERATED DISTRIBUTING CO., No. 3 Caine Dr., Madison, Il 62060. Representative: Ernest A. Brook II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Meats, meat products, meat by-products and articles distributed by meat packinghouses* (except hides and commodities in bulk) between St. Louis, Mo.-East St. Louis, Ill. Commercial Zone, the one hand, and, on the other, points in KY, IL, and IN. . Supporting shipper: John Morrell Co., 208 S. LaSalle St., Chicago, IL 60604; Swift Co., 115 W. Jackson Blvd., Chicago, IL 60604.

MC 139767 (Sub-4–1TA), filed May 21, 1980. Applicant: FAIRWAY TRANSIT, INC., N10 W24730 Highway TJ, Pewaukee, WI 53072. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. *Filter sand and gravel,* from the facilities of American Materials Corporation at or near Eau Claire, WI to the facilities of Builders Transit Trucking and Supply, Inc., at or near Chicago, IL. Applicant has filed a corresponding ETA seeking up to 90 days of operating authority. Supporting shipper: Builders Transit Trucking and Supply, Inc., 11201 S. Stewart Avenue, Chicago, IL 60628.

MC 128837 (Sub-4–4), filed May 21, 1980. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Michael W. O'Hara, 300 Reisch Bldg., Springfield, IL 62701. *Vinegar and sweet cider,* from the facilities of National Vinegar Co. at Alton and Olney, IL to points in AR, CO, IA, IN, KS, KY, MO, NB, OH and TN. An underlying E.T.A. seeks 90 days authority. Supporting shipper: National Vinegar Co., P.O. Box 255, Chessen Lane, Alton, IL 62002.

MC 144121 (Sub-4–4), Filed May 21, 1980. Applicant: LARRY'S EXPRESS, INC., 720 Lake Street, Tomah, WI 54660. Representative: James A. Spiegel, Esq., Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Heating units* and *materials, equipment* and *supplies* used in the manufacture of such commodities, between Racine, WI, and points in the United States (except AK and HI). Restricted to shipments originating or terminating at the facilities of Jensen Metal Products, Inc. Supporting shipper: Jensen Metal Products, Inc. 820 Water, Racine, WI 53403.

MC 150847 (Sub-4–1TA), filed May 21, 1980. Applicant: JOHN AXTMAN d.b.a. AXTMAN TRUCKING, 35 D County Road, Rugby, ND 58368. Representative: Kip B. H. Erickson, 502 First National

Bank Bldg., Fargo, ND 58126. *Non-alcoholic beverages and materials and supplies used in the distribution thereof,* between Minneapolis/St. Paul and Duluth, MN and points in ND and Plentywood, MT. An underlying ETA seeks 90 days authority. Supporting shipper: Mid West Pop Lakehead, Inc., 326 East Central Entr., Duluth, MN 55811.

MC 150535 (Sub-3–3), filed May 20, 1980. Applicant: BULS EYE TRANSPORT, INC., Suite 2424, 33 North Dearborn Street, Chicago, Illinois 60602. Representative: Patrick H. Smyth, Suite 521, 19 South LaSalle Street, Chicago, Illinois 60603. *Non-alcoholic beverages and bottled water,* From Akron, OH to points in AL, AR, FL, GA, KY, MO, MS, NC, SC, TN, VA, and WV. Supporting shipper: Ohio Pure Foods, Inc., 1680 East Market St., Akron, OH. 44305.

MC 114241 (Sub-4–1TA), filed May 21, 1980. Applicant: C. T. HERTZSCH, INC., Speed, Indiana 47172. Representative: Louis B. Hartlage, P.O. Box 35750, Louisville, KY 40232. *Contract,* Irregular, *Lime, in packages,* from Gibsonburg, OH to Speed and Logansport, IN. Supporting shipper: Louisville Cement Company, P.O. Box 35750, Louisville, KY 40232.

MC 141781 (Sub-4–3), filed May 21, 1980. Applicant: LARSON TRANSFER AND STORAGE CO., INC., 10700 Lyndale Avenue South, P.O. Box 877, Minneapolis, MN 55440. Representative: George L. Hirschbach, P.O. Box 417, Sioux City, IA 51102. *Generators, generating sets, internal combustion engines, and materials supplies, equipment and parts utilized by engine and generator manufacturers,* (1) From Fridley, MN to points in IL, IA, IN, KS, MI, MN, MO, NE, ND, OH, SD and WI, and (2) *materials, equipment* and *supplies* utilized by engine and generator manufacturers on return to Fridley, MN from Detroit, MI, Chicago, IL and points in WI. Supporting shipper: Lee Walter, Corporate Traffic Manager, The Onan Corporation, 1400—73rd Avenue N.E., Fridley, Minnesota 55432.

MC 145828 (Sub-4–1TA), filed May 20, 1980. Applicant: RONALD JONES, an individual. d.b.a. ALGOMA FARMS, 1726 Leonard Road North, Oshkosh, WI 54901. Representative: James A. Spiegel, Esq., Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. *Fabricated steel products* and *materials, equipment* and *supplies* used in the manufacture and distribution of said commodities, between Oshkosh, WI, and points in IA, IL, IN, MI, MN and OH. Restricted to transportation performed under a continuing contract(s) with John Mathwig & Sons, Inc., Oshkosh, WI, 54901. Supporting shipper: John Mathwig & Sons, Inc., Oshkosh, WI. 54901.

MC 141654 (Sub-4–1), filed May 20, 1980. Applicant: J. A. DADY, Box 40, Sisseton, SD 57262. Representative: J. Michael Dady, 4200 IDS Center, 80 South Eight St., Minneapolis, MN 55402. *Butter,* from Sisseton, SD to St. MN. Supporting shipper(s): Landsberger Creamery & Produce, Inc., Sisseton, SD 57262.

MC 126555 (Sub-4–14TA), filed May 20, 1980. Applicant: UNIVERSAL TRANSPORT, INC., P.O. Box 3000, Rapid City, SO 57709. Representative: Truman Stockton, Stockton and Lewis, 1650 Grant Street Bldg., Denver, CO 80203. *Cement—bag and bulk,* between TX, CO, WY, MT, SD, and ID. Supporting shipper(s): Q Bond Corporation of America, 3323 Moline Street, Denver, CO 80010.

MC 146994 (Sub-4–1TA), filed May 19, 1980. Applicant: MOTOR RAIL DELIVERY, INC., 600 Fern Street, Fernadale, MI 48220. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521. *Plastic Containers,* Between Detroit, MI on the one hand, and, on the other, Coleman, MI. *(Restriction:* The above authority is restricted to the movement of piggyback trailers and containers having a prior or subsequent movement by rail or water beyond the territory involved.) An underlying ETA seeks 90 day's authority. Supporting shipper(s): Vercon, Inc., 5700 West Shaffer Road, Coleman, MI 48618.

MC 116915 (Sub-4–6TA), filed May 19, 1980. Applicant: ECK MILLER TRANSPORTATION CORP., Rt. #1, Box 248, Rockport, IN 47635. Representative: Fred F. Bradley, P.O. Box 733, Frankfort, KY 40602. *Granular asphalt,* in bags, from the facilities of Witco Chemical Corp., at or near Lawrenceville, IL, to point in TX, IN, and OH. Supporting shipper(s): Witco Chemical Corp., 6200 W. 51st St., Chicago, IL.

MC 136774 (Sub-4–1TA), filed May 16, 1980. Applicant: MC-MOR-HAN TRUCKING CO., INC., P.O. Box 368, Shullsburg, WI 53586. Representative: Donald B. Levine, 39 S. LaSalle St., Chicago, IL 60603. *Liquid calcium chloride, in bulk, in tank vehicles,* from Lemont, IL, to points in IA, MN and WI. Supporting shipper: Sicalco, Ltd., P.O. Box 415, Palos Heights, IL 60463.

MC 148705 (Sub-4–4TA), filed May 16, 1980. Applicant: TWIN CONTINENTAL TRANSPORT CORPORATION, 5738 Olson Highway, Minneapolis, MN 55422. Representative: Stephen F. Grinnell, 1000 First National Bank Building, Minneapolis, MN 55402. *Fresh meat,* from South St. Paul, Newport and Buffalo Lake, MN to Sioux City, IA. An underlying ETA seeks 90 days authority. Supporting shipper: Weinstein International Corp., 5738 Olson Highway, Minneapolis, MN 55422.

MC 145664 (Sub-4–2TA), filed May 16, 1980. Applicant: STALBERGER, INC., 223 S. 50th Ave. W., Duluth, MN 55807. Representative: Norman A. Cooper, 145 W. Wisconsin Ave., Neenah, WI 54956. *Grain and feed storage, handling systems, parts and accessories thereto,* between points in IL and IN on the one hand, and, on the other, points in AL, DE, GA, IN, KY, LA, MD, MI, MS, MO, MN, NJ, NY, NC, OH, PA, SC, TN, VA, WV, WI and DC restricted to the traffic of Railoc Company, Inc. An underlying ETA seeks 90 days authority. Supporting shipper: Railoc Company, Inc., 709 Lockport St., Plainfield, IL 60544.

MC 106674 (Sub-4–15TA), filed May 16, 1980. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). *Oil-water seperators* from Stoystown, PA and Dowagiac, MI to points in and east of MN, IA, MO, AR and LA. Supporting shipper: McTighe Industries, 356 New York Avenue, Huntington, NY 11743.

MC 40978 (Sub-4–5TA), filed May 29, 1080. applicant: CHAIR CITY MOTOR EXPRESS COMPANY, 3321 Business 141 South, Sheboygan, WI 53081. Representative: Richard C. Alexander, 710 N. Plankinton Avenue, Milwaukee, WI 53203. *Containers,* from Winona, MN and points in the Minneapolis-St. Paul, MN Commercial Zone, to points in IL, IN, MI and WI. An underlying ETA seeks 90 days authority. Supporting shippers: Liberty Diversified Industries, Inc., 5200 County Road 18, New Hope, MN, 55428; Zurheide Ice Cream Co., Sheboygan, WI, 53081; Morning Glory Dairy Division of Consolidated Badger Cooperative, Box 129, De Pere, WI, 54115, and Verifine Dairy Company, 934 N. Water St., Sheboygan, WI.

MC 108185 (Sub-4–5A), filed May 29, 1980. Applicant: JACK COLE-DIXIE HIGHWAY COMPANY, 215 South 11th Street, Minneapolis, MN 55403. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. *Lumber, Lumber Products, Particle Board and Material and Supplies used in the installation thereof,* from the Plant site of United States Lumber and Wood Preservers, Inc., at or near Hackleburg, AL to points in IL, IN, IA, KS, MI, NE and WI. Supporting shipper: United States Lumber & Wood Preservers, Inc., P.O. Box 170, Hackleburg, PA 35564.

MC 108185 (Sub-4–6TA), filed May 29, 1980. Applicant: JACK COLE-DIXIE HIGHWAY COMPANY, 215 South 11th Street, Minneapolis, MN 55403. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Supporting shipper: Great Southern Forest Products, Inc., P.O. Box 279, Haleyville, Alabama 35565. Applicant seeks authority as a *common* carrier by motor vehicle, over irregular routes, transporting: *Lumber, Lumber Products, Particle Board and Material and Supplies used in the installation thereof,* from the Plant Site of Great Southern Forest Products, Inc. at or near Haleyville, AL to points in IL, IN, IA, KS, MI, MN, MO, NE, OH, and WI. Supporting Shipper: Great Southern Forest Products, Inc., P.O. Box 279, Haleyville, AL 35565.

MC 108185 (Sub-4–7TA) filed May 29, 1980. Applicant: JACK COLE-DIXIE HIGHWAY CO., 215 South 11th Street, Minneapolis, MN 55403. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Supporting shipper: W. T. Vick Lumber Company, P.O. Box 240, Hamilton, Alabama 35570. *Lumber, Lumber Products, Particle Baord and Material and Supplies used in the installation thereof,* from the Plant site of W. T. Vick Lumber Company at or near Hamilton, AL to points in IL, IN, IA, KS, MI, NE, OH, and WI. Supporting Shipper: W. T. Vick Lumber Co., P.O. Box 240, Hamilton, AL 35570.

MC 108223 (Sub-4–2TA), filed May 29, 1980. Applicant: CENTURY–MERCURY MOTOR FREIGHT, INC., P.O. Box 43050, St. Paul, MN 55164. Representative: Warren K. Wahoske (same address as applicant). *Charcoal Briquettes and related barbecue items,* from the facilities of Husky Industries, Inc. at Dickinson, ND to points in the U.S. except AK, HI and ND. An underlying ETA seeks 90 days authority. Supporting shipper: Husky Industries, Inc., 62 Perimeter Center E., Atlanta, GA 30346.

MC 115821 (Sub-4–5TA), filed May 30, 1980. Applicant: BEELMAN TRUCK CO., P.O. Box 93, St. Libory, IL 62282. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. (1) *Materials and supplies* used in the manufacture of automobiles, from Centralia, IL, to St. Louis, MO, and Bowling Green, KY; and (2) *Containers* for the above-named commodities, in the reverse direction. Supporting shipper: Rockwell International, 2135 West Maple Rd. Troy, MI 48084.

MC 118696 (Sub-4–17TA), filed May 29, 1980. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Road, Hammond, IN 46234. Representative: John F. Wickes Jr., 1301 Merchants Plaza, Indianapolis, IN 46204. *(1) Radios, record players, stereo components, cabinets and related accessories,* from the facilities of Soundesign Indiana Corporation at or near Santa Claus, IN to points in the United States (except AK and HI); and (2) *materials, equipment and supplies* used in the manufacture, distribution and sale (except in bulk) of radios, record players, stereo components, cabinets and related accessories, from points in the United States (except AK and HI) to the facilities of Soundesign Indiana Corporation at or near Santa Claus, Indiana, for 180 days. Supporting shipper: Soundesign Indiana Corporation, P.O. Box 61, Hwy 162, Santa Claus, IN 47579.

MC 120737 (Sub-4–6TA), filed May 30, 1980. Applicant: STAR DELIVERY & TRANSFER, INC., P.O. Box 39, Canton, IL 61520. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Pre-cut log homes,* from the facilities of Lincoln Log Homes, Inc. at or near China Grove and Mt. Pleasant, NC to points in the U.S. in and east of ND, SD, NE, KS, OK and TX. Supporting shipper: Lincoln Log Homes Inc., 1908A North Main Street, Kannapolis, NC 28081.

MC 126555 (Sub-4–15TA), filed May 28, 1980. Applicant: UNIVERSAL TRANSPORT, INC., P.O. Box 3000, Rapid City, South Dakota 57709. Representative: Stockton and Lewis, 1650 Grant Street Building, Denver, CO 80216. *Steel pipe,* from OH, PA, TX, UT, on the one hand and OK, WY, CO, NE, SD and MO. Supporting shipper: Toma Steel Company, 2590 S. Tejon, Denver, CO 80110.

MC 128652 (Sub-4–4), filed May 29, 1980. Applicant: LARSON TRANSFER AND STORAGE CO., INC., 10700 Lyndale Avenue South, P.O. Box 877, Minneapolis, MN 55440. Representative: George L. Hirschbach, P.O. Box 417, Sioux City, IA 51102. *Contract;* Irregular. (1) *Chain saws, snow-throwers and garden, lawn, turf and golf course care equipment,* and (2) *materials and supplies used in the manufacture and sale of the commodities,* (1) between Minneapolis and Windom, MN, and Tomah, WI, on one hand, and, on the other, points in IA, IL, IN, KS, MI, MN, MO, NE, and WI, under continuing contract(s) with the Toro Company of Minneapolis, MN. Supporting shipper: The Toro Company, 811 Lyndale Avenue, Minneapolis, MN 55420.

MC 134300 (Sub-4–1TA), filed May 28, 1980. Applicant: TRIPLE R EXPRESS, INC., 498 First Street NW., New Brighton, MN 55112. Representative: Samuel Rubenstein, P.O. Box 5, Minneapolis, MN 55440. *Automobile accessories, home canning kits, cleaning compounds, plastic, metal, wooden and rubber articles and materials; and equipment and supplies* used in the manufacture of commodities listed above, between Huron, SD and Savage, MN, on the one hand, and on the other hand, all points in the U.S. except AL & HI. Supporting shipper: Mastermotive Inc., 5440 W. 125 St., Savage, MN 55378.

MC 134477 (Sub-4–26), filed May 30, 1980. Applicant: SCHANNO TRANSPORTATION, INC., 5 W. Mendota Rd., West St. Paul, MN 55118. Representative: Thomas Fischbach, P.O. Box 43496, St. Paul, MN 55164. *Alcohol products and alcohol processing equipment, parts and materials (except commodities in bulk),* between the facilities of Conklin Company, Inc. at or near Shakopee, MN on the one hand, and, on the other, points in the U.S. (except AK and HI). An underlying ETA seeks 90 days authority. Supporting shipper: Conklin Company, Inc., Valley Park Dr. and Hwy. 101, Shakopee, MN 55379.

MC 135410 (Sub-4–6TA), filed May 28, 1980. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Jack H. Blanshan, 205 West Touhy Avenue, Suite 200, Park Ridge, IL 60068. (1) *Household appliances* from the facilities of Admiral Division of Magic Chef, Inc. at Galesburg, IL, and points in its commercial zone to points in CT, IA, IN, KS, KY, MA, MD, ME, MI, MN, MO, NE, NH, NJ, NY, OH, PA, RI, TN, VA, VT, WV and WI, and (2) *materials, equipment and supplies used in the production of household appliances* from points in IN, MI, NJ, OH, PA, and WI to the facilities of Admiral Division of Magic Chef, Inc., at Galesburg, IL, and points in its commercial zone. Supporting shipper: Admiral Division, Magic Chef, Inc., 1735 Mt. Prospect Road, Des Plaines, IL 60018.

MC 142747 (Sub-4–1TA), filed May 30, 1980. Applicant: TATECO, One Cheddar Lane, Valley City, IL 62340. Representative: Tom B. Kretsinger, Kretsinger & Kretsinger, 20 East Franklin, Liberty, MO 64068. *Contract,* irregular; *Foodstuffs* (except in bulk), from Globe Products Co. Inc., in Clifton, NJ to points in AR, IL, IN, IA, KS, KY, LA, MI, MN, MO, NE, ON, OK, TX and WI. An underlying ETA seeks 90 days authority. Supporting shipper: Globe Products Co. Inc., P.O. Box 1927, 55 Webro Road, Clifton, NJ 07015.

MC 145246 (Sub-4–2), filed May 29, 1980. Applicant: A. E. SCHULTZ

CORPORATION, 901 Lyndale Avenue, Neenah, WI 54956. Representative: Frank M. Coyne, 25 West Main Street, Madison, WI 53703. *Feed ingredients,* in bags from Quincy, IL to Little Chute, WI. Supporting shipper: Midland Cooperative, Inc., Little Chute, WI.

MC 145636 (Sub-4–1TA), filed May 29, 1980. Applicant: BOB BRINK, INC., 165 Steuben St., Winona, MN 55987. Representative: Edward H. Instenes, 128½ Plaza East, P.O. Box 676, Winona, MN 55987. (1) *Plastic Materials and resin impregnated cloth requiring temperature controlled equipment and (2) Such commodities as are used in the manufacture, sale, and distribution of those commodities named in (1) above, and (3) Commodities which are otherwise exempt from economic regulation under 49 U.S.C. 10526(6) when in mixed loads with those commodities named in (1) and (2) above:* Between Winona, MN on the one hand and points in the states of AZ, AR, CO, ID, IL, IA, KS, MO, NE, NM, ND, NV, OK, OR, TX, WA, and WI on the other; also Between Los Angeles and Orange counties, CA on the one hand and points in the states of AZ, AK, CO, ID, IL, IA, KS, MN, MO, NE, NM, ND, NV, TX, UT, and WI on the other. An underlying ETA seeks 90 days authority. Supporting shipper: Fiberite Corporation, 501 West Third St., Winona, MN 55987.

MC 147001 (Sub-4–1), filed May 30, 1980. Applicant: NOEL MURRAY, 229 6th Ave. NW, Valley City, ND 58072. Representative: Charles E. Johnson, P.O. Box 1982, Bismarck, ND 58501. *Contract;* Irregular; (1) *Bagged Insulation;* from Valley City, ND, to points in ND, SD, and MN; (2) *Materials and Supplies used in the manufacture of bagged insulation,* from points in MN, and SD, to Valley City, ND under continuing contract(s) with N.C.I., Inc., An underlying ETA seeks 90 day authority. Supporting shipper: N.C.I., Inc., Box 267, Valley City, ND 58072.

MC 149170 (Sub-4–7TA), filed May 28, 1980. Applicant: ACTION CARRIER, INC., 1000 E. 41st St., Sioux Falls, SD 57105. Representative: Carl L. Steiner, 39 S. LaSalle St., Chicago, IL 60603. *General Commodities (Freight, all kinds)* from Chicago, IL, to Sioux Falls, SD. Restricted to traffic originating at the facilities of Midwest Consolidators, Inc., Chicago, IL, and moving on the bills of lading of Midwest Consolidators, Inc. Supporting shipper: Midwest Consolidators, Inc., 2711 North Fairview Avenue, St. Paul, MN 55113.

Note.—This application may involve common control.

MC 149170 (Sub-4–8TA), filed May 28, 1980. Applicant: ACTION CARRIER, INC., 1000 E. 41st St., Sioux Fall, SD 57105. Representative: Carl L. Steiner, 39 S. LaSalle St, Chicago, IL 60603. *Fabricated wire and hydraulic hose and steel couplings* Between the facilities of Pace Manufacturing Co., at Iola, KS, on the one hand, and, on the other, Sioux Falls, SD; Omaha, NE; Des Moines, IA; Fargo, ND; and Minneapolis, MN. Restricted to traffic originating at or destined to the facilities of Pace Manufacturing Co. Supporting shipper: Pace Manufacturing Co., 425 North Main, Sioux Falls, SD 57101.

Note.—This application may involve common control.

MC 8472 (Sub-4–1TA), filed May 20, 1980. Applicant: SOUTH END CARTAGE, INC., 4222 South Knox Ave., Chicago, Ill. 60632. Representative: H. Neil Garson, Garson, de Member & Weiner, 3251 Old Lee Highway, Suite 400, Fairfax, Virginia 22030. *General commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) When moving on freight forwarders bills of lading of ABC-Trans National Transport, Inc. and Acme Fast Freight Inc. under part IV of the Interstate Commerce Act, between points in the Chicago Commercial Zone on the one hand, and on the other points in KY, IL, IN, MI, MN, MO, NE, OH, WI and IA. Supporting shippers: ABC-Trans National Transport, Inc., 201—11th Avenue, New York, NY 10001, Acme Fast Freight, Inc., 2335 New Hyde Park Road, New Hyde Park, NY 11040.

MC 18121 (Sub-4–2), filed May 23, 1980. Applicant: ADVANCE TRANSPORTATION CO., P.O. Box 719, Milwaukee, WI 53201. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. *Common; Regular; General commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment.* (1) Between Indianapolis, IN and Terre Haute, IN, serving the intermediate points of Plainfield, Brazil, Seelyville, Stilesville, and Ben Davis, IN and the off-routes points of Mount Pleasant (Johnson County), Bellmore, and West Terre Haute, IN. From Indianapolis, IN over U.S. Hwy 40 to Terre Haute, IN and return over the same route. (2) Between Linden, IN and Lafayette, IN, serving all intermediate points. From Linden, IN over county road to jct. I.S. Hwy. 25, then over I.S. Hwy. 25 to Wingate, IN, then over county road to Mellott, IN, then over another county road to jct. I.S. Hwy. 28, then over I.S. Hwy. 28 to jct. I.S. Hwy. 25 near Odell, IN, and then over I.S. Hwy. 25 to Lafayette, IN and return over the same route. (3) Between Terre Haute, IN and Lafayette, IN, serving all intermediate points and the off-route points of New Market, Marshall, Russellville, Milligan, and Judson, IN and Wabash River Ordnance Works on I.S. Hwy. 63. From Terre Haute, IN over U.S. Hwy. 41 to jct. I.S. Hwy. 47, then over I.S. Hwy. 47 to Crawfordsville, IN, then over U.S. Hwy. 231 (formerly I.S. Hwy. 43) to Lafayette; and return over the same route. (4) Between Clinton, IN and jct. U.S. Hwy. 41 and I.S. Hwy. 163 near Lyford, IN, serving no intermediate points. From Clinton, IN over I.S. Hwy. 163 to jct. U.S. Hwy. 41 near Lyford, IN, and return over the same route. (5) Between South Bend, IN and Wabash, IN, serving the intermediate points of Mishawaka, Elkhart, Goshen, Nappanee, Milford, Silver Lake, North Manchester, Urbana, and Warsaw, IN and the off-route points of New Paris, Leesburg, and Claypool, IN.

From South Bend, IN over U.S. Hwy. 20 to jct. I.S. Hwy. 15, then over I.S. Hwy. 15 to jct. U.S. Hwy. 6, then over U.S. Hwy. 6 to Nappanee, IN, and return to I.S. Hwy. 15 then over I.S. Hwy. 15 to jct. I.S. Hwy. 114, then over I.S. Hwy. 114 to North Manchester, IN, then over I.S. Hwy. 13 to Wabash, and return over the same route. (6) Between Indianapolis, IN and South Bend, IN, serving the intermediate points of Peru, Kokomo, Mexico, Rochester, Argos, Plymouth, Lapaz, and Lakeville, IN and the off-route point of Macy, IN. From Indianapolis, IN over U.S. Hwy. 31 to South Bend, IN and return over the same route. (7) Between Peru, IN and Elkhart, IN, serving the intermediate points of Chili, Gilead, Akron, Mentone, Etna Green, and Nappanee, IN, and the off-route points of Roann and Wakarusa, IN. From Peru, IN over I.S. Hwy. 19 to Elkhart, IN and return over the same route. (8) Between Peru, IN and Fort Wayne, IN, serving the intermediate points of Largo and Huntington, IN and the off-route points of Rich Valley, Wabash, Andrews, Roanoke, and the site of the B.F. Goodrich Tire Company in Mailan Township, Allen County, IN, approximately 9½ air miles east of the city limits of Fort Wayne, IN on U.S. Hwy. 24. From Peru, IN over U.S. Hwy. 24 to Fort Wayne, IN and return over the same route. (9) Between the Indiana-Illinois state line at U.S. Hwy. 41 and Anderson, IN serving the intermediate points of Hammond, Whiting, Gary, Hobart, Wheeler, Valparaiso, Knox, Bass Lake, Beardstown, Winamac, Royal Center, Wanatah, Logansport,

Peru, Santa Fe, Amboy, Marion, and Alexandria, IN and the off-route points of East Chicago, Indiana Harbor, Hanna, Star City, Thornhope, Portage, Monticello, and Converse, IN. From the Indiana-Illinois state line over U.S. Hwy. 41 to jct. U.S. Hwy. 6 in Hammond, IN, then over U.S. Hwy. 6 to jct. I.S. Hwy. 130, then over I.S. Hwy. 130 to Valparaiso, IN, then over U.S. Hwy. 30 to jct. U.S. Hwy. 35, then over U.S. Hwy. 35 to Logansport, IN, then over U.S. Hwy. 24 to Peru, IN, then over I.S. Hwy. 21 to jct. I.S. Hwy. 18, then over I.S. Hwy. 18 to Marion, IN, then over I.S. Hwy. 9 to Anderson, and return over the same route. (10) Between Marion, IN and Muncie, IN, serving the intermediate point of Jonesboro, IN and the off-route points of Gas City, Upland, and Matthews, IN. From Marion, IN over I.S. Hwy. 15 to Jonesboro, IN, then over U.S. Hwy 35 to Muncie, IN and return over the same route. (11) Between jct. U.S. Hwy. 6 and I.S. Hwy. 15 (about 8 miles east of Nappanee, IN) and the Indiana-Illinois state line at U.S. Hwy. 6, serving no intermediate points and serving the off-route points of Portage, IN and the U.S. Government Ordnance Works at or near Kingsbury, IN. From jct. U.S. Hwy. 6 and I.S. Hwy. 15 over U.S. Hwy. 6 to the Indiana-Illinois state line, and return over the same route. (12) Between jct. U.S. Hwys. 35 and 6, and jct. U.S. Hwys. 35 and 30, serving no intermediate points. From jct. U.S. Hwys. 6 and 35 near Union Center, IN, over U.S. Hwy. 35 to jct. U.S. Hwy. 30 (about 7 miles south of Union Center), and return over the same route. (13) Between Terre Haute, IN and the Indiana-Illinois state line at U.S. Hwy. 150, serving all intermediate points. From Terre Haute, IN over U.S. Hwy. 150 to the Indiana-Illinois state line, and return over the same route.

(14) Between North Manchester, IN and jct. I.S. Hwy. 15 and U.S. Hwy. 6, serving all intermediate points. From North Manchester, IN over I.S. Hwy. 13 to jct. U.S. Hwy. 6, then over U.S. Hwy. 6 to jct. I.S. Hwy. 15, and return over the same route. (15) Between Plymouth, IN and Indianapolis, IN, serving all intermediate points. From Plymouth, IN over U.S. Hwy. 31 to Indianapolis, IN and return over the same route. (16) Between Fort Wayne, IN and Indianapolis, IN, serving all intermediate points, and the off-route point of Jonesboro, IN. From Fort Wayne, IN over I.S. Hwy. 37 to Indianapolis, IN and return over the same route. (17) Between Huntington, IN and Logansport, IN, serving all intermediate points. From Huntington, IN over U.S. Hwy. 24 to Logansport, IN, and return over the same route. (18) Between Peru, IN and Marion, IN serving all intermediate points. From Peru, IN over I.S. Hwy. 21 to jct. I.S. Hwy. 18, then over I.S. Hwy. 18 to Marion, and return over the same route. (19) Between Logansport, IN and Rochester, IN, serving all intermediate points. From Logansport, IN over I.S. Hwy. 25 to Rochester, IN and return over the same route. (20) Between Marion, IN and Indianapolis, IN, serving all intermediate points, and the off-route point of Anderson, IN. From Marion, IN over I.S. Hwy. 15 to jct. U.S. Hwy. 35, then over U.S. Hwy. 35 to Muncie, IN, then over I.S. Hwy. 67 to Indianapolis, IN and return over the same route. (21) Between Fort Wayne, IN and Plymouth, IN, serving all intermediate points. From Fort Wayne, IN over U.S. Hwy. 30 to Plymouth, IN and return over the same route. (22) Between Anderson, IN and Marion, IN, serving all intermediate points. From Anderson, IN over I.S. Hwy. 9 to Marion, IN and return over the same route. (23) Between Fort Wayne, IN and Baer Field, IN, serving no intermediate points. From Fort Wayne, IN over I.S. Hwy. 3 to Baer Field, IN and return over the same route. (24) Between Hammond, IN and jct. U.S. Hwys. 41 and 6 and I.S. Hwy. 152, serving no intermediate points. From Hammond, IN over I.S. Hwy. 152 to jct. U.S. Hwys. 41 and 6, and return over the same route. (25) Between the Indiana-Ohio state line at or near Townley, IN and Chicago, IL, serving all intermediate points, and serving points in the Chicago, IL commercial zone, as defined by the Commission, and points within 5 miles of Fort Wayne, IN and Baer Field, IN. From the Indiana-Ohio state line at or near Townley, IN, over U.S. Hwy. 30 to Ft. Wayne, IN, then over U.S. Hwy. 33 to jct. U.S. Hwy. 6, then over U.S. Hwy. 6 to jct. U.S. Hwy. 41, and then over U.S. Hwy. 41 to Chicago, IL and return over the same route. (26) Between Chicago, IL and Evansville, IN, serving all intermediate points, and the site of the Southern Indiana Gas and Electric Company plant, located on the Ohio River near Yankeetown, IN, as an off-route point. From Chicago, IL over U.S. Hwy. 41 to Evansville, IN and return over the same route. (27) Between Chicago, IL and Terre Haute, IN, serving all intermediate points and the off-route points of Brazil, IN and those within 10 miles of Terre Haute, IN.

From Chicago, IL over U.S. Hwy. 41 to Terre Haute, IN and return over the same route. (28) Between Hammond, IN and jct. U.S. Hwys. 6 and 41 and I.S. Hwy. 152, serving no intermediate points. From Hammond, IN over I.S. Hwy. 152 to jct. U.S. Hwys. 6 and 41, and return over the same route. (29) Between Quincy, IL and St. Louis, MO, serving the intermediate and off-route points in the St. Louis, MO, East St. Louis, IL Commercial Zone as defined by the Commission in 1 M.C.C. 656 and 2 M.C.C. 285, unrestricted; the intermediate point of Alton, IL and those between Alton, IL and St. Louis, MO, unless otherwise authorized, restricted to traffic moving to or from points north of Alton, IL; and all other intermediate points, without restriction: From Quincy, IL over I.S. Hwy. 96 to jct. U.S. Hwy. 36, then over U.S. Hwy. 36 to Jacksonville, IL, then over U.S. Hwy. 67 to jct. unnumbered highway (formerly portion of U.S. Hwy. 67), then over unnumbered highway via Woodson, IL, to jct. I.S. Hwy. 267, then over I.S. Hwy. 267 to jct. U.S. Hwy. 67, then over U.S. Hwy. 67 to Alton, IL, then over I.S. Hwy. 3 to jct. unnumbered highway (formerly portion of Alternate U.S. Hwy. 67), then over unnumbered highway to jct. I.S. Hwy. 203, then over I.S. Hwy. 203 to jct. U.S. Hwy. 460, then over U.S. Hwy. 460 to St. Louis, MO and return over the same route. From Quincy, IL over U.S. Hwy. 24 to Taylor, MO, then over U.S. Hwy. 61 to Wentzville, MO, then over Bypass U.S. Hwy. 40 to jct. M.S. Hwy. 115, then over M.S. Hwy. 115 to jct. M.S. Hwy. 180, then over M.S. Hwy. 180 to St. Louis, MO and return over the same route. (30) Between St. Louis, MO and Terre Haute, IN serving all intermediate points. From St. Louis, MO over I–70 to Terre Haute, IN and return over the same route. (31) Between Gary, IN and Indianapolis, IN, serving all intermediate points. From Gary, IN over I–65 to Indianapolis, IN and return over the same route. (32) Between Indianapolis, IN and Fort Wayne, IN, serving all intermediate points. From Indianapolis, IN over I—69 to Fort Wayne, IN and return over the same route. (33) Between Chicago Heights, IL and Fort Wayne, IN serving all intermediate points and the off route point of Portage, IN. From Chicago, IL over U.S. Hwy. 30 to Fort Wayne, IN and return over the same route. (34) Between Champaign, IL and Indianapolis, IN, serving all intermediate points. From Champaign, IL over I–74 to Indianapolis, IN and return over the same route. (35) Between Fort Wayne, IN and Watseka, IL, serving all intermediate points. From Fort Wayne, IN over U.S. Hwy. 24 to Watseka, IL and return over the same route. (36) Between Richmond, IN and Lafayette, IN, serving all intermediate points. From Richmond, IN over I.S. Hwy. 38 to Lafayette, IN and return over

the same route. (37) Between Logansport, IN and Lafayette, IN, serving all intermediate points. From Logansport, IN over I.S. Hwy. 25 to Lafayette, IN and return over the same route. (38) Between Gary, IN and Elkhart, IN, serving all intermediate points and serving the off-route points of Michigan City, IN and LaPorte, IN. From Gary, IN over U.S. Hwy. 20 to Elkhart, IN and return over the same route. Applicant proposes to tack the requested routes with all existing authority and to interline with other existing carriers. Underlying ETA seeks 90 day authority. 103 supporting shippers.

MC 43038 (Sub-4–8TA), filed May 21, 1980. Applicant: COMMERCIAL CARRIERS, INC., 20300 Civic Center Dr., 4th Floor Box CS 5027, Southfield, MI 48037. Representative: Paul H. Jones, 29725 Shacket Ave., Madison Heights, MI 48071. *Motor Vehicles*, (except trailers) in secondary movements, in truckaway service, between that part of CA north of the southern boundaries of San Luis Obispo, Kern and San Bernardino counties, CA, on the one hand, and, on the other, points in AZ. An underlying ETA seeks 90 days authority. Supporting shipper: Chrysler Corporation, Box 1976, Detroit, MI 48288.

MC 48441 (Sub-4–4TA), filed May 23 1980. Applicant: R.M.E. INC., P.O. Box 418, Streator, IL 61364. Representative: Michael D. Bromley, Suite 805, 666 Eleventh Street NW., Washington, DC 20001. *Malt beverages*, from the facilities of Stroh's Brewery at Detroit, MI to Cleveland and Wisconsin Dells, WI. Supporting shippers: Lewis Distributing, Inc., 855 Hickory Street, Cleveland, WI 53015, and Kaiser Distributor, Inc., P.O. Box 23, Wisconsin Dells, WI 53965.

MC 51146 (Sub-4–46), filed May 21, 1980 Applicant: SCHNEIDER TRANSPORT, INC., P.O. box 2298, Green Bay, WI 54306. Representative: Matthew J. Reid, Jr. (same address as applicant). *Welding equipment and supplies* from the facilities of Hobart Brothers Company at Troy, OH to points in the U.S. (except AK and HI). Supporting shipper: Hobart Brothers Company, 600 West Main Street, Troy, Ohio 45373.

MC 52680 (Sub-4–1TA), filed May 20, 1980. Applicant: D.A. EXPRESS, INC., 11937 S. Page Avenue, Calumet Park, IL 60643. Representative: Stephen H. Loeb, Suite 2027, 33 No. LaSalle St., Chicago, IL. 60602. *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Chicago, IL, and points in its commercial zone, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MN, MO, NE, OH, TN, and WI, restricted to the transportation of shipments having a prior or subsequent movement by rail or water. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 6 supporting shippers.

MC 56270 (Sub-4–2TA), filed May 20, 1980. Applicant: LEICHT TRANSFER & STORAGE CO., P.O. Box 2385, Green Bay, WI 54306. Representative: Dennis L. Sedlacek (same address as applicant). *Clay, brick, and tile products* from points in the U.S. (except AK and HI) to points in WI and the Upper Peninsula of MI. Supporting shipper(s): Gagnon Clay Products Co., 526 S. Broadway, Green Bay, WI 54303; Hockers Bros. Brick & Tile Company, Inc., 2870 S. Broadway, Green Bay WI 54306.

MC 65210 (Sub-4–1TA), filed May 20, 1980. Applicant: SPARTA-LaCROSSE TRUCK LINES, INC., Rural Route #5, Box #468, Sparta, Wisconsin 54656. Representative: Attorney Joseph E. Ludden, 324 Exchange Building, P.O. Box 1567, La Crosse, Wisconsin 54601. *Common:* regular; *General commodities*, except those of unusual value, and except Class A & B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading between Sparta and Tomah, WI, From Sparta, WI over Wisconsin Highway 21 to the Intersection of Wisconsin Highway 131 thence Wisconsin 131 to Tomah, WI. Serving the intermediate point of Tunnel City, WI. Also between Sparta and Tomah, WI over U.S. Highway 16. Serving no intermediate points. Supporting shipper(s): Union Camp Corp.-Vanpak Plastic Products, Williams Street, Tomah, WI, 54660; USEMCO, P.O. Box 583, Tomah, WI, 54660; and Miller's Walgreen Pharmacy, 1009 Superior Avenue, Tomah, WI, 54660.

MC 65920 (Sub-4–2TA), filed May 20, 1980. Applicant: BISHOP MOTOR EXPRESS, INC., 607 Century Avenue, S.W., Grand Rapids, MI 49503. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Common* regular *general commodities* (except those of unusual value high explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring the use of special equipment, and those injurious or contaminating to other lading), between Grand Rapids, MI, and St. Paul, MN, serving no intermediate points: (1) from Grand Rapids, MI, and points in its Commercial Zone, via U.S. Hwy 131 to junction U.S. Hwy 31, then via U.S. Hwy 31 to junction Interstate Hwy 75, then via Interstate Hwy 75 to junction U.S. Hwy 2, then via U.S. Hwy 2 to junction U.S. Hwy 8, then via U.S. Hwy 8 to junction Interstate Hwy 35, then via Interstate Hwy 35 to St. Paul, MN, and points in its Commercial Zone, with return over the same routes; (2) from Grand Rapids, MI, and points in its Commercial Zone, via Interstate Hwy 196 to junction Interstate Hwy 94, then via Interstate Hwy 94 to St. Paul, MN, and points in its Commerical Zone, with return over the same routes. There are 20 supporting shippers.

MC 69833 (Sub-4–7TA), filed May 22, 1980. Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Avenue, NW, 6th Floor, Grand Rapids, MI 49503. Representative: Harry Pohlad (same address as applicant). Common; regular; *General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Durant, IA as an off-route point in connection with the carrier's presently authorized routes. Supporting shippers: Larry L. Guyer, Russelloy Foundry, Durant, IA; V. R. Crist, Durant Municipal Electric Plant, 601 Fourth St., Durant, IA; Lyle L. Chapman, Durant Foundry and Machine, Durant, IA.

MC 90870 (Sub-4–3TA), filed May 22, 1980. Applicant: RIECHMANN ENTERPRISES, INC., Route 2, Box 137, Alhambra, IL 62001. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50307. Fabricated metal products, metal articles, agricultural and constructional material and equipment (except commodities in bulk) between points in Duvall County, FL, Jefferson County, KY, Madison, Clinton, Monroe, Randolph, and St. Clair Counties, IL and the Chicago, IL commercial zone, on the one hand, and, on the other, points in and east of ND, SD, NE, KS, OK, and TX 7 supporting shippers.

MC 105159 (Sub-4–1TA), filed May 22, 1980. Applicant: KNUDSEN TRUCKING, INC., 1320 West Main Street, Red Wing, Minnesota 55066. Representative: Stephen F. Grinnell, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Vegetable oils, blends of vegetable oils with petroleum naphtha*, in bulk, in tank vehicles from Minneapolis, MN to points in CA, CO, CT, DE, FL, ID, LA, MD, ME, MA, NE, NH, NY, NJ, RI, SC, VA, VT, and WA. Supporting shipper: Cargill,

Inc., P.O. Box 9300 Dept. 2, Minneapolis, MN 55440.

MC 107295 (Sub-4–11TA), filed May 22, 1980. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmers City, IL 61842. Representative: Duane Zehr (same address as applicant). *Doors, door frames, and parts and accessories,* from Colorado Springs, CO, to points in CT, DE, DC, FL, GA, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, WV, and WI; and *Materials, equipment and supplies* used in the manufacture or distribution of commodities named in (1) above, from points in MI, to Colorado Springs, CO. Supporting shipper: Therma Tru, Inc., 6275 Lake Shore Ct., Colorado Springs, CO 80915.

MC 109376 (Sub-4–1TA), filed May 21, 1980. Applicant: SKINNER TRANSFER CORP., P.O. Box 284, Reedsburg, WI 53959. Representative: Nancy J. Johnson, Attorney, 103 East Washington Street, P.O. Box 218, Crandon, WI 54520. (1) *Waferboard* from the Town of Hayward, Sawyer County, WI to points in WA, OR, CA, NV, ID, MT, WY, CO, NM, ND, SD, OK, TX, AR, LA, MS, TN, AL, GA, FL, SC, NC, VA, WV, MN, DE, NJ, NY, CT, RI, MA, VT, NH, and ME; and (2) *Materials, equipment and supplies* used in the manufacture and/or distribution of waferboard from points named in (1) above to points in WI. Supporting shipper: Louisiana-Pacific Corp. P.O. Box 756, Escanaba, MI 49829. *Restriction: Restricted* in Items (1) and (2) above to traffic originating at or destined to the facilities of Louisiana-Pacific Corporation, Seaway Division.

MC 111594 (Sub-4–1TA), filed May 21, 1980. Applicant: CW TRANSPORT, INC., 610 High Street, Wisconsin Rapids, Wisconsin 54494. Representative Donald B. Levine, 39 South LaSalle Street, Chicago, Illinois 60603. *General commodities* (except those of unusual value, classes A and B explosives, houshold goods as defined by the Commission, commodities in bulk, and those requiring special equipment): Between Stevens Point, WI, and Merrill, WI, serving all intermediate points, and the off route points of Mosinee, Brokaw, Schofield, Rothschild and Wausau, WI. From Stevens Point, WI, over U.S. Hwy 51 to the junction of WI Hwy 64, then over WI Hwy 64 to Merrill, WI, and return over the same routes. Supporting shippers: There are 52 Supporting shippers.

Note.—Applicant proposes to tack the sought authority with its existing regular and irregular routes.

MC 114457 (Sub-4–10TA), filed May 23, 1980. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN 55114. Representative James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Farm, dairy, and water treatment equipment, materials and supplies, cleaning products, paint and pesticides* (except commodities in bulk and those which because of size or weight require the use of special equipment), from the facilities of Babson Bros. Co. at or near Osceola, IA to points in the U.S. (except AK and HI). Supporting shipper: Babson Bros. Co. 2100 York Rd. Oak Brook, IL 60521.

MC 114829 (Sub-4–1TA), filed May 21, 1980. Applicant: GENERAL CARTAGE COMPANY, INC., West Route 30, Rock Route 30, Rock Falls, IL 61071. Representative Bernard J. Kompare, Suite 1600, 10 S. LaSale St., Chicago, IL 60603. *Contract;* irregular; *Paper and paper products,* from the facilities of The Weyerhaeuser Company at Omaha, NE, to points in IA (except that portion of IA south of Interstate 80 and west of Interstate 35), under contract(s) with The Weyerhaeuser Company, for 180 days. An underlying ETA seeks up to 90 days authority. Supporting shipper: Weyerhaeuser Company, 100 S. Wacker Dr., Chicago, IL 60606.

MC 118696 (Sub-4–16TA), filed May 22, 1980. Applicant: FEREE FURNITURE EXPRESS, INC., 252 Wildwood Road, Hammond, IN 46234. Representative: John F. Wickes, Jr., 1301 Merchants Plaza, Indianapolis, IN 46204. *New furniture and materials, equipment, and supplies* used in the manufacture, distribution, and sale thereof (except in bulk), between the facilities of National Office Furniture, Division of Kimball International, at Fordsville, KY, on the one hand, and, on the other, points in and east of ND, SD, NE, KS, OK, and TX. Supporting shipper: National Office Furniture, Division of Kimball International, 1549 Royal St., P.O. Box 460, Jasper, IN 47546.

MC 120737 (Sub-4–5TA), filed May 23, 1980. Applicant: STAR DELIVERY & TRANSFER, INC., P.O. Box 39, Canton, IL 61520. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Cabs and protective devices for agricultural, contractor and industrial equipment,* from Litchfield, MN to points in MI, IA and NC. Supporting shipper: Palm Industries, Inc., West Highway 12, Box 562, Litchfield, MN 55355.

MC 124078 (Sub-4–21TA), filed May 12, 1980. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. *Sugar and syrups and blends thereof,* in bulk, in tank vehicles, from Atlanta, GA to points in AL, FL, IN, NC, SC, TN and VA. Supporting Shipper: Sugars and syrups, 818 Ashby Street NW, Atlanta, GA 30318.

MC 124554 (Sub-4–2TA), filed May 22, 1980. Applicant: LANG CARTAGE CORP., P.O. Box 1465, Waukesha, WI 53187. Representative: Richard C. Alexander, 710 North Plankinton Avenue, Milwaukee, WI 53203. *Contract:* irregular, *printed business forms and business supplies,* from La Crosse, Viroqua, Waukesha and West Salem, WI, to points in Boone, Lake, McHenry, and Winnebago Counties, IL; and *microfiche viewers,* from West Salem, WI, to points in Boone, Lake, McHenry, and Winnebago Counties, IL; for 180 days, under continuing contract with suppporting shipper: NCR Corporation, 9095 Washington Church Road, Miamisburg, OH. An underlying ETA seeks 90 days authority.

MC 125777 (Sub-4–1TA), filed May 23, 1980. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, IN 46403. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. *Coke, in bulk, in dump vehicles,* from St. Louis, MO, to Browntown and Whitewater, WI; Glenlord, MI; East Chicago and LaPorte, IN; and Rockford, Lansing and Danville, IL. *Supporting shippers:* Great Lakes Carbon Corporation, 299 Park Avenue, New York, NY 10017, Miller and Company, 55 East Monroe Street, Chicago, IL 60603.

MC 126555 (Sub-4–13TA), filed May 20, 1980. Applicant: UNIVERSAL TRANSPORT, INC., P.O. Box 3000, Rapid City, SD 57709. Representative: Truman Stockton, Stockton and Lewis, 1650 Grant Street Building, Denver, CO 80216. *Clay, Ground and Pulverized, and Clay Products and By-Products* from Imvite, NV to points in WY, MT, and ND. Supporting shipper: Industrial Mineral Ventures, Inc., Box 549, Lathrop Wells, NV.

MC 126904 (Sub-No. 4–1TA), filed May 21, 1980. Applicant: H. C. PARRISH TRUCK SERVICE, INC., Rural Route 2, P.O. Box 264, Freeburg, IL 62243. Representative: James W. Patterson, Esquire, 1200 Western Savings Bank Bldg., Philadelphia, PA 19107. *Paper bags,* from the facilities or Westvaco Corporation, Bag Division at New Orleans, LA to points in AR, GA, IL, IN, IA, KS, KY, MI, MN, MO, NE, NC, OH, SC, TN and TX. An underlying ETA seeks 90 days authority. Supporting shipper: Westvaco Corporation, Bag Division, P.O. Box 60220, New Orleans, LA 70160.

MC 128205 (Sub-4–4TA), filed May 21, 1980. Applicant: BULKMATIC TRANSPORT COMPANY, 12000 South

Doty Avenue, Chicago, Illinois 60628. Representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, Illinois 60601. *Flour,* in bulk, in tank vehicles from Columbus, OH to Chicago, IL. Supporting shipper(s): International Multifoods, 1200 Multifoods Bldg., Minneapolis, MN 55402.

MC 128270 (Sub-4–2TA), filed May 20, 1980. Applicant: REDIEHS INTERSTATE, INC., 1477 Ripley Street, Lake Station, IN 46405. Representative: Richard A Kerwin, 180 North La Salle Street, Chicago, IL 60601. *Marine engines and engine parts and accessories,* between points in OK, WI and IL. Supporting shipper: Glastex Company, 600 West 10th Avenue, Monmouth, IL 61462.

MC 129387 (Sub-4–3TA), filed May 23, 1980. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, SD 57350. Representative: Charles E. Dye, P.O. Box 1271, Huron, SD 57350. *Foodstuffs,* between Louisville, KY, and its commercial zone on the one hand and on the other, points in AZ, CA, CO, ID, NM, OR, UT and WA. Supporting shipper: Louisville Freezer Center, 2000 South 9th St., Louisville, KY 40208.

MC 134477 (Sub-4–25), filed May 23, 1980. Applicant: SCHANNO TRANSPORTATION, INC., 5 W. Mendota Rd., W. St. Paul, MN 55118. Representative: Thomas Fischbach, P.O. Box 43496, St. Paul, MN 55164. *General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* from Baltimore, MD; Boston, Hatfield, Springfield, and Walpole, MA; Hoboken, NJ and Philadelphia, PA and points in their commercial zones to the facilities of Minnesota Inter-Modal Shippers Association, Inc. at or near Minneapolis, MN. An underlying ETA seeks 90 days authority. Supporting shipper: Minnesota Inter-Modal Shippers Association, Inc., 2500 Kennedy St. N.E., Minneapolis, MN 55413.

MC 135152 (Sub-4–6TA), filed May 22, 1980. Applicant: CASKET DISTRIBUTORS, INC., Rural route 3, West Harrison, IN 45030. Representative: James D. Campbell, P.O. Box 327, Harrison, OH 45030. *Iron or steel articles and plastic articles,* from Cincinnati, OH to all points in the U.S. except AL and HI. Supporting shipper: F. H. Lawson Company, 801 Evans Street, Cincinnati, OH 45204.

MC 135944 (Sub-4–1TA), filed May 23, 1980. Applicant: RODGERS EXPRESS, INC., 1310 South West Street, Indianapolis, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *General commodities,* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) Between Indianapolis, IN and Springfield, IL, over U.S. Hwy. 36, serving all intermediate points and the off-route points of Charleston, Mattoon and Taylorsville, IL; and (2) Between Indianapolis, IN and Peoria, IL, over Interstate Hwy. 74, serving intermediate points and the off-route points of Clinton, Lincoln, Monticello, Mossville and Pekin, IL. Supporting shippers: There are 14 supporting shippers.

MC 142715 (Sub-4–8TA), filed April 7, 1980. Applicant: LENERTZ, INC., P.O. Box 479, South St. Paul, MN 55075. Representative: K. O. Petrick, P.O. Box 479, South St. Paul, MN 55075. *"Fresh and frozen meat and meat products* from Mendota Heights, MN and Inver Grove Heights, MN to points in Connecticut. Restricted to traffic originating at the facilities of Pabst Meat Company, Mendota Heights and Inver Grove Heights, MN and destined to points in CT". Supporting shipper: Pabst Meat Company, 1455 Mendata Hgts. Rd., Mendota Hgts., MN 55120.

MC 142830 (Sub-4–1TA), filed May 22, 1980. Applicant: TRANSHIELD TRUCKING, INC., 1000 N. Harvester Road, West Chicago, IL 60185. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh Street, NW, Washington, DC 20001. *Contract; irregular* (1) *Plastic vinyl, nylon and foam products with accessories; clothing, candles and accessories, greeting and note cards, cleaning compounds, cloth, and other novelty items,* (except commodities in bulk), and (2) *materials, equipment, and supplies used in the manufacture, sale, and distribution of the commodities listed in (1) above,* (except commodities in bulk), between Anniston, AL; Greenburg, KY; Springfield and Knoxville, TN; and Mission, TX, on the one hand, and, on the other, points in the Continental U.S. (except AK and HI), under a continuing contract(s) with Nasco, Inc., of Springfield, TN. Supporting shipper: NASCO INC., 27 North Main St., Springfield, TN 37172.

MC 143230 (Sub-4–1TA), filed May 22, 1980. Applicant: LUCK TRUCKING, INC., RR 1, Box 190, Wolcott, IN 47995. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building, Indianapolis, IN 46204. *Anhydrous ammonia, liquid fertilizer and fertilizer ingredients in bulk in tank vehicles,* between points in IN, IL, MI and OH. Supporting shippers: C. B. Industries, Inc., d.b.a. Michigan Mining Materials, 1510 E. Maumee, P.O. Box 868, Adrian, MI; Amoco Oil Company, 200 East Randolph Drive, Mail Code 1402, Chicago, IL 60601.

MC 143436 (Sub-4–3TA), filed May 14, 1980. Applicant: CONTROLLED TEMPERATURE TRANSIT, INC., 8328 Hill Gail Dr., P.O. Box 41228, Indianapolis, IN 46241. Representative: Stephen M. Gentry, 1502 Main Street, Speedway, IN 46224. *General Commodities* (except Classes A and B explosives, those of unusual value, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) in vehicles equipped with mechanical refrigeration from Indianapolis, IN to points in IN, KY and OH. Restrictions: Restricted to shipments destined for the named points of destination. An underlying ETA seeks 90 days authority. Supporting shipper: Sterling Drugs, Inc., 90 Park Ave., New York, NY 10016.

MC 143630 (Sub-4–1TA), filed May 20, 1980. Applicant: FLOYD GRIEBEL, SR., FLOYD M. GRIEBEL, JR., AND WILLIAM GRIEBEL d.b.a. GRIEBEL TRUCKING, P.O. Box 243, Marengo, IL 60152. Representative: Robert J. Gill, First Commercial Bank Bldg., 410 Cortez Rd. West, Bradenton, FL 33507. *Contract;* irregular; *Nuts, bolts, hangers, brackets and flat steel bars* between the facilities of Marengo Tool and Die Works, Inc. at or near Marengo, IL on the one hand, and, on the other, points in the U.S. under a continuing contract with Marengo Tool and Die Works, Inc., 201 Railroad St., Marengo, IL 60152.

MC 144368 (Sub-4–1TA), filed May 21, 1980. Applicant: GENPAT, INC., 15224 Dixie Highway, Harvey, IL 60426. Representative: Leonard R. Kofkin, 39 South La Salle Street, Chicago, IL 60603. *Contract,* Irregular; *Iron and steel articles* between points in IL on and north of Interstate Hwy 80, OH, and MI, and Chicago, IL, under continuing contract or contracts with Pinkert Steel, for 180 days. Supporting shipper: Pinkert Steel, 1132 Black Hawk St., Chicago, IL.

MC 144630 (Sub-4–7TA), filed May 22, 1980. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46011. Representative: Donald W. Smith; P.O. Box 40248, Indianapolis, IN 46240. *Automotive and truck parts, materials, equipment and supplies used in the manufacture, distribution or handling thereof,* between the facilities of Arvin at or near Indianapolis, IN on the one hand, and, on the other, Carson, CA, Dallas, TX, and Edison, NJ. Supporting shipper: Arvin Automotive, 1531 13th Street, Columbus, IN 47201.

MC 145102 (Sub-4–4TA), filed May 22, 1980. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. *Canned goods (except in bulk) and supplies and materials used in the selling, distribution and manufacture of canned goods* from the facilities of Joan of Arc Company at Princeville, IL; Hoopeston, IL; Belledeau, LA; and St. Francisville, LA to points in AZ, CA, CO, ID, NV, OR, UT, and WA. Underlying ETA seeks 90 days authority. Supporting shipper: Joan of Arc Company, 2231 W. Altorfer Drive, Peoria, IL 61615.

MC 145359 (Sub-4–2TA), filed May 21, 1980. Applicant: THERMO TRANSPORT, INC., State Road 67 South, P.O. Box 41587, Indianapolis, IN 46241. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. *Aluminum, steel and vinyl siding,* from the facilities of Revere Aluminum Building Products, Inc. at or near Franklin Park, IL to Alameda, Contra Costa, Fresno, Imperial, Kern, Los Angeles, Madera, Marin, Napa, Orange, Riverside, Sacramento, San Bernadino, San Joaquin, San Mateo, Santa Clara, Solano, and Ventura Counties, CA; Clackamas, Multnamah, Washington; Yamhill, Polk, Benton, and Yumatilla Counties, OK; Morgan, Salt Lake, Wasatch and Weber Counties, UT; Kititas, Mitsap, Pierce, Snohomish, Spokane, Yakima and Whatcom Counties, WA; Ada and Twin Falls Counties, ID; Maricopa and Pima Counties, AZ; Washoe and Clark Counties, NV; Yellowstone, Missoula, and Silver Bow Counties, MT; and the cities of Bridgeport, East Haven, Hartford, New Haven, South Windsor, West Haven, CT; Supporting shipper: Revere Aluminum Products, 11440 W. Addison, Franklin Park, IL 60130.

MC 145820 (Sub-4–1TA), filed May 22, 1980. Applicant: NORTH CENTRAL DISTRIBUTING CO., Box 5453 University Station, Fargo, ND 58105. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Contract:* Irregular *Iron and steel articles* (1) from Fargo, ND, to Webster, Watertown, Sioux Falls, Big Stone and Aberdeen, SD; Lester Prairie, Staples and Cokato, MN and those points in MN on and west of U.S. Hwy. 71; (2) from Omaha, NE, Sioux City, Wilton and Carter Lake, IA; Duluth and Minneapolis, MN, including points in the Minneapolis, MN Commercial Zone; Pittsburgh, PA; Sterling and Chicago, IL, including points in the Chicago, IL Commercial Zone; Kansas City, St. Louis and Maryville, MO; and Gary, IN, to ND, Webster, Watertown, Sioux Falls, Big Stone and Aberdeen, SD; and Lester Prairie, Staples and Cokato, MN and those points in MN on and west of U.S. Hwy. 71 under contract with Northern Plains Steel of Fargo, ND. An underlying ETA seeks 90 days authority. Supporting shipper: Northern Plains Steel, 3801 15th Avenue, N. Fargo, ND 58102.

MC 146520 (Sub-4–1TA), filing date March 10, 1980. Applicant: QUALITY TRANSPORT, INC., 4404 West Berteau, Chicago, IL 60641. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521. *General Commodities (except Classes A and B explosives, commodities in bulk, commodities which because of size and weight require special equipment and household goods as defined by the Commission)* between points in the U.S. except AK and HI. (Restriction: The above authority is restricted to the movement of traffic originating at and/or destined to the facilities utilized by W. W. Grainger, Inc.) An underlying ETA seeks 90 days authority. Supporting Shipper: W. W. Grainger, Inc., 5959 West Howard Street, Chicago, IL 60648.

MC 146837 (Sub-4–4TA), filing date May 23, 1980. Applicant: SOUTHERN MINNESOTA GROCERY COMPANY, 202 Southwest Second, Waseca, MN 56093. Representative: Andrew R. Clark, 1000 first National Bank Bldg., Minneapolis, MN 55402. *Salt,* from Hutchinson, KS to IA, MN, Tomah and Prairie du Chien, WI, Hannibal, Mexico and Rolla, MO. An underlying ETA seeks 90 days authority. Supporting shipper: Big Bear Supply, P.O. Box 1247, St. Cloud, MN 56301.

MC 146886 (Sub-4–3TA), filing date May 21, 1980. Applicant: CONLAN TRUCK LINES, INC., 6160 South 116th Street, Hales Corners, WI 53130. Representative: Richard A. Westley, Attorney, 4506 Regent St., Suite 100, Madison, WI 53705. *Toilet preparations, household and industrial cleaning products, brooms, brushes, mops, insect repellants, grooming aids, food products, clothes hangers, medicated sprays, and promotional materials dealt in by home products distributors* (except commodities in bulk) from LaCrosse, WI and Des Moines, IA to points in ND and SD, restricted to traffic having a prior movement in the private carriage of Fuller Brush Company from Great Bend, KS. Applicant has filed a corresponding ETA seeking up to 90 days of operating authority. Supporting shipper: Fuller Brush Company, P.O. Box 729, Great Bend, Kansas 67530.

MC 147199 (Sub-4–1TA), filed May 21, 1980. Applicant: MWM TRUCKING, INC., P.O. Box 736, 1400 Chestnue Street, Ottawa, Illinois 61350. Representative: Edward D. McNamara, Jr., 907 South Fourth Street, Springfield, Illinois 62703. *Liquid fertilizer, in bulk, and dry fertilizer, in bulk and bags* from LaSalle County, IL to points in the states of IN, IA, and WS.

MC 147384 (Sub-4–1TA), filed February 20, 1980. Applicant: DENNIS CARRICO, 2626 Norwood, Mishawaka, IN 46544. Representative: John D. Carrico, 16678 Cleveland, Granger, IN 46530. *Merchandise of, and sold at retail by* Wickes Lumber Company, Division of Wickes Corporation, from Wickes retail outlets, at or near Niles, MI, to its customers located within a radius of 75 miles thereof; Stevensville, MI to its customer located within a radius of 75 miles thereof, with right of return of damaged or refused merchandise. Supporting shipper Wickes Lumber, a div. of Wickes Corporation, 515 N. Washington Avenue, Saginaw, MI 48607.

MC 147433 (Sub-4–1TA), filed May 22, 1980. Applicant: LONG LEASING CORP., P.O. Box 587, East Jordan, MI 49727. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. *Culverts, snowplow and bulldozer blades, guardrails, sign posts, and materials and supplies used in connection with the distribution, manufacture, and installation of the foregoing,* between Charlotte, MI, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MN, MO, OH, PA, VA, WV, and WI. Supporting shipper: St. Regis Culvert, Div. of St. Regis Paper, 202 Morrell, Charlotte, MI.

MC 147710 (Sub-4–1TA); filed May 20, 1980. Applicant: ACE CAB OF ELKHART, INC., 300 East High Street, Elkhart, Indiana 46514. Representative: WILLARD CHESTER, CHESTER & PAULEN, 317 West Franklin Street, P.O. Box 1261, Elkhart, Indiana 46514. *Contract,* irregular, *passengers and their baggage* in the same vehicle in special or charter operations between points in Elkhart County, IN, on the one hand, and, on the other, points in IL, IN, MI and OH, under continuing contract(s) with Consolidated Rail Corporation. Supporting shipper: Consolidated Rail Corporation. Robert Young Yards, Elkhart, IN 46514.

MC 148074 (Sub-4–2TA), filed May 21, 1980. Applicant: FRUTH MOTOR TRUCK SERVICE, INC., 720 Scheel Street, P.O. Box 992, Belleville, IL 62221. Representative: Edward D. McNamara, Jr., 907 South Fourth Street, Springfield, IL 62703. Contract Irregular (1) *glass containers* from Terre Haute, IN to St. Louis, MO and (2) *materials and supplies used in the manufacture and distribution of glass containers* from the

St. Louis, MO commercial zone to Terre Haute, IN, restricted to traffic originating at or destined to the facilities of Midland Glass Company, Inc. at Terre Haute, IN. Supporting shipper: Midland Glass Company Inc., P.O. Box 557, Cliffwood, NJ 07721.

MC 148200 (Sub-4–1TA), filed May 23, 1980. Applicant: FREIGHT MASTERS, INC., 2828 Lafayette Road, Indianapolis, IN 46222. Representative: John R. Bagileo, 918 16th Street NW., Washington, DC 20006. Irregular (1) *Acetylene cylinders,* new and unfinished, from Milwaukee, WI and Toledo, OH to Indianapolis, IN. Supporting shipper: Union Carbide Corporation, 270 Park Avenue, New York, N.Y.

MC 148462 (Sub-4–1TA), filed May 20, 1980. Applicant: ABLE TRUCKING, INC., P.O. Box 92, Jeffersonville, IN 47130. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. *Foodstuffs,* except frozen or in bulk, from the facilities of Snack Foods, Inc., at Jeffersonville, IN, to Atlanta, GA, restricted to traffic originating at said facilities. Supporting shipper: Snack Foods, Inc., P.O. Box 399, Jeffersonville, IN 47130.

MC 149492 (Sub-4–1TA), filed May 20, 1980. Applicant: CHICAGOLAND-QUAD CITIES EXPRESS, INC., 907 West 19th Street, Chicago, IL 60608. Representative: Jack L. Shultz, P.O. Box 82028, Lincoln, NE 68501. Common, Regular: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) Between Moline, IL and its commercial zone and Clinton, IA and its commercial zone; from Moline, IL over U.S. Highway 67 to Clinton, IA and return over the same route, serving all intermediate points; (2) Between Moline, IL and its commercial zone and Muscatine, IA and its commercial zone; from Moline, IL over U.S. Highway 61 and return over the same route, serving all intermediate points. Supporting shipper(s): 16 supporting shippers.

Note.—Applicant requests waiver of the interline and tacking rules, in order that the authority sought can be tacked with its existing authority and that traffic may be interlined to perform a through service. Applicant proposes to tack this authority with authority in MC–F–78211 and also proposes to interline this traffic at Chicago and Moline, IL and Clinton and Muscatine, IA.

MC 150569 (Sub-4–4TA), filed May 22, 1980. Applicant: JOHN THOMAS MISGEN, JR., d./b./a., TOM MISGEN TRUCKING , P.O. Box 147, Ellendale, MN 56026. Representative: Samuel Rubenstein, Post Office Box 5, Minneapolis, MN 55440. (1) *Electric fence parts, including insulators, transformers and fence controllers,* (2) *plastic articles,* and (3) *wooden rake handles,* from Ellendale, MN, to Anaheim, CA. Supporting shipper: North Central Plastics, Incoporated, Ellendale, MN 56026.

MC 150617 (Sub-4–1TA), filed May 23, 1980. Applicant: TRANSCONTINENTAL FREIGHT SYSTEMS, INC., 2559 South Archer Avenue, Chicago, IL 60608. Representative: Edward G. Bazelon, 39 South LaSalle Street, Chicago, IL 60603. *Automotive parts, materials, accessories and supplies* used in the manufacture of automotive parts and vehicles, between the facilities and vendors of Chrysler Corp. located in DE, IL, IN, MI, MO, NY, and OH, on the one hand, and, on the other, Laredo, Eagle Pass and El Paso, TX. An underlying ETA seeks 90–day authority. Supporting shipper: Chrysler Corporation, P.O. Box 1976, Detroit, MI 48288.

MC 150788 (Sub-4–1TA), filed May 12, 1980. Applicant: SPECIAL SERVICE DELIVERY CO., OF MICHIGAN, INC., 10174 Highland Rd., Pontiac, MI 48054. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Merchandise, equipment and supplies sold, used or distributed by a manufacturer of cosmetics* (except commodities in bulk) between Detroit, MI and points in its Commercial Zone, on the one hand, and, on the other, points in Arenac, Bay, Saginaw, Huron, Tuscola, Sanilac, Genesee, Lapeer, St. Clair, Livingston, Oakland, Macomb, Washtenaw, Wayne, Monroe, Lenawee, Hillsdale and Jackson Counties, MI restricted to traffic having a prior or subsequent movement in interstate commerce. An underlying ETA seeks 90 days authority. Supporting shipper: Avon Products, Inc., 175 Progress Place, Springdale, Ohio 45246.

MC 150810 (Sub-4–1TA), filed May 14, 1980. Applicant: SUPERLINES COMPANY, Highway 75 South, P.O. Box 706, Crookston, MN 56716. Representative: Val M. Higgins, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Contract;* irregular; *Alfalfa pellets and alfalfa meal* From Crookston, MN to points in WI. Supporting shipper: Red River Alfalfa, Inc., Highway 75 South, Box 496, Crookston, MN 56716.

MC 150820 Sub-4–1TA), filed May 15, 1980. Applicant: LEXINGTON TRANSFER, INC., 1036 McKay Drive NE., Anoka, Minnesota 55303. Representative: Stanley C. Olsen, Jr., Gustafson & Adams, P.A., 7400 Metro Boulevard, Suite 411, Edina, Minnesota 55435. (1) *Polyethylene containers* from Phoenix, AZ to points in IA, MN, MO, NE, ND, SD, and WI; and (2) *plastics pellets* from Houston, TX and Long Beach, CA to Phoenix, AZ. Supporting shippers: Ace Solid Waste Management, Inc., 3118 162 Lane NE, Anoka, MN 55303; Muncipal Recycling and Sales, Inc., 460 Fifth Avenue N, Suite 327, Hopkins, Minnesota 55343; Fiberglass Specialists, Inc., 108 East Pioneer Street, Phoenix, AZ 85048.

MC 150846 (Sub-4–1TA), filed May 19, 1980. Applicant: MACPHIL, Inc., 1619 Silver Street, Anderson, IN 46012. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, In 46204. (1) *Brass, bronze, copper and brass mill products, rod, sheet, tube and wire,* from the facilities of the Bridgeport Brass Company at Indianapolis, In to Bridgeport, CT; and (2) *Materials, equipment and supplies,* used in the manufacture, sale and distribution of transmission and transmission parts, (a) from Youngstown, Minerva, Canton and Massillon, OH; Lackawanna, NY; Johnstown, Midland and Meadville, PA, to the facilities of Warner Gear Division of Borg Warner Corp. at Muncie, IN; and (b) from Canton, OH to the facilities of Warner Gear Division of Borg Warner Corp. at Indianapolis, IN. Applicant has filed an underlying ETA seeking 90 days authority. Supporting shipper: Bridgeport Brass Company, Indianapolis, IN and Warner Gear Division of Borg Warner Corp., Muncie, IN.

MC 150850 (Sub-4–1TA), filed May 20, 1980. Applicant: MUNSINGWEAR, INC., 718 Glenwood Avenue, Minneapolis, MN 55405. Representative: George L. Hirschbach, P.O. Box 417, Sioux City, IA 51102. *General commodities* (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, foodstuffs, commodities in bulk, and those requiring special equipment), from the facilities of Coast Carloading Co. at Los Angeles, CA, to Dallas and Houston, TX and St. Louis, MO. Restricted to traffic originating at the named origin and destined to the named destinations. Supporting shipper: Coast Carloading Co., 1045 Richmond Street Los Angeles, CA 90033.

The following applications were filed in Region 6. Send protests to: Interstate Commerce Commission, Region 6 Motor Carrier Board, P.O. Box 7413, San Francisco, CA 94120.

MC 109584 (Sub-6–5TA), filed March 13, 1980. Applicant: ARIZONA-PACIFIC TANK LINES, 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same as applicant). *Fertilizer Solutions,* in bulk, in tank

vehicles, from Dimmitt, TX to points in AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Western Ag Supply, Inc., 1251 N. Red Gum St., Anaheim, CA 92806.

MC 109584 (Sub-6-6TA), filed May 23, 1980. Applicant: ARIZONA-PACIFIC TANK LINES, 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (address same as applicant). *Cottonseed oil,* in bulk, in tank vehicles, from Calipatria, CA to Houston, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Casa Grande Oil Mill, P.O. Box 959, Casa Grande, AZ 85222.

MC 147900 (Sub-6-1TA), filed May 28, 1980. Applicant: COLLINS WHOLESALE SUPPLY, INC.; 4073 Hooker Road, Roseburg, OR 97470. Representative: Kerry D. Montgomery, 400 Pacific Bldg., Portland, OR 97204. *Building materials* between points in CA and NV to points in Douglas County, OR, for 180 days. Supporting shipper: Bes-Tex. Inc., P.O. Box 1192, Roseburg, OR 97470.

MC 145424 (Sub-6-1TA), filed May 28, 1980. Applicant: COLORADO CHARTER LINES, INC., 128 South Wahsatch, Colorado Springs, CO 80022. Representative: Alan E. Serby, Esq., 3390 Peachtree Rd., N.E., 5th floor, Lenox Tower South, Atlanta, GA 30326. *Passengers and their baggage, in the same vehicle with passengers, in special and charter operations* from points in Denver and Boulder Counties, CO to points in the US (except HI) and return, for 180 days. Supporting shipper(s): There are 9 supporting shippers. Their statements may be examined at the Regional office listed.

MC 150900 (Sub-6-1TA), filed May 28, 1980. Applicant: CREATIVE TOURS AND CHARTER SERVICE CORPORATION, 6952 Cantaloupe Ave., Van Nuys, CA 91405. Representative: Roger D. Lovegren, 6946 Cantaloupe Ave., Van Nuys, CA 91405. *Passengers and their baggage* for charter operation from Los Angeles, Orange, Ventura and Kern counties, CA to Clark, Carson City, Douglas, and Washoe counties, NV and return for 180 days. Supporting shipper: Fam Corp., dba Landmark Hotel & Casino, 364 Convention Center Drive, Las Vegas, NV 89101.

MC 136605 (Sub-6-10TA), filed May 27, 1980. Applicant: DAVIS TRANSPORT, INC., Post Office Box 8058, Missoula, MT 59807. Representative Allen P. Felton (same as applicant). *Iron and Steel Articles, Steel Buildings, KD, Parts, Components, and Accessories used in the manufacture or distribution thereof,* From the facilities of Soule Steel Company located in Los Angeles County, CA to points in Carbon County, UT for 180 days. Supporting shipper: Soule Steel Company, 2132 Dominguez Street, Carson, CA 90749.

MC 148692 (Sub-6-6TA), filed May 28, 1980. Applicant: EMPIRE DELIVERY, INC., 3930 Blake Street, Denver, CO 80205. Representative: Raymond M. Kelley, Esq., Thompson and Kelley, 450 Capitol Life Center, Denver, CO 80203. *Malt Beverages in containers and empty containers on return,* from points in St. Louis, MO to points in Denver, CO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Mile Hi Liquors, 1905 Denargo Market, Denver, CO 80216.

MC 52914 (Sub-6-2TA), filed May 28, 1980. Applicant: FITCHETT TRUCK LINES, INC., P.O. Box 10799, 3641 N.W. Front Avenue, Portland, OR 97210. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, OR 97210. *Common carrier,* regular route: *General commodities,* except those of unusual value, class A and B explosives, houshold goods as defined by the Commission and commodities in bulk, between Portland, OR and the John Day Dam, OR over Interstate Hwy 84, serving all intermediate points on Interstate Hwy 84, for 180 days. An underlying ETA seeks 90 days authority. There are 21 shippers. Their statements may be examined at the Regional office listed.

MC 129878 (Sub-6-1TA), filed May 22, 1980. Applicant: FLOUR TRANSPORT, INC., 5471-A Ferguson Drive, Los Angeles, CA 90022. Representative: Walter L. Keeney (same as applicant). *Liquid and dry sweeteners,* in bulk, in tank and pneumatic vehicles, Between points in Los Angeles County, CA on the one hand, and points in AZ and Clark County, NV on the other, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Amstar Corp., Spreckels Sugar Division, 50 California St., San Francisco, CA 94111.

MC 125952 (Sub-6-1TA), filed May 23, 1980. Applicant: INTERSTATE DISTRIBUTOR CO., 8311 Durango, S.W., Tacoma, WA 98499. Representative: Daniel W. Baker, Handler, Baker, Greene & Taylor, P.C., 100 Pine Street, Suite 2550, San Francisco, CA 94111. *Contract Carrier,* irregular routes: *Pet food and foodstuffs* from the facilities of Ralston Purina Company at or near Denver, CO, to points in ID and MT, for the account of Ralston Purina Company, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188.

MC 115570 (Sub-6-1TA), filed May 27, 1980. Applicant: WALTER A. JUNGE, INC., 3818 S.W. 84th St., Tacoma, WA 98491. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Contract;* Irregular Routes: *Paper and paper products* from Pryor, OK, to points in CA, AZ, OR and WA for 180 days. Supporting shipper: Saint Regis Paper Company, 1019 Pacific Avenue, Tacoma, WA 98042.

MC 150901 (Sub-6-1TA), filed May 28, 1980. Applicant: MARKET EXPRESS INC., 996 South Garfield Street, Denver, CO 80209. Representative: Richard P. Kissinger, Steele Park, Suite 330, 50 South Steele Street, Denver, CO 80209. *Contract carrier,* irregular route, *Malt beverages,* from points in Jefferson County, CO, to Kingman and Bullhead City, AZ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Mathieson Sales, Inc., 2723 Tatum Avenue, Kingman, AZ 86401.

MC 128527 (6-9TA), filed May 27, 1980. Applicant: MAY TRUCKING COMPANY, P.O. Box 400, Payette, ID 83661. Representative: J. Michael Alexander, 5801 Marvin D. Love Freeway, #301, Dallas, TX 57237. *General commodities* (except those of unusual value, classes A and B explosives, commodities requiring the use of special equipment, and commodities in bulk), between points in OR and WA, on the one hand, and, on the other, points in the U.S. (except AK and HI), restricted to traffic moving on bills of lading of Seaport Co-op, Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Seaport Co-op, Inc., 730 N. W. 11th Avenue, Portland, OR. 97209.

MC 32882 (Sub-6-3TA), filed May 28, 1980. Applicant: MITCHELL BROS. TRUCK LINES, 3841 North Columbia Boulevard, Portland, OR 97217. Representative: David J. Lister, P.O. Box 17039, Portland, OR 97217. *Such commodities, as are dealt in or used by dealers and manufacturers of agricultural equipment, industrial equipment, and lawn and leisure products* (except commodities in bulk, automobiles, trucks and buses), between points in WA, OR, ID, MT, CA, NV, AZ, UT, WY, NM and CO, for 180 days. Restriction: Restricted to traffic having a prior or subsequent movement by rail or water. An underlying ETA seeks 90 days authority. Supporting shippers: International Harvester Company, 401 N. Michigan Avenue, Chicago, IL and J.I. Case Company, 700 State Street, Racine, WI.

MC 730 (Sub-6-3TA), filed May 23, 1980. Applicant: PACIFIC

INTERMOUNTAIN EXPRESS CO., 25 North Via Monte, Walnut Creek, CA 94598. Representative: Alfred G. Krebs (same address as applicant). *Common Carrier:* Regular Routes: *General commodities, except those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment.* (1) Between Dallas, TX and Key West, FL, serving all intermediate points in FL, and serving the junction of Interstate Hwys 20 and 55 for joinder purposes only: From Dallas over Interstate Hwy 20 to junction Interstate Hwy 55, then over Interstate Hwy 55 to junction U.S. Hwy 49, then over U.S. Hwy 49 to junction U.S. Hwy 98, then over U.S. Hwy 98 to junction U.S. Hwy 90, then over U.S. Hwy 90 to junction U.S. Hwy 1, and then over U.S. Hwy 1 to Key West, and return over the same route; (2) Between St. Louis, MO and Miami, FL, serving all intermediate points in FL, and serving the junction of Interstate Hwys 40 and 240, the junction of Interstate Hwys 20 and 55, the junction of U.S. Hwys 80 and 82, and the junction of U.S. Hwys 19 and 82 for joinder purposes only: From St. Louis over Interstate Hwy 55 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction Interstate Hwy 240, then over Interstate Hwy 240 to junction Interstate Hwy 55, then over Interstate Hwy 55 to junction Interstate Hwy 20, then over Interstate Hwy 20 to junction U.S. Hwy 80, then over Interstate Hwy 80 to junction U.S. Hwy 82, then over U.S. Hwy 82 to junction U.S. Hwy 19, then over U.S. Hwy 19 to junction U.S. Hwy 41, and then over U.S. Hwy 41 to Miami, and return over the same route; (3) Between St. Louis, MO and Palm Beach, FL, serving all intermediate points in FL, and serving the junction of Interstate Hwys 20 and 75 and the junction of Interstate Hwy 75 and U.S. Hwy 82 for joinder purposes only: From St. Louis over Interstate Hwy 55 to junction Interstate Hwy 64, then over Interstate Hwy 64 to junction Interstate Hwy 57, then over Interstate Hwy 57 to junction Interstate Hwy 24, then over Interstate Hwy 24 to junction Interstate Hwy 75, then over interstate Hwy 75 to junction U.S. Hwy 82, then over U.S. Hwy 82 to junction U.S. Hwy 41, then over U.S. Hwy 41 to junction U.S. Hwy 441, then over U.S. Hwy 441 to junction U.S. Hwy 98 and then over U.S. Hwy 98 to Palm Beach, and return over the same route; (4) Between the junction of Interstate Hwy 40 and U.S. Hwy 77 and Jacksonville, FL, serving no intermediate points, and serving the junction of Interstate Hwys 40 and 240, the junction of U.S. Hwys 31 and 78, the junction of U.S. Hwys 19 and 82, the junction of U.S. Hwy 82 and Interstate Hwy 75 and the termini for joinder purposes only: From the junction of Interstate Hwy 40 and U.S. Hwy 77 over Interstate Hwy 40 to junction Interstate Hwy 240, then over Interstate Hwy 240 to junction U.S. Hwy 78, then over U.S. Hwy 78 to junction U.S. Hwy 280, then over U.S. Hwy 280 to GA Hwy 55, then over GA Hwy 55 to junction U.S. Hwy 82, then over U.S. Hwy 82 to junction U.S. Hwy 1, and then over U.S. Hwy 1 to Jacksonville, and return over the same route; (5) Between Pensacola, FL and Melbourne, FL, serving all intermediate points: From Pensacola over U.S. Hwy 98 to junction U.S. Hwy 27, then over U.S. Hwy 27 to junction Interstate Hwy 75, then over Interstate Hwy 75 to junction FL Hwy 40, then over FL Hwy 40 to junction U.S. Hwy 17, then over U.S. Hwy 17 to junction U.S. Hwy 192, and then over U.S. Hwy 192 to Melbourne, and return over the same route; (6) Serving points in Florida as off-route points in connection with carriers regular-route operations; (7) Between the junction of U.S. Hwys 31 and 78 and Panama City, FL, serving all intermediate points in FL and serving the junction of U.S. Hwys 80 and 82 and the junction of U.S. Hwys 31 and 78 for joinder purposes only: From the junction of U.S. Hwy 31 and U.S. Hwy 78 over U.S. Hwy 31 to junction Interstate Hwy 65, then over Interstate Hwy 65 to junction U.S. Hwy 82, then over U.S. Hwy 82 to junction U.S. Hwy 231, and then over U.S. Hwy 231 to Panama City, FL, and return over the same route; (8) Between the junction of Interstate Hwys 40 and 240 and the junction of Interstate Hwys 20 and 75, serving no intermediate points, and serving the termini for joinder purposes only: From the junction of Interstate Hwys 40 and 240 over Interstate Hwy 240 to junction TN Hwy 57, then over TN Hwy 57 to junction U.S. Hwy 72, then over U.S. Hwy 72 to junction Alt. U.S. Hwy 72, then over Alt. U.S. Hwy 72 to junction U.S. Hwy 31, then over U.S. Hwy 31 to junction U.S. Hwy 278, then over U.S. Hwy 278 to junction U.S. Hwy 78, and then over U.S. Hwy 78 to junction Interstate Hwys 20 and 75, and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. There are 38 supporting shippers.

Note.—Applicant requests to tack and interline. Common control may be involved.

MC 135241 (Sub-6–4TA), filed May 27, 1980. Applicant: PAPER TRANSPORTATION SPECIALISTS, INC., 13635 S.W. Edy Road, Sherwood, OR 97140. Representative: John A. Anderson, Suite 1440, 200 S.W. Market Street, Portland, OR 97201. *Contract carrier.* Irregular routes: *Beer and wine,* except in bulk, from points in CA to: (1) the facilities of Consolidated Beverages, Inc., at or near Edmonds, WA, for the account of Consolidated Beverages, Inc., Edmonds, WA; and (2) the facilities of LaFrance Wine Company, at or near Portland, OR, for the account of LaFrance Wine Company, Portland, OR, for 180 days. Supporting shippers: Consolidated Beverages, Inc., 7212 220th SW, Edmonds, WA 98020 and LaFrance Wine Company, 222 S.E. Alder, Portland, OR 97214.

MC 127922 (Sub-6–2TA), filed May 28, 1980. Applicant: NELLO PISTORESI & SON, INC., P.O. Box 432, Toppenish, WA 98948. Representative: George R. LaBissoniere, 15 S. Grady Way, Suite 233, Renton, WA 98055. *Meat and meat products* from Yakima and Ellensburg, WA, to points in OR and CA for 180 days. Supporting shipper: Shaake Packing Co., P.O. Box 128, Ellensburg, WA 98928.

MC 52709 (Sub-6–10TA), filed May 27, 1980. Applicant: RINGSBY TRUCK LINES, INC., 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Robert P. Tyler (same address as applicant). *Conduit or Pipe, iron or steel,* from Pueblo and La Junta, CO, to points in AZ, CA, ID, IL, IN, IA, KS, MI, MN, MT, MO, NE, NV, ND, OH, OR, PA, SD, UT, WA, WI, and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Western Pipe & Tube Co., P.O. Box 5828, Pueblo, CO 81002.

MC 150166 (Sub-6–1TA), filed February 27, 1980. Applicant: ROCKY MOUNTAIN TRUCKING COMPANY, 4137 First Avenue South, Billings, MT 59101. Representative: James P. Murphy, 2508 Third Avenue North, Billings, MT 59101. *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses* as described in sections A and C of appendix 1 to the report in descriptions in motor carrier certificates, 61 M.C.C. 209 and 766, from Billings, MT, to points in the United States, except AK and HI, for 180 days. Supporting shipper: Midland Foods, Inc., 800 Minnesota Avenue, Billings, MT.

MC 113658 (Sub-6–2TA), filed April 1, 1980. Applicant: SCOTT TRUCK LINE, INC., 5280 Newport Street, Commerce City, CO 80216. Representative: James L. Pitchford, 5280 Newport Street, Commerce City, CO 80216. *Meats, meat products and meat by-products,* and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 71 M.C.C. 209 and 766

(except hides and commodities in bulk). From the facilities of MBPXL Corporation, at or near Dodge City, KS to points in the United States except AK and HI for 180 days. An underlying ETA seeks 90 days authority. Restricted to Traffic originating at the named origin. Supporting shipper: MBPXL Corporation, P.O. Box 2519, Wichita, KS 67201.

MC 119710 (Sub-6–2TA), filed May 22, 1980. Applicant: SHUPE BROS. CO., P.O. Box 929 Greeley, CO 80631. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. *Contract carrier,* irregular routes: *Salt and salt products, and materials and supplies used in agriculture, water treatment, food processing, wholesale grocery and institutional supply industries (in mixed loads with salt and salt products)*, between the facilities of Great Salt Lake Minerals & Chemical Corp. at or near Little Mountain, UT, on the one hand, and, on the other, points in CO, NE, KS, SD, WY, MT, NM, OK, IA, MO, TX and MN, restricted to service performed under contract with Great Salt Lake Minerals & Chemical Corporation, for 180 days. An underlying E.T.A. seeks 90 days authority. Supporting shipper: Great Salt Lake Minerals & Chemical Corp., P.O. Box 1190, Ogden, UT 84402.

MC 135221 (Sub-6–5TA), filed May 28, 1980. Applicant: DICK SIMON TRUCKING, INC., 9541 South 5250 West, West Jordan, UT 84084. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. *Packaging materials,* from the facilities of Packaging Corporation of America, Containerboard Products Division, at Salt Lake City, UT to WA, OR, CA, NV, ID, MT, WY, CO, AZ & NM., for 180 days. Supporting shipper: Packaging Corporation of America, Containerboard Products Division, 460 West 500 South, Salt Lake City, UT 84101.

MC 136821 (Sub-6–1TA), filed May 19, 1980. Applicant: SMERBER TRANSPORTATION, INC., Mira Loma Space Center, Building 621, Mira Loma, CA 91752. Representative: James Smerber (same as applicant). *Contract Carrier: Irregular routes: Ligin Sul-Phinate and paper products* from Bellingham, WA to various points in CA., Viz: Sacramento, Norwalk, Petaluma, Anaheim, Corcoran, Kingsburg, King City, Fresno and Turlock, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Georgia-Pacific Corp., P.O. Box 1236, Bellingham, WA 98225.

MC 128246 (Sub-6–6TA), filed May 28, 1980. Applicant: SOUTHWEST TRUCK SERVICE, a corporation, P.O. Box AD, Watsonville, CA 95076. Representative: William F. King, Suite 400, Overlook Bldg., 6121 Lincolnia Road, Alexandria, VA 22312. *Contract carrier,* irregular routes: *Foodstuffs,* from the facilities of McCormick & Co., Inc. at or near Salinas, CA to Phoenix, AZ and Minneapolis, MN, under a continuing contract with McCormick & Co., Inc. of Baltimore, MD for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: McCormick & Co., Inc., Grocery Products Division, 414 Light St., Baltimore, MD 21202.

MC 146974 (Sub-6–1TA), filed May 28, 1980. Applicant: WILLIAM V. THOMAS, P.O. Box 10238, Albuquerque, NM 87184. Representative: Randall R. Sain (same as applicant's). *Gypsum wallboard and commodities used in the installation thereof,* from Albuquerque, NM to AZ, Los Angeles, Orange, Riverside, San Bernadino, and Ventura Counties, CA and CO for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: American Gypsum Co., Inc., P.O. Box 6345, Albuquerque, NM 87197.

MC 147315 (Sub-6–3TA), filed May 27, 1980. Applicant: TRIWAYS, INC., 2455 E. 27th St., Los Angeles, CA 90058. Representative: William Davidson, P.O. Box 58408, Los Angeles, CA 90058. *Contract Carrier,* Irregular routes: (1) *Wearing apparel,* on hangers, loose, or in mixed loads with *wearing apparel* in packages, in 27 foot trailer, from Carson, CA to Portland, OR; Kent and Seattle, WA for the account of K-Mart Apparel Corporation; and (2) *wearing apparel* on hangers, loose, or in mixed loads with *wearing apparel* in packages or all *other department store merchandise,* from Los Angeles, CA to Portland, OR and Seattle WA, in 27 foot trailer for the account of Sears, Roebuck & Co. for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: K-Mart Apparel Corporation, 7373 West Side Ave., North Bergen, NJ 07047; Sears, Roebuck & Co., 2650 East Olympic Blvd., Los Angeles, CA 90051.

MC 147885 (Sub-6–1TA), filed May 27, 1980. Applicant: MANUEL & AMY VEGA d.b.a. VEGA CONSTRUCTION AND TRUCKING, P.O. Box 1630, Elko, NV 89801. Representative: John R. Ross II, P.O. Box 635, Carson City, NV 89701. *Barite, sand, gravel, ore, aggregates, mining equipment, materials and supplies,* between points in Elko, Eureka and Lander Counties, NV, for 180 days. Supporting shipper: Chromalloy American Corp., P.O. Box 1003, Elko, NV 89801.

MC 141804 (Sub-6–41TA), filed May 28, 1980. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., 4015 Guasti Road, P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same as applicant). *Small arms, ammunition, targets, electrical switch boxes, conduit outlet boxes, junction boxes and covers, related electrical apparatus, (except electrical appliances), materials equipment and supplies used in the manufacture of the above named items and advertising material,* between Anoka and Brooklyn Center, MN and Richmond, IN, on the one hand, and, on the other, points in the U.S. (except AK & HI). Restricted to traffic originating at or destined to the facilities of Federal Cartridge Corporation, for 180 days. Supporting shipper: Roy E. Clark, Director of Transportation, Federal Cartridge Corporation, 9th and Tyler Street, Anoka, MN 55303.

MC 114897 (Sub-6–1TA), filed May 27, 1980. Applicant: WHITFIELD TANK LINES, INC., Post Office Box 7676, 124 West Thomas Road, Phoenix, AZ 85011. Representative: T. Lee Carpenter (same address as applicant). *Hydrochloric or Muriatic Acid, in bulk, in tank vehicles,* From: Lea County, New Mexico to points in AZ, TX, and CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Climax Chemical Company, P.O. Box 1595, Hobbs, NM 88240.

MC 117786 (Sub-6–11TA), filed May 27, 1980. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85005. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Such commodities as are sold, dealt in, and used by retail grocery and animal feed businesses,* from the facilities of or used by Ralston Purina in Flagstaff, AZ to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188.

MC 117786 (Sub-6–12TA), filed May 27, 1980. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, AZ 85005. Representative: Baldo J. Lutich, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Commodities sold, dealt in, or used by wholesale and retail grocery stores, hardware stores, department stores, automotive outlets and mercantile businesses,* from points in the U.S. to the facilities of Smitty's Super Valu, Inc. in the State of AZ; restricted to shipments destined to the facilities of Smitty's Super Valu, Inc. in AZ, for 180 days. Supporting shipper: Smitty's Super Valu, Inc., 2626 S. 7th Street, Phoneix, AZ 85034.

MC 1515 (Sub-6–2TA), filed May 12, 1980. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: L. J. Celmins (same address as applicant). *Common*

Carrier, regular route; *Passengers and their baggage* in the same vehicle with passengers in interstate and foreign commerce in one way and round trip special operations (1) between Sacramento, CA, and Rio Linda, CA serving all intermediate points: From Sacramento over Interstate Hwy 5 to junction Interstate Hwy 880, thence over Interstate Hwy 880 to junction Northgate Blvd., thence over Northgate Blvd., to junction Main Avenue, thence over Main Avenue, to junction Rio Linda Blvd., thence over Rio Linda Blvd, to Rio Linda, and return over the same route; and (2) between the junction of Main Avenue and Rio Linda Blvd, and Interstate Hwy 80, serving all intermediate points: From the junction of Main Avenue and Rio Linda Blvd., over Rio Linda Blvd, to junction Eleanor Avenue, thence over Eleanor Avenue to junction Lexington Street, thence Lexington Street to junction Arden Way, thence over Arden Way to junction Interstate Hwy 80 and return over the same route, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack this authority with authority it presently holds in MC 1515. Supporting shipper: There are 14 supporting shippers. Their statements may be examined at the Regional office listed.

MC 145689 (Sub-6–1TA), filed April 18, 1980. Applicant: UNION TRACTOR COMPANY, INC., South of Havre, P.O. Box 1426, Havre, MT 59501. Representative: George R. Cortty, Jr., Suite 200, 18 Sixth St. North, Great Falls, MT 59401. *Chemicals, plastic materials and sheeting, resins, paints, solvents, drying agents and stearates, lubricants, plasticizers, acids and expanded foam;* and materials, supplies and equipment used in the manufacturing, distribution thereof, except commoditeis in bulk. From, to, or between points in MD, MA, NJ, and OH, on the one hand, and points in the States of AZ, CA, ID, MT, NV, OR, WA, and WY on the other (restricted to shipments from and/or to the facilities of Tenneco Chemical Co.) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Tenneco Chemical Co., Inc., 10 Knights Bridge, P.O. Box 367, Piscataway, NJ 08854.

MC 52793 (Sub-6–5TA), filed May 28, 1980. Applicant: BEKINS VAN LINES, CO., 3090 Via Mondo, Compton, CA 90221. Representative: David P. Christianson, Knapp, Gossman & Marsh, 707 Wilshire Bouevard, Suite 1800, Los Angeles, CA 90017. *New Furniture,* from Atoka, OK, to CA and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Ethan Allen, Inc., Danbury, CT 06816.

MC 134387 (Sub-6–4TA), filed May 29, 1980. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Avenue, South Gate, CA 90280. Representative: Patricia M. Schnegg, Knapp, Grossman & Marsh, 707 Wilshire Boulevard, 1800 United California Bank Building, Los Angeles, CA 90017. *Cabinets* from the plant sites and facilities of Olympia Cabinet Manufacturing and Sales located at Salt Lake City, UT to WA, AZ, CA, NV, and OR, restricted to cabinets in packages, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Olympia Cabinet Manufacturing and Sales, 1537 South 700 West, Salt Lake City, UT 84104.

MC 150906 (Sub-6–1–TA), filed May 29, 1980. Applicant: THE DAVIS MANUFACTURING AND SUPPLY COMPANY, 215 Highway 50 Business Loop, Olathe, CO 81425. Representative: George A. Wollbrinck, P.O. Box 38, Olathe Professional Building, Olathe, CO 81425. *Contract Carrier;* Irregular routes: *Gypsum Lathe, Gypsum Wallboard, Gypsum Wallboard Systems, Gypsum Products,* and *Plaster,* except commodities in bulk or tank vehicle, from points in AZ to all points in all counties or portions of counties in CO west of the Continental Divide, for the account of Gold Bond Building Products, Division of National Gypsum Company, for 180 days. Supporting shipper: Gold Bond Building Products, Division of National Gypsum Company, P.O. Box 1888, Long Beach, CA 90801.

MC 150910 (Sub-6–1TA), filed May 29, 1980. Applicant: RONALD R. PAYNE, d.b.a. EASTERN PLAINS EXPRESS, 1252 S. Eaton Street, Lakewood, CO 80226. Representative: Raymond M. Kelley, Esq., Thompson and Kelley, 450 Capitol Life Center, Denver, CO 80203. *Common carrier,* regular routes: *General commodities (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* between Denver, CO and Wray, CO: From Denver, CO over U.S. Highway 6 to Brush, CO, thence over U.S. Highway 34 to Wray, CO and return over the same route serving all intermediate points from and including Akron, CO to and including Wray, CO and serving all commercial zones of authorized service points, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to interline this authority with other carriers at Denver, CO, Akron, CO and Wray, CO. Supporting shippers: There are 40 supporting shippers. Their statements may be examined at the Regional Office listed.

MC 150738 (Sub-6–2TA), filed May 29, 1980. Applicant: HORNOI TRANSPORT, INC., P.O. Box 934, Miles City, MT 59301. Attorney; Alan Foss, 502 First National Bank Bldg., Fargo, ND 58126. *Petroleum* and petroleum products, in bulk, in tank vehicles, between points in ND, on the one hand, and, on the other, points in MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Westland Oil Company, P.O. Box 1549, Minot, ND 58701.

MC 150911 (Sub-6–1TA), filed May 29, 1980. Applicant: ROCKY MOUNTAIN CHARTER COACH COMPANY, 132 Baylor Drive, Longmont, CO 80501. Representatives: Richard P. Kissinger, Richard J. Bara, Steele Park, Suite 330, 50 South Steele Street, Denver, CO 80209. *Passengers and their baggage,* in buses, in charter and special operations, between all points in Denver and Durango, CO, and a 40-mile radius thereof, on the one hand, and, on the other, all points in the U.S. for 180 days. Supporting shippers: There are 27 shippers their statements may be examined at the regional office listed.

MC 138875 (Sub-6–12TA), filed May 29, 1980. Applicant: SHOEMAKER TRUCKING COMPANY, An Idaho Corporation, 11900 Franklin Road, Boise, ID 83709. Representative: F. L. Sigloh (same address as applicant). *(1) Canned goods (except in bulk); (2) materials and supplies used in the selling, distribution and manufacture of canned goods,* from the facilities of Joan of Arc Company at Princeville and Hoopeston IL, Belledeau and St. Francisville, LA to points in AZ, CA, CO, ID, NV, OR, UT and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Douglas Wiggins, Corporate Traffic Manager, Joan of Arc Company, 2231 W. Altorfer, Peoria, IL 61615.

MC 135803 (Sub-6–9TA), filed May 28, 1980. Applicant: WALLACE TRANSPORT, 9290 E. Hwy. 140 (P.O. Box 67), Planada, CA 95365. Representative: Donald M. Fennel, same as above. *Such commodities as are dealt in by wholesale, retail, and chain grocery stores and business houses, in mechanically refrigerated equipment,* between points in CA, on the one hand, and, on the other, points in Douglas, Storey, Washoe and Carson City Counties, NV, for 180 days. Supporting shippers: There are (12) shippers. Their statements may be examined at the Regional office listed.

MC 141804 (Sub-6–42TA), filed May 29, 1980. Applicant: WESTERN EXPRESS, Division of Interstate Rental, Inc., 4015 Guasti Road, P.O. Box 3488, Ontario, CA 91761. Representative:

Frederick J. Coffman (same as applicant). *Printed forms paper, printing material, related materials and items necessary for the production of printed material and forms.* between all points in the U.S. (except AK and HI). Restricted to traffic originating at the facilities of Moore Business Forms, Inc. and its subsidiaries, for 180 days. Supporting shipper: R. E. Blackstone, Manager Distribution, Moore Business Forms, Inc., 1205 N. Milwaukee Street, Glenview, IL 60025.

MC 150605 (Sub-6–1TA), filed May 2, 1980. Applicant: SIERRA EXPRESS, INC., Post Office Box 1354, West Sacramento, CA 95691. Representative: William D. Taylor, Handler, Baker, Greene, & Taylor, P.C., 100 Pine Street, Suite 2550, San Francisco, CA 94111. *General commodities (except those of unusual value, Classes A & B explosives, household goods as defined by this Commission, commodities in bulk and those requiring special equipment):* Between points in San Joaquin, Yolo and/or Sacramento Counties, CA, on the one hand, and, on the other, points in El Dorado, Placer and Sierra Counties, CA, and Storey, Douglas, Carson City Counties, NV, and that portion of Washoe County, NV, included in the Toiyabee National Forest, restricted to traffic moving in interstate commerce, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers: There are 7 shippers. Their statements may be examined at the Regional Office listed.

Note.—Notice of this application is being republished to reflect that the Applicant seeks common carrier authority restricted to traffic moving in interstate commerce.

James H. Bayne,

Acting Secretary.

[FR Doc. 80–17394 Filed 6–10–80; 8:45 am]

BILLING CODE 7035–01–M

Long- and Short-Haul Application for Relief (Formerly Fourth Section Application); Correction

June 5, 1980.

This application for long-and-short-haul relief has been filed with the I.C.C.

Correction—No. 43824, TEA–ER, Agent (No. 3079, as amended); published on May 29, 1980, page 36227 of the **Federal Register.** This application inadvertently showed the effective date as June 14, 1980, it should have been June 14, 1980 and later. The territorial description shown was also incorrect. It should be; From, to and between all stations in the United States and Canada in lieu of Official Territory.

By the Commission.

James H. Bayne,

Acting Secretary.

[FR Doc. 80–17593 Filed 6–10–80; 8:45 am]

BILLING CODE 7035–01–M

INTERNATIONAL CONVENTION ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. Appendix I, that a meeting of the International Convention Advisory Commission will be held on Wednesday, June 25, 1980, at 9:00 a.m. at the Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006.

The Commission will consider applications for international trade in species protected by the Convention, possible amendments to the Convention appendices, and other business pertaining to the third meeting of the Conference of the Parties in New Delhi.

For further information contact Dr. William Y. Brown, Acting Executive Secretary, International Convention Advisory Commission, Room 3348, 18th & C Streets, N.W., Washington, D.C. 20240, telephone 202/343–7407. Opportunity will be given for oral or written presentations provided that appointments are made with Dr. Brown by 5:00 p.m., June 23, 1980.

Dated: June 5, 1980.

Jane H. Yarn,

Chairman, International Convention Advisory Commission.

[FR Doc. 80–17582 Filed 6–10–80; 8:45 am]

BILLING CODE 4310–68–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–83]

Certain Adjustable Window Shades and Components Thereof; Order Designating Administrative Law Judge

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: June 2, 1980.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 80–17664 Filed 6–10–80; 8:45 am]

BILLING CODE 7020–02–M

[731–TA–26 (Final)]

Certain Steel Wire Nails From Korea

AGENCY: United States International Trade Commission.

ACTION: Institution of a final antidumping investigation.

SUMMARY: As a result of the affirmative final determination on May 19, 1980, by the International Trade Administration, United States Department of Commerce, that certain steel wire nails provided for in item numbers 646.25 and 646.26 of the Tariff Schedules of the United States (TSUS) from certain Korean companies are being sold in the United States at less than fair value, within the meaning of section 731 of the Tariff Act of 1930 (19 U.S.C. 1673), the United States International Trade Commission (hereinafter "the Commission") hereby gives notice of the institution of investigation No. 731–TA–26 (Final) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. For purposes of this investigation, the term "steel wire nails" refers to nails, brads, spikes, staples and tacks of one-piece construction which are made of round steel wire and which enter the United States under item numbers 646.25 and 646.26 of the TSUS. The Commission's investigation encompasses imports of nails as defined above from Korea produced by all firms except those specifically excluded by the Department of Commerce. The excluded firms are Blobcar, Ltd., Dae Bong Industrial, Daeger Trading Co., Daewo Industrial, Dong-A-Nails Co., Jesse Industries, Kang Wan Industries, Lee Chun Steel Co., Ltd., Pacific Chemical Co., Sunkyong, Ltd., and Tong Myung Industries, which were found not to be selling below the applicable trigger price; Daegu Moolsan Co., Ltd., Dae Han Sang Sa Co., Ltd., Jin Heung Iron and Steel Co., Korea Nail Manufacturing Co., Ltd., New Korea Nails Ind., Co., Ltd., and Young Sin Metal Industrial Co., Ltd., which were found not to be selling at less than fair value or found to be selling at less than fair value in *de minimis* amounts; and Korean nail manufacturers not exporting to the United States, either directly or indirectly, during the period May 1978–March 1979.

EFFECTIVE DATE: May 19, 1980.

FOR ADDITIONAL INFORMATION CONTACT: Mr. Lynn Featherstone, Supervisory Investigator, Office of Operations, U.S. International Trade Commission, Room 344, 701 E Street, NW., Washington, D.C. 20436; telephone (202) 523–1376.

SUPPLEMENTARY INFORMATION: The provisions of the Trade Agreements Act of 1979 (Pub. L. 96–39, 93 Stat. 144) repealed the Antidumping Act of 1921 and replaced it with Subtitle B of Title VII of the Tariff Act of 1930 (19 U.S.C. 1673) (hereinafter "Title VII") effective on January 1, 1980. Before the effective date of Title VII, the Department of Treasury made, under the Antidumping Act of 1921, a tentative preliminary but not a final determination, that no imports of steel wire nails from Korea were being sold in the United States at less than fair value. Consequently, pursuant to transition rules set forth in section 102(b)(2) of the Trade Agreements Act of 1979, the investigation was terminated under the Antidumping Act of 1921 and now continues subject to the provisions of Title VII, as if the preliminary determination had been made under section 733 of that title on the effective date of Title VII.

Section 735(b)(1) of the Tariff Act requires the Commission to make a final injury determination where the administering authority has made an affirmative final determination pursuant to section 735(a) as to whether the merchandise which is the subject of the investigation is being or is likely to be, sold in the United States at less than fair value.

Inasmuch as the preliminary determination by the administering authority was negative and its final determination was affirmative, section 735(b)(3) requires the Commission to make its final injury determination within seventy-five (75) days after the date of the affirmative final less-than-fair-value-sale determination.

This investigation will be conducted according to the provisions of Part 207 of the Commission's Rules of Practice and Procedure (19 CFR 207, 44 FR 76457), Subpart C, effective January 1, 1980.

WRITTEN SUBMISSION: Any person may submit a written statement of information pertinent to the subject of this investigation. A signed original and nineteen (19) true copies of each submission must be filed at the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, on or before July 15, 1980.

Any submission of business information for which confidential treatment is desired shall be submitted separately from other documents. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6).

All written submissions, except for confidential business data, will be available for inspection by interested persons at the Office of the Secretary in Washington, D.C., and at the Commission's New York Office, 6 World Trade Center, New York, N.Y. 10048.

A staff report containing preliminary findings of fact will be available to all interested parties on June 17, 1980.

HEARING: The Commission will hold a public hearing in connection with this investigation on July 9, 1980. The proceedings will be conducted in the Hearing Room of the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, and will begin at 10:00 a.m., e.d.t. Parties desiring to appear at the hearing should notify the Office of the Secretary not later than five (5) business days prior to the date of the hearing. In addition, all hearing participants must file written prehearing statements in conformity with section 207.22 of the Commission's Rules of Practice and Procedure (19 CFR 207.22) on or before July 3, 1980.

For further information concerning the conduct of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subpart C (19 CFR 207), and Part 201, Subparts A through E (19 CFR 201). This notice is published pursuant to section 207.20 of the Commission's Rules of Practice and Procedure (19 CFR 207.20, 44 FR 76458).

By order of the Commission.

Issued: June 5, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80–17662 Filed 6–10–80; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–67]

Certain Inclined-Field Acceleration Tubes and Components Thereof; Commission Action and Order, Procedural History

On June 27, 1979, the Commission published in the **Federal Register** (44 FR 37567) notice of an investigation to determine whether there is a violation of section 337(a) of the Tariff Act of 1930 in the unlawful importation of certain inclined-field particle acceleration tubes and components thereof in the United States or in their sale because of the alleged infringement of claims 1–6 of U.S. Letters Patent No. 3,308,323, the effect or tendency of which is substantially to injure an efficiently and economically operated domestic industry.

On December 11, 1979, respondent Dowlish Developments, Ltd., filed a motion for summary determination of noninfringement. On May 6, 1980, the Commission denied the motion for summary determination, remanded the investigation to the presiding officer on all issues, and designated the investigation "more complicated" within the meaning of 19 U.S.C. 1337(b)(1) and 19 CFR 210.15. The hearing in a more complicated investigation must be completed within 12 months of the notice of investigation, in this instance by June 27, 1980, in accordance with section 210.41(e)(1) of the Commission's Rules of Practice and Procedure (19 CFR 210.51(e)(1)).

On May 21, 1980, respondent Dowlish moved for extension of the date set for completion of trial in this investigation (Motion Docket No. 67–21). The presiding officer recommended that an extension of one month be granted, with a new hearing completion date of July 27, 1980, and a due date for the recommended determination of September 27, 1980 (Order No. 14).

Action

Having considered the procedural posture of the investigation, Dowlish's motion for an extension, and the presiding officer's recommendation, the Commission voted on June 5, 1980, to extend the date for completion of trial and the due date for a recommended determination in this investigation to allow the parties more time for preparation for trial and to facilitate preparation of a more complete record of which the Commission may make its determination.

Order

Accordingly, the commission hereby orders that: (1) The time requirements of 19 CFR 210.41(e)(1) are waived for this investigation; (2) The new date for completion of the hearing is July 27, 1980; (3) The new date for the recommended determination is September 27, 1980; and (4) The Secretary shall serve copies of this Action and Order upon each party of record to this investigation and shall cause it to be published in the **Federal Register.**

By Order of the Commission.

Issued: June 6, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-17661 Filed 6-10-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-72]

Certain Turning Machines and Components Thereof; Commission Request for Comments Concerning Settlement Agreement

Background

In connection with the Commission's investigation, under Section 337 of the Tariff Act of 1930, of alleged unfair methods of competition and unfair acts in the importation and sale of certain turning machines and components thereof in the United States, the Administrative Law Judge (ALJ) recommended on April 25, 1980, that the Commission grant respondents Tsugami Corporation and REM Sales Incorporated motion to terminate this investigation as to them, which was filed with the Commission on March 27, 1980. Copies of the ALJ's recommendation may be obtained by interested persons by contacting the Office of the Secretary to the Commission, 701 E Street, N.W., Washington, D.C. 20436, telephone (202) 523-0161.

This investigation began with a complaint filed by Warner & Swasey on September 13, 1979, alleging infringment of claims 1, 2, 3, 8, 10, 14, 18, 19, 20 and 22 of U.S. Reissue Patent No. 29, 612 by Yamazaki Corporation and Yamazaki Machinery Works, Ltd. Investigation No. 337-TA-72 was instituted on October 1979, based on Warner & Swasey's complaint. Complainant Warner & Swasey moved on November 14, 1979, to amend the complaint and notice of investigation by adding as respondents Tsugami Corporation and REM Sales Incorporated, which motion was then certified to the Commission. On December 21, 1979, the motion to amend the complaint and notice of investigation was granted by the Commission. Respondents Tsugami and REM moved on January 8, 1980, to extend their time for filing a response to the complaint which motion was granted and response due on March 27, 1980. On March 27, 1980, respondents Tsugami and REM moved for an order to terminate the investigation as it applies to them, and that such motion was in lieu of the response to the complaint. A license agreement had been entered into between respondents Tsugami and REM and complainant dispensing of all outstanding issues between the parties. Complainant filed no opposition to respondents Tsugami's and REM's motion, and the Commission investigative attorney filed a memorandum in support of respondents Tsugami's and REM's motion to terminate.

Written Comments Requested

Since respondents Tsugami and REM have filed a motion to terminate this investigation as to them based upon the license agreement, and because complainant has filed no opposition to respondents Tsugami's and REM's motion and the ALJ has recommended termination on the basis of the license agreement, no oral argument will be held with respect to the ALJ's recommendation. However, in light of the Commission's duty to consider the public interest, the Commission requests written comments from persons concerning the effect of the termination of this investigation as to Tsugami and REM based on the license agreement upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers. These written comments must be filed with the Secretary of the Commission no later than 30 days after publication of this notice in the **Federal Register**. The Commission has also requested comments from government agencies pursuant to 19 CFR 210.14(a)(2) on the license agreement, which is disclosable to those agencies under provisions of the protective order covering the investigation.

The License Agreement

The license agreement between complainant Warner & Swasey Company and respondent Tsugami Corporation was executed by both parties and has an effective date of February 1, 1980. The license agreement disposes of any issues of alleged infringement of the reissue patent in suit by the importation or sale of certain turning machines manufactured by Tsugami Corporation and sold in the United States through REM Sales Incorporated, thereby leaving no outstanding issues between these parties for adjudication. The license agreement calls for a "non-exclusive" license which allows the licensor to grant further licenses. In addition, the license agreement provides that the licensee shall be relieved of the obligation to pay royalties under the agreement in the event the reissue patent in suit is declared invalid by a court having final jurisdiction.

Additional Information

The original and 19 true copies of all written submissions must be filed with the Secretary of the Commission. Any person desiring to submit a document (or portions thereof) to the Commission in confidence must request *in camera* treatment. Such request should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. The Commission will either accept such submission in confidence or return it. All nonconfidential written submissions will be open to public inspection at the Secretary's Office.

Issued: June 5, 1980.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-17665 Filed 6-10-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-84]

Chlorofluorohydrocarbon Drycleaning Process, Machines and Components Therefor; Notice of Investigation

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 17, 1980, under section 337 of the Tariff Act of 1930, (19 U.S.C. 1337), on behalf of Research Development Co., 1620 Central Avenue NE., Minneapolis, Minn. 55413, alleging that unfair methods of competition and unfair acts exist in the importation into the United States of certain dry cleaning machines or in their sale, because such drycleaning machines allegedly contribute to and induce the infringement of the drycleaning process covered by claims 1, 3, and 4 of U.S. Letters Patent 3,728,074. The complaint alleges that the effect or tendency of the unfair methods of competition and unfair acts is to substantially injure an industry, efficiently and economically operated, in the United States.

Complainant requests that, after a full investigation has been conducted, the Commission either order exclusion of the imports in question or issue a cease and desist order.

Having considered the complaint, the Commission on May 13, 1980, Ordered That: (1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, (19 U.S.C. 1337), an investigation be instituted to determine whether there is a violation of subsection (a) of this section in the unauthorized importation of certain drycleaning machines, and components therefor, into the United States, or in their sale, because such

drycleaning machines, and components therefor, allegedly contribute to and induce the infringement of the drycleaning process covered by claims 1, 3, and 4 of U.S. Patent 3,728,074, the effect or tendency of which is to substantially injure an indstry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Research Development Co., 1620 Central Avenue NE., Minneapolis, Minn. 55413.

(b) The respondents are the following companies alleged to be engaged in the unauthorized importation of certain drycleaning machines, and components therefor, into the United States, or in their sale, and are the parties upon which the complaint is to be served:

American Permac, Inc., 175 Express Street, Plainview, N.Y. 11803.
Harvcons Universal, Inc., 8505 Whitfield Park Loop, Sarasota, Fla. 33580.
Spencer America, Inc., 2036 Congressional Drive, St. Louis, Mo. 63141.
I. Goldfarb & Sons, 48 Babson Street, Mettapan, Mass. 02126.
Bohler & Weber KG, Maschinenfabrik, Haunstetter Str. 112, D-8900 Augsburg, Germany.
Ama Universal, 40013 Castel Maggiore, Bologna, Italy.
Neil & spencer, Ltd., Station road, Leather Head, Surrey, England.
Macchine Suprema, 40050 Funo, Bologna, Italy.

(c) David J. Dir, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Chief Administrative Law Judge Donald K. Duvall, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

The phrase "and components therefor" has been added to paragraph (1) above on the basis of the informal investigatory activities by the Commission investigative attorney which reveals that drycleaning machines of the type alleged to contribute to and induce infringement of the process covered by claims 1, 3, and 4 of U.S. Letters Patent 3,728,074 can be imported in component parts as well as entirely assembled units.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to sections 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than twenty (20) days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice, to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint, except for confidential information contained therein, is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the Commission's New York City Office, 6 World Trade Center, New York, N.Y. 10048.

By order of the Commission.

Issued: June 2, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 80-17663 Filed 6-10-80; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. AA1921-147A (Review)]

Electric Golf Cars From Poland

Determination.—on the basis of the record developed in this investigation No. AA1921-147A (Review), the Commission [1] determined pursuant to section 751 of the Tariff Act of 1930, that changed circumstances exist which indicate that an industry in the United States would not be threatened with material injury if the antidumping finding concerning electric golf cars from Poland were revoked.

Background.—On February 5, 1980, the U.S. International Trade Commission instituted investigation No. AA1921-147A under section 751 of the Traiff Act of 1930 by publishing notice in the **Federal Register** (45 F.R. 9829). The purpose of the investigation is to determine whether changed circumstances exist which indicate that an industry in the United States would not be threatened with material injury if the antidumping finding concerning electric golf cars from Poland were revoked.

On September 16, 1975, the Commission determined by majority vote that an industry in the United States was being injured by reason of the importation of electric golf cars from Poland that were being, or were likely to be sold at less than fair value within the meaning of the Antidumping Act, 1921. The Department of Treasury published a finding of dumping in the **Federal Register** on November 18, 1975 (40 F.R. 53383). On August 6, 1979, an application for review of the Commission's prior determination was filed with the Commission by Melex, USA, in accordance with the then extant Rules. Melex, USA, is wholly owned subsidiary of Pezetel, the Polish state-trading organization for the subject golf cars, and has been the exclusive importer of the product since 1975.

On October 2, 1979, the Commission published a notice in the **Federal Register** inviting public comment on the question of whether the Commission should conduct a review of the determination. Comments were received from 5 interested parties. After considering the application and comments, the Commission voted on January 30, 1980, to institute an investigation pursuant to section 751 of the Tariff Act of 1930 and section 207.45 of the Rules. In connection with the investigation, a public hearing was held on April 16, 1980. According to the Rules of Practice and Procedure, the Commission must render its determination within 120 days after institution, or in this case, by May 28, 1980.

In arriving at its determination, the Commission has given due consideration to the information provided by the administering authority, to all written submissions from interested parties, and information adduced at the hearing and obtained by the Commission's staff from questionnaires, documented personal interviews, and other sources, all of

[1] The determinations of Chairman Bedell and Commissioners Moore and Stern were as noted above. Commissioner Moore made a negative determination in the 1975 case involving golf cars imported from Poland. Although Commissioner Moore finds that circumstances have changed for the domestic industry since 1975, he reaffirms his earlier determination by finding that the domestic industry is not threatened with material injury by reason of imports sold or likely to be sold at less than fair value. Vice Chairman Alberger determined that changed circumstances exist and an industry in the United States would not be threatened with material injury if the antidumping finding concerning electric golf cars from Poland were revoked. Commissioner Calhoun determined that an industry in the United States would not be threatened with material injury if the dumping finding concerning golf cars from Poland were revoked.

which have been placed on the administrative record of this investigation.

Statement of Reasons of Chairman Catherine Bedell and Commissioner George M. Moore

On February 5, 1980, the U.S. International Trade Commission instituted review investigation No. AA1921–147A under section 751 of the Tariff Act of 1930. The purpose of the investigation is to determine whether changed circumstances exist which indicate that an industry in the United States would not be threatened with material injury if the antidumping finding concerning electric golf cars from Poland were revoked.

The domestic industry.—In this investigation, we have concluded that the appropriate domestic industry against which the threat of material injury from imports of electric golf cars from Poland should be measured consists of the facilities in the United States producing both gas and electric golf cars. Currently there are 12 known golf car producers in the United States.

Our finding concerning the composition of the appropriate domestic industry is based on section 771(4) of the Tariff Act of 1930 (19 U.S.C. 1677(4)). Section 771(4)(A) defines the term "industry" to mean the domestic producers of a "like product," which is in turn defined in section 771(10) as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title."

Less than-fair-value sales.—On June 11, 1975, the Department of the Treasury determined that electric golf cars from Poland were being sold at less than fair value (LTFV). In its investigation, Treasury examined 100 percent of the golf car entries from Poland during a 10-month period from December 1, 1973, to September 30, 1974.

Weighted average dumping margins of 20.9 percent and 21.0 percent were found for 3- and 4-wheel cars, respectively. On September 16, 1975, the Commission determined that an industry in the United States was being injured by these LTFV sales of golf cars from Poland.[2] After this determination was made, U.S. customs officials liquidated golf car entries from Poland for the period March 1975–July 1976. During this period, the average dumping margin for 3- and 4-wheel cars was only 3.5 percent. Because of difficulties in assessing the foreign market value of Polish golf cars, no entries have been liquidated since 1976. However, according to officials of the U.S Department of Commerce, which became the administering authority in antidumping proceedings on January 1, 1980, there have apparently been no dumping margins on sales made subsequent to September 1978.[3]

The competitive condition of the domestic industry. With respect to the question of the competitive condition of the domestic industry, we find it appropriate to consider those factors set forth in section 771 of the Tariff Act of 1930, namely, among other factors, the volume of imports of the merchandise subject to the investigation, the price effects of such imports, and the impact of such imports on the affected U.S. industry.

The volume of imports.—U.S. imports of golf cars from Poland declined from 9,982 units in 1975 to 5,220 units in 1979, or by 48 percent.[4] The ratio of imports from Poland to apparent U.S. consumption of golf cars declined by an even greater percentage over the same period.

Price effects of imports.—The price information collected by the Commission for 1977–79 indicates that the price paid for Melex cars by their dealers and distributors was consistently lower than the weighted average prices of U.S. producers' golf cars to their distributors and dealers. In 1977, the price of the Melex 3-wheel car was 11 percent below the weighted average unit price of domestic 3-wheel electric cars, by 1979, the margin of underselling increased to 13 percent.[5] In 1977, the price of the Melex 4-wheel car was 7 percent below the weighted average unit price of domestic 4-wheel electric cars by 1979; the margin of underselling had increased to 11 percent.[6] According to officials of the Department of Commerce, the margins of underselling since September 1978 were not the result of dumping.

It should also be noted that the margins of underselling do not reflect the entire competitive situation. The price data used in these comparisons do not reflect either the differing levels of support services (e.g., marketing services, financial assistance, inventory control plans, and training programs) or the differing warranties offered by U.S. producers and Melex, USA, the exclusive importer of golf cars from Poland, to their dealers and distributors. If these factors were considered, we believe the apparent competitive advantage of the imported car would be reduced. Moreover, it appears that the price of the imported product has had a minimal effect on U.S. producers' prices. During the period 1977–79, U.S. producers' weighted average prices for golf cars increased at a faster rate than prices for Melex cars. U.S. producers' weighted average prices for 3- and 4-wheel electric cars increased by 12.8 percent and 17.2 percent, respectively, from 1977 to 1979, whereas the weighted average prices for Melex 3- and 4-wheel cars increased by only 11.3 and 11.2 percent, respectively.[7]

Impact of imports on the affected industry.—Section 771 of the act instructs the Commission to examine, with respect to the impact of imports on the domestic industry, all relevant economic factors including, but not limited to, actual and potential decline in output, sales, market share, profits, productivity, return on investments, utilization of capacity, factors affecting domestic prices, and actual and negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment. The Commission received questionnaire responses on the above-mentioned factors from firms believed to account for about 95 percent of production and shipments of golf cars.

U.S. production of golf cars increased from 45,000 units in 1975 to 53,000 units in 1979, or by 18 percent.[8] Similarly, U.S. producers' domestic sales and leases of golf cars increased from 44,000 units in 1975 to 51,000 units in 1979, or by 16 percent.[9] In addition, although they have been at relatively low levels, U.S. producers' exports of golf cars more than doubled. The absolute quantity of U.S. producers' inventories of golf cars has increased over the period under consideration, however, inventory levels have been low. The ratio of inventories to sales increased only slightly, from 2.5 percent in 1975 to 3.5 percent in 1979.[10]

Capacity utilization for the golf car industry increased substantially, rising by 37 percent from 1975 to 1979.[11] Moreover, during the same period, a leading U.S. producer of electric cars increased its capacity by 50 percent, and

[2] In this investigation, Commissioner Moore determined that an industry in the United States was not being injured and was not likely to be injured.

[3] See May 9, 1980, letter addressed to Honorable Catherine Bedell, Chairman, International Trade Commission signed by John D. Greenwald, Deputy Assistant Secretary for Import Administration, U.S. Department of Commerce. A copy of the letter is presented in appendix C of the report.

[4] See p. A–27 of the report.

[5] See p. A–29 of the report.

[6] Ibid.

[7] See p. A–39 of the report.

[8] See p. A–8 of the report.

[9] See p. A–17 of the report.

[10] See p. A–22 of the report.

[11] See p. A–19 of the report.

two new producers of electric golf cars entered the market.

Available data on employment in the golf car industry is somewhat sketchy for 1975–77; thus, the resulting increases for the period under consideration are overstated. However, the trends are nonetheless clearly positive for all factors relating to employment. During 1975–79, the available data indicate that the average number of all employees in U.S. establishments producting golf cars increased by over 80 percent, while the average number of all production and related workers increased by over 150 percent.[12] In addition, aggregate wages paid to, and man-hours worked by, all production and related workers increased by over 30 percent.[13]

During 1975–79, U.S. golf car producers' net operating profits increased by over 190 percent, while the ratio of net operating profit to net sales increased by over 45 percent.[14] In addition, despite sharply increasing inflation rates, the ratio of the cost of goods sold to net sales declined slightly. It should also be noted that during this period, the problems experienced by Harley-Davidson during 1975–77 in attempting to introduce a new electric golf car has had a continuing negative impact on the aggregate figures for the golf car industry's profitability.[15]

Only one U.S. golf car producer has made specific allegations of sales or leases lost to Melex cars because of price or the terms of the lease. However, in 25 of the 42 instances where the staff could confirm that a firm did in fact purchase or lease Melex cars during 1976–79, the firms stated that price was not their primary consideration in selecting Melex cars over the comparable domestic models. Of these firms, 18 indicated that their decisions were based primarily on the quality of the imported car and the service provided by the Melex dealer. Price was not mentioned as a factor. The remaining seven firms indicated that while the price of the Melex car was a factor affecting their decisions, the quality of the car and the service provided were at least as important a consideration as price, if not more so.[16]

Likelihood of material by reason of LTFV imports from Poland. As previously noted, the condition of the U.S. golf car industry has improved substantially since the Commission's earlier determination of injury by reason of LTFV imports of electric golf cars from Poland, and this improvement occurred despite sustained competition with the lower-priced Melex cars.

There are also a number of considerations which diminish the likelihood of material injury by reason of imports which may be sold at LTFV in the future. While the price paid for Melex cars has been consistently lower than the weighted average prices paid for the comparable domestic cars, there have apparently been no dumping margins on the imported product since September 1978. Thus, Pezetel, the Polish state-trading organization for golf cars, has demonstrated that it is able to undersell domestic producers without resorting to sales at less than fair value. Moreover, in its attempts to verify allegations of lost sales, the staff has also confirmed that a significant segment of the golf car market is not price sensitive. In addition, the price paid for Melex cars f.o.b. Poland typically represents less than 50 percent of the final price of the golf car to the end user.[17] Thus, it is clear that Pezetel has little incentive to resume selling Melex cars at less than fair value. Melex, USA, has also given the Commission assurances that its annual imports of golf cars from Poland will not exceed an average of 8000 cars through 1985, and that Melex, USA, will not knowingly sell its product for less than "foreign market value" under the regulation for determining foreign market value.[18] According to officials of Melex, U.S.A., the WSK factory where Melex cars are produced has an annual production capacity of 10,000 golf car years. This was also the production capacity which was approved by the U.S. customs officials and used in the Spanish cost study.[19] Assuming that apparent U.S. golf car consumption during this period remains relatively unchanged from the 1979 levels, the assurance on the volume of imports effectively limits the subject imports' share of the U.S. market to a level lower than the average market share held by Melex cars during 1975–79. If the Poles were to maximize their capacity, the import's share of the U.S. market would only be slightly higher than the average market share for 1975–79. Thus, the possibility of a sudden influx of imports from Poland is minimized.

Conclusion. After considering the information herein discussed, Chairman Bedell concludes that changed circumstances exist which indicate that an industry in the United States would not be threatened with material injury if the finding of dumping concerning electric golf cars from Poland were revoked.

Commissioner Moore concludes that changed circumstances, as well as circumstances existing at the time of the earlier investigation, support a determination that an industry in the United States would not be threatened with material injury if the finding of dumping concerning electric golf cars from Poland were revoked.

Statement of Reasons of Vice Chairman Bill Alberger and Commissioner Michael J. Calhoun

This review proceeding is the first to come before the Commission under the new section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)). Section 751(b) authorizes the Commission, under certain circumstances, to review final material injury determinations. Similar authority was exercised by the Commission under its regulations before the enactment of the Trade Agreements Act of 1979. Upon a careful reading of section 751, the legislative history and other relevant materials, and in comparison with past Commission review determinations, it seems clear that this new provision is not merely an enactment into law of existing Commission practice. Thus, new questions of statutory interpretation are presented in this proceeding.

On August 6, 1979, before the effective date of Title VII of the Tariff Act of 1930, Melex, U.S.A. Inc., an importer, filed with the Commission a request for a review of an outstanding dumping order.[20]

On October 11, 1979, the Commission published a notice in the **Federal Register** [21] inviting public comment on the question of whether the Commission should conduct the review requested by

[12] See p. A–20 of the report.
[13] Ibid.
[14] See p. A–24 of the report.
[15] See p. A–25 of the report.
[16] See p. A–41 of the report.

[17] See transcript of Apr. 16, 1980, hearing at p. 58.
[18] See transcript of Apr. 16, 1980, hearing at p. 33.
[19] See U.S. customs service's verification of the factors of production used in the manufacture of golf cars in Poland, section B (7).

[20] Melex is the exclusive importer of electric golf cars from Poland. Those golf cars imported into the United States are subject to an outstanding antidumping order issued by the Secretary of Treasury on November 18, 1975 following the Commission's September 16, 1975 determination of injury. Melex cited as the authority for its request the then applicable section 207.5 (19 CFR 207.5) of the Commission's Rules of Practice and Procedure (Rules). Section 207.5(a) provided: "The purpose of an investigation by the Commission to review a determination that has been made under section 201(a) of the Antidumping Act, 1921, as amended, is to determine whether changed circumstances exist which indicate that, if the finding of dumping issued by the Secretary of the Treasury were modified or revoked, an industry in the United States would likely be injured, or prevented from being established, by reason of the importation into the United States of the relevant merchandise at less than fair value within the meaning of the Antidumping Act, as amended."
[21] 44 FR 58617.

Melex.[22] After consideration of the request and the public comments, the Commission on January 30, 1980, voted pursuant to section 751 and section 207.45 of the Rules to institute an investigation to review its September 16, 1975 determination.[23]

Statutory Framework. Section 751(b)(1) provides in relevant part:

"Whenever the . . . Commission receives . . . a request for the review of an affirmative determination made under section . . . 735(b), which shows changed circumstances sufficient to warrant a review of such determination, it shall conduct such a review after publishing notice of the review in the **Federal Register.**" [24]

In implementing section 751 with respect to this proceeding, the Commission is required to perform two acts. First, it must decide that the request for review "shows changed circumstances sufficient to warrant a review," and, second, the Commission must "conduct such a review" after publishing notice. It is implicit in the Commission's institution of this review, pursuant to its Notice of Investigation and Hearing of February 13, 1980, that the first statutory criterion has been satisfied.[25]

Section 751, however, provides no specific standard on its face for conducting a review of an affirmative Commission determination in dumping investigations. In reviewing suspensions of invesigations under section 704 and 734, we are compelled by section 751(b) to consider "whether, in light of changed circumstances" certain agreements reached "continue to eliminate completely the injurious effects of imports of merchandise." But with respect to final Commission determinations in antidumping and countervailing duty investigations, the statute contains no standard for review nor any specific reference to factors to be considered upon review, such as those enumerated in section 771(7) of the Tariff Act of 1930.[26] While there is no cross-reference to section 771(7), that section enumerates certain factors that are relevant to our determination here.

In considering the basis on which to conduct such a review, in the absence of specific statutory guidance, we have looked to the legislative history of section 751 and to the Agreement on Implementation of Article VI of the General Agreements on Tariffs and Trade (Antidumping Agreement), which is implemented by section of subtitles B and C of Title VII of the Tariff Act of 1930.

The legislative reports provide little guidance. The reports of the Senate Committee on Finance [27] and the House Committee on Ways and Means [28] merely paraphrase or repeat language of the statute. The Statements of Administrative Action, as well, only echoes the language of the statute.[29] Both the House and Senate Reports do refer to past Commission practice, but they do so only by way of historical comment and without specifically approving it or indicating that the new law would be a codification of that practice.[30]

Although neither Committee in its report specifically addressed the purpose for review by the Commission under section 751(b), considering that Title VII is intended to implement the Antidumpting Agreement and the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (Subsidies Agreement), an examination of the relevant parts of these two agreements helps to clarify the Commission's role.

Both the 1967 Antidumping Agreement [31] and the current Antidumping Agreement contain a provision concerning the permissible duration of antidumping duties. According to Article 9 of the Antidumping Agreement,

"1. An antidumping duty shall remain in force only so long as and to the extent necessary to counteract dumping which is causing injury.

"2. The investigating authorities shall review the need for the continued imposition of the duty, where warranted, on their own initiative or if any interested party so requests and submits positive information substantiating the need for review."

The Subsidies Agreement contains similar language.[32]

Views concerning the need for such limitations on the duration of antidumping duties were heard by both Committees in their consideration of the Trade Agreements Act of 1979. One view was expressed to the Committee on Ways and Means as follows:

"Although we are not defending dumping, on the benefit side dumping represents lower prices to consumers, results in more competition and improved industrial performance, and acts as an anti-inflationary mechanism of price control.

* * * * *

The Antidumping Code contains no explicit provision for the termination of findings of dumping and the lifting of dumping duties. Both the IAC (Article 9(a)) and, we understand, the subsidies code contain provisions which would require that antidumping or countervailing duties remain in force only so long as, and to the extent necessary to counteract, the dumping of subsidization which is causing material injury. . . . Furthermore [we urge] that conforming changes be made to U.S. antidumping law, and procedures established to provide for a review process initiated by either government investigating authorities or by interested parties. Our submission is based on the premise that because trade policy must reflect the necessary balance between the free movement of goods, with its consequent benefits, and protection of domestic interests, dumping duties should be imposed only when material injury to the domestic industry has been found to exist. *Thus, when that material injury no longer exists, dumping duties should no longer be necessary.* (Emphasis added)[33]

Even those not wholly supportive of limiting the duration of antidumping or countervailing duties recognized the thrust and clear requirement of the new Agreement:

"If an injury test is required, it is essential that U.S. petitioners be protected from frequent review of injury determinations. Normally, there should be no such review in less than three years. To obtain a review in a shorter period of time a directly interested party should be required to deomonstrate positively that no evidence of injury exists

---

[22] Section 207.5(c)–(f) governed the procedure to be followed by the Commission in review proceedings, including the method of institution, public hearing, written statements and notification of the determination.

[23] Chairman Bedell and Commissioners Moore, Alberger and Stern participated in the vote.

[24] Section 106(a) of the Trade Agreements Act of 1979 repealed the Antidumpting Act of 1921 but provides that findings in effect on the effective date of the 1979 Act shall remain in effect "subject to review under section 751 of the Tariff Act of 1930." The Commission may not review a determination under section 735(b) less than 24 months after the date of publication of the notice of the determination, except for good cause shown. (19 U.S.C. 1675 (b)(2)).

[25] The Notice states: "On the basis of the application and the public comments, the Commission, by action of January 30, 1980, voted to institute an investigation pursuant to section 751 of the Tariff Act of 1930 and section 207.45 of the Rules of Practice and Procedure." 45 FR 9829.

[26] 19 U.S.C. 1677(7). There is even a difference with regard to specificity between section 751(b) and 751(a) (relating to the administering authority's periodic reviews of the amount of net subsidies and antidumping duties).

[27] *Trade Agreements Act of 1979: Report of the Committee on Finance. . .*, S. Rept. No. 96–249 (96th Cong., 1st Sess.), 1979, pp. 79–81. (Hereinafter Senate Report).

[28] *Trade Agreements Act of 1979: Report of the Committee on Ways and Means. . .*, H. Rept. No. 96–317 (96th Cong., 1st Sess.), 1979, pp. 71–72. (Hereinafter House Report).

[29] *Trade Agreements Act of 1979: Statements of Administrative Action*, H. Doc. No. 96–153, Part II (96th Cong., 1st Sess.), 1979, p. 429.

[30] Senate Report at p. 79. House Report at p. 71.

[31] At Art. 9. It should be noted, however, that the Congress never implemented the 1967 Act.

[32] * * *

[33] Statement of Robert McElwaine for the American Imported Automobile Dealers Association before the Committee of Ways and Means, April 27, 1979, pp. 516 and 517.

and that there is no likelihood that injury will recur in the foreseeable future." [34]

Thus, in enacting section 751, the Congress considered and fulfilled commitments undertaken by this country in signing the Antidumping and Subsidy Agreements.

Giving due consideration to the language on the face of section 751, the legislative history, and the international agreements on which this section is based, it is not difficult to arrive at a reasonable standard for review under section 751. The fundamental objective in review under this provision, then, is to satisfy the policy that where there is no material injury, threat thereof, or material retardation of the establishment of an industry, antidumping duties should not be applied. Consequently, the Commission's task under section 751 is to view the relevant facts and circumstances as they currently exist to determine whether an industry in the United States would suffer material injury, or the threat thereof, or whether the establishment of an industry would be materially retarded if the existing antidumping duty order were not in effect.

The Domestic Industry. The appropriate domestic industry with respect to which we must apply the standard discussed above is the domestic golf car industry including producers of both gas and electric golf cars. Section 771(4)(A) of the Tariff Act of 1930 [35] defines the term "industry" to mean the domestic producers of a "like product" and section 771(10) [36] defines "like product" as "a product which is like, or in the absence of like, most similar in characteristics and uses with the articles subject to an investigation."

The physical appearance and the production process of gas and electric golf cars is very similar. The major difference is that final assembly of gas cars requires addition of an engine and gas tank while assembly of electric cars requires addition of an electric motor and batteries. Producers that manufacture gas and electric cars employ the same personnel and share the same facilities for production of both types of cars. Gas and electric golf cars serve the same purpose although both have advantages and disadvantages which purchasers recognize and weigh according to their specific needs. [37] Therefore, gas golf cars are considered "like" electric golf cars and should be considered part of one industry.

Competitive Condition of the Industry. The U.S. golf car industry is currently able to meet competition form Polish golf cars. Certain developments have contributed to the overall competitive condition in the industry. To begin with, changes in the composition of the industry have resulted in a greater concentration of production among fewer firms. In 1975 [38] there were 13 golf car producers, 6 of which accounted for over 90 percent of production. [39] By 1979 there were 12 producers but only 3 firms, E-Z-Go, Harley Davidson, and Club Car accounted for over 90 percent of production. [40] In addition, there was significant readjustment within the industry between 1974 and 1979. During that period, six producers left the market, two domestic firms began production and three producers changed ownership. [41]

A second development is the evolution of new marketing strategies. Among the most significant is the trend of some U.S. producers toward establishing factory-owned dealerships to sell and service their products rather than relying on independent distributors and dealers. Confidential information received by the Commission indicates that firms using factory-owned dealerships have met with greater financial success than their competitors. [42] Because most of the relevant information is confidential, our discussion is necessarily limited. However, one important factor in this trend toward factory-owned dealerships is the elimination of the middleman. Profits of factory-owned dealerships do not have to be as high as those required to keep independent dealers in business, therefore factory outlets are able to offer golf car buyers more competitive prices and are thus able to increase their sales. [43] Although the majority of domestic golf cars are still sold through independent dealers, the share sold by factory-owned dealerships is increasing rapidly. [44]

During the last two years, total U.S. production and capacity utilization recovered from the low levels of 1975 and 1977. Both followed the same trend, increasing substantially between 1977 and 1978 and then declining slightly from the 1978 level in 1979. Total domestic production was 46,948 units in 1977, 53,845 units in 1978 and 52,889 units in 1979. Capacity utilization increased from 41.8 percent in 1977 to 51.9 percent in 1978 and then declined to 50 percent in 1979. [45] U.S. producers' domestic sales and leases and apparent U.S. consumption increased each year from 1977 to 1979. [46] With regard to each of the above factors, the 1978–1979 levels surpassed previous industry performance.

While much of the information regarding employment, wages and man-hours worked is confidential, the data generally supports the conclusion that the condition of the domestic golf car industry is good despite sustained competition with electric golf cars from Poland. Employment has steadily increased since 1975. Wages have increased from 1975 to 1979, with the exception of a decline in 1977, and wages paid during 1978 and 1979 are substantially higher than those for 1975–1976. Total man-hours worked also reached a low point in 1977, but rebounded in 1978 and 1979.

Between 1975 and 1979, U.S. golf car producers' net operating profits increased by over 190 percent, while the ratio of net operating profit to net sales increased by over 45 percent. In addition, despite sharply increasing inflation rates over this period, the ratio of the cost of goods sold to net sales declined slightly. The problems experienced by Harley-Division during 1975–77 in attempting to introduce a new electric golf car have had a continuing negative impact on the aggregate figures for the golf car industry's profitability. [47]

In addition to continued imports from Poland, imports from Japan entered the U.S. market in 1978, and the decline in Polish imports from 9,810 units in 1978 to 5,220 units in 1979 was offset by the increase in Japanese imports. Thus, the industry performance has been competitive despite a substantial increase in both the quantity of total imports and the ratio of imports to consumption.

With respect to price, information collected by the Commission for 1977–79 indicates that the price paid for Melex cars by their dealers and distributors was consistently lower than the weighted average prices of U.S. produced golf cars to their distributors and dealers. In 1977, the price of the Melex 3-wheel car was 11 percent below

[34] Statement of Charles Carlisle for the Ad Hoc Subsidies Coalition et al.

[35] 19 U.S.C. 1677(4)(A).

[36] 19 U.S.C. 1677(10).

[37] Commission Report, A–2—A–3.

[38] The use of 1975 data in this opinion is not meant to suggest that section 751 requires that the period of the review begin immediately after the Commission's original determination. Each Commissioner, as in every investigation, must choose the period he or she considers to be most appropriate.

[39] Report at A–7.

[40] Ibid.

[41] Report at A–7 and A–9.

[42] Report at A–26.

[43] Report at A–12.

[44] Ibid.

[45] Report at A–27.

[46] Report at A–41.

[47] Report at A–25.

the weighted average unit price of domestic 3-wheel electric cars; by 1979, the margin of underselling increased to 13 percent.[48] In 1977, the price of the Melex 4-wheel car was 7 percent below the weighted average unit price of domestic 4-wheel electric cars. By 1979 the margin of underselling had increased to 11 percent.[49] According to officials of the Department of Commerce, the margins of underselling since September 1978 were not the result of dumping.

An important factor in this determination is that the margins of underselling do not reflect the entire competitive situation. The price data used in these comparisons do not reflect either the differing levels of support services (e.g., marketing services, financial assistance, inventory control plans and training programs) or the differing warranties offered by U.S. producers and Melex, USA, to their dealers and distributors. If these factors were considered, we believe the apparent competitive advantage of the imported car would be reduced.

In this connection, many golf car purchasers do not appear to consider price the primary factor in making their purchasing decisions. Both the Commission Report and the testimony given at the public hearing emphasize that price in many cases is not the most significant consideration given to golf car purchases.[50] Fleets of golf cars are most often acquired by owners of both public and private golfing establishments as a means to generate additional profits. Golf car rental not only provides a source of revenue in itself, but also speeds up play, thereby allowing golf clubs to facilitate larger memberships and to collect additional greens fees through accomodation of more players. Because of this profit-generating role, quality and serviceability are primary concerns.

Moreover, it appears that the price of the imported product has had a minimal effect on U.S. producers' prices. During the period 1977–1979, U.S. producers' weighted average prices for golf cars increased at a faster rate than prices for Melex cars. U.S. producers' weighted average prices for 3- and 4-wheel electric cars increased by 12.8 percent and 17.2 percent, respectively, from 1977 to 1979. In contrast, the weighted average prices for Melex-3 and 4-wheel cars increased by only 11.3 percent and 11.2 percent, respectively.[51]

The limited influence of price as a factor in purchasing golf cars is borne out by the lost sales experience of the domestic industry. Only one golf car producer made specific allegations of sales or leases lost to Melex cars because of price or the terms of the lease. However, in 25 of the 42 instances where the staff could confirm a purchase or lease of Melex cars between 1976 and 1979, the firms stated that price was not their primary consideration in selecting Melex cars over the comparable domestic models. Of these firms, 18 indicated that their decisions were based primarily on the quality of the imported car and the service provided by the Melex dealer.[52]

Conclusion. Considering the factors which indicate the strength of the industry, particularly to strong evidence that price is not necessarily the most important consideration in making purchases of golf cars, we conclude that the domestic golf car industry would not suffer material injury nor threat of material injury if the existing antidumping duty order were no longer in effect.

Views of Commissioner Paula Stern

The condition of the U.S. golf car industry has improved substantially since the Commission's earlier determination of injury by reason of less-than-fair-value (LTFV) imports of electric golf cars from Poland, and this improvement occurred despite sustained competition with the lower-priced Melex cars.[53] The improvement in the industry's profits appears to have been restrained by a single producer's poor performance which was unrelated to the Polish imports. In fact, imports from Poland declined from 1978 to 1979. Apparently, the subject imports have not been the source of any problem for the domestic industry during a period when materially injurious LTFV sales were not possible due to statutory relief. Pezetel has not exhibited any tendency to sell Melex cars at LTFV margins since September 1978 and has no incentive to begin doing so should the statutory relief be removed. Therefore, I have concluded that an industry in the United States would not be threatened with material injury if the finding of dumping concerning electric golf cars from Poland were revoked.

The review investigation. On February 5, 1980, as a result of a petition by Melex USA, Inc., the U.S. International Trade Commission instituted the present investigation to determine whether changed circumstances indicate that an industry in the United States would not be threatened with material injury if the antidumping finding (and duties) on electric golf cars from Poland were revoked.

This matter has a long and complicated history. On June 11, 1975, the Department of the Treasury determined that electric golf cars from Poland were being sold at less than fair value. In its investigation, Treasury examined 100 percent of the golf car entries from Poland during a ten-month period from December 1, 1973, to September 30, 1974. Weighted average dumping margins of 20.9 percent and 21.0 percent were found for three- and four-wheel cars, respectively. On September 16, 1975, the Commission determined, under the provisions of the Antidumping Act of 1921, that an industry in the United States was being injured by these LTFV sales of electric golf cars from Poland.[54] Since this finding, U.S. Customs officials liquidated golf car entries from Poland for the period March 1975–July 1976. During this period, the average dumping margin for three- and four-wheel cars was only 3.5 percent. Due to difficulties in assessing the foreign market value of Polish golf cars, there have been no duties assessed on Melex cars since 1976.[55] The U.S. Department of Commerce, the administering authority in antidumping proceedings since January 1, 1980, estimates that there have been no LTFV sales since September 1978.[56]

Standards for review. This review has been conducted under the provisions of Section 751(b) of the Tariff Act of 1930.[57] The statute is written in general terms. The relevant portion is:

> (b) Reviews upon information or request.—(1) in general.—Whenever the administering authority or the Commission received information concerning, or a request for the review of, an agreement accepted under section 704 or 734 or an affirmative determination made under section 704(h)(2), 705(a), 705(b), 734(h)(2), 735(a), or 735(b), which shows changed circumstances

[48] Report at A–29.
[49] Ibid.
[50] Report at A–13, Hearing Transcript at 52–53.
[51] Report at A–29 and 39.
[52] Report at A–41.
[53] Melex USA, Inc. is a wholly-owned subsidiary of Pezetel, the Polish state-trading organization for the subject golf cars.
[54] Chairman Leonard, Vice Chairman Minchew, Commissioners Bedell, Parker, and Ablondi voted in the affirmative. Commissioner Moore voted in the negative. *See Electric Golf Cars from Poland*, Inv. No. AA–1921–147, USITC Pub. 740 (1975).
[55] No entries have been liquidated since 1976.
[56] *See* May 9, 1980 letter from John D. Greenwald, Deputy Assistant Secretary for Import Administration, U.S. Department of Commerce, addressed to Hon. Catherine Bedell, Chairman, USITC. The text is reproduced at Appendix C of the accompanying staff report (Report).
[57] *See* 19 U.S.C.A. 1675 (1980). Sec. 751 was added to the Tariff Act by the Trade Agreements Act of 1979, 93 Stat. 175. Section 106(a) of the latter Act makes Sec. 751 applicable to affirmative injury determinations made under the Antidumping Act, 1921.

sufficient to warrant a review of such determination, it shall conduct such a review after publishing notice of the review in the Federal Register.[58]

The statute is not informative as to the precise determination that is to be made, the criteria to be analyzed in conducting such a review, the deadline within which the Commission must act, or even whether "material" injury is the standard for reviewing determinations made under the Antidumping Act of 1921. The legislative history offers no additional guidance on these subjects [59] and I have not found any useful precedents. This is the first review conducted under Section 751 of the Tariff Act of 1930 and Section 207.45 of the Commission rules. Implementation of any statute involving an investigation requires explicit standards and detailed procedures. By framing Section 751 in such a general fashion, the Congress left to the Commission the task of formulating such standards and procedures. The present standards for initial antidumping investigations are enumerated in Section 771 of the Tariff Act, and I find these criteria in the absence of any statutory guidance to the contrary equally appropriate for review investigations.

The Commission is directed by Section 771 of the Tariff Act to consider, among other factors, the volume of imports of the merchandise subject to the investigation, the price effects of such imports, and the impact of such imports on the affected U.S. industry. In assessing impact, the Commission is instructed to examine all relevant economic factors including, but not limited to, actual and potential decline in output, sales, market share, profits, productivity, return on investments, utilization of capacity, factors affecting domestic prices, and actual and negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment.

In making my determination in this review case, I have considered all information on the record related to these factors. I have focused my attention on the five-year period, 1975–1979 (which includes the entire period since the Commission's previous determination) [60] and have carefully considered how circumstances have changed.[61] In this regard, developments in the structure and marketing techniques of the industry, as well as changes in the conditions of competition, have led me to conclude that imports of electric golf cars from Poland are not a problem and do not threaten to become a problem for the domestic industry. It follows that the industry would not be materially injured if the finding of dumping were to be revoked.

The standard chosen for a determination in a review investigation reflects the fact that an antidumping finding is in force. That finding subjects any sales at less-than-fair-value to special duties. In such circumstances, material injury to a domestic industry cannot be "by reason of" less-than-fair-value sales because the statutory remedy is already in place. Accordingly, a prospective test has been chosen for the Commission's rule—specifically, the threat of material injury test found in Section 735(b) of the Tariff Act, also referred to in Section 207.26(d) of the Commission's rules. The threat of material injury standard focuses on what could happen to the domestic industry in the event that the antidumping finding were revoked and there was no mechanism for subjecting any less-than-fair-value sales to special duties.

The Imported Products and the Domestic Industry

I have concluded that the appropriate industry against which to measure the impact of imports in this investigation of electric golf cars from Poland consists of all U.S. facilities devoted to the production of golf cars. There are presently twelve known producers of golf cars in the United States and four types of cars, three- and four-wheel models powered by gasoline or electricity.[62]

Each type of car has inherent advantages and disadvantages which must be weighed by the purchaser. In choosing the model type, the purchaser weighs the greater maneuverability, as well as the lower cost and maintenance of the three-wheel car against the greater stability and riding comfort of the four-wheel car. In deciding on the best method of propulsion, the purchaser balances the greater power, noise and exhaust fumes of a gas engine against the upkeep associated with a battery-powered electric car (the batteries must be recharged nightly and replaced every one to two years.) The physical appearance and production processes of gas and electric cars are quite similar. In fact, the three U.S. producers which manufacture gas cars, also manufacture electric cars; the same personnel and facilities are employed. Additionally, although some consumers may have a strong preference for a particular type of golf car, all car types serve the same purpose and are potential substitutes. Therefore, I find that all golf cars are like products to the subject imports.

Conditions in the Industry Since 1975

All economic factors on which the Commission obtained information point to improved industry performance from 1975 through 1979. The record includes data on these indicators gathered by Commission questionnaires from firms

[58] Because more than four years have elapsed since the original Commission determination, the limitation on the period for review found in Section 751(b)(2) is not a constraint. In passing, I note that the limitation provision—establishing a presumably more stringent standard to obtain a review if less than two years have elapsed since an affirmative determination—applies only to the question of instituting a review. Sec. 751(b)(2) states:

Limitation on period for review.—In the absence of good cause shown—. . . the Commission may not review a determination under section 705(b) or 735(b) . . . less than 24 months after the date of publication of notice of the determination or suspension.

[59] *See* Committee on Ways and Means, *Trade Agreements Act of 1979*, H. Rept. No. 96-317, 96th Cong., 1st Sess. (1979) at 71–72, and Committee on Finance, *Trade Agreements Act of 1979*, S. Rept. No. 96-249, 96th Cong. 1st Sess. (1979) at 79–82. In discussing Section 751, both reports merely paraphrase or repeat the statute.

[60] I believe the appropriate period of analysis in reviews should be the same length as that examined in normal final investigations—five years—unless a shorter period has passed since the original determination.

[61] Section 751 makes clear that the intent of Congress is that a Commission review should not constitute a reconsideration of the correctness of the original determination, a function reserved for judicial review by the U.S. Customs Court. The present Commission rules are not incompatible with this intent. A review must concentrate on information not considered by the Commission in its initial determination.

Section 751 requires both a finding of changed circumstances and a review of the impact of the subject imports. In formulating standards for conducting such review investigations, the Commission promulgated Rule 207.45 (19 CFR 207.45, effective Jan. 1, 1980), which requires that a finding of changed circumstances be based upon the Commission's investigation. Section 751, if read literally, requires the Commission to base its institution of a review investigation upon a finding of changed circumstances. The regulation, however, insures that a finding of changed circumstances as well as the determination in the review will be based upon the Commission's administrative record.

The present case has raised a question concerning whether a finding of changed circumstances should only be made prior to the institution of a review investigation. Because the present rules are not incompatible with Congressional intent, I am following the principle that the Commission, as a matter of orderly agency process, should, where reasonable, make its determination conform to its rules and the manner in which the investigation was instituted. It is my understanding that the Commission will consider the desirability of amending its rules based on the experience gained in the present investigation.

[62] My finding on the appropriate domestic industry is based on Section 771(4) of the Tariff Act of 1930, to be codified at 19 U.S.C. 1677(4). Section 771(4)(A) defines the term "industry" to mean the domestic producers of a "like product," which is in turn defined in Section 771(10) as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title."

believed to account for 95 percent of domestic production.

Domestic production of golf cars increased by 18 percent from 45,000 units in 1975 to 53,000 units in 1979.[63] Similarly, U.S. producers' domestic sales and leases of golf cars grew from 44,000 units in 1975 to 51,000 units in 1979, or by 16 percent.[64] U.S. exports of golf cars more than doubled in the period, though they have been at relatively low levels. The absolute quantity of inventories of golf cars increased over the period, however inventory levels have been very low. The ratio of inventories to sales increased slightly, from 2.5 percent in 1975 to 3.5 percent in 1979.[65]

Capacity utilization for the golf car industry increased substantially, rising by 37 percent from 1975 to 1979.[66] Moreover, during the same period, a leading U.S. producer of electric cars increased its capacity by 50 percent and three new electric golf car producers (two of them domestic) entered the market, facts which indicate a continued ability to attract new capital to the industry.

Available data indicate that all factors relating to employment in the golf car industry improved over the period under consideration. During 1975–1979, the average number of all employees in U.S. establishments producing golf cars increased by over 80 percent, while the average number of all production and related workers producing golf cars increased by over 150 percent. In addition, aggregate wages paid to and manhours worked by all production and related workers producing golf cars increased by over 30 percent.[67] Even though these figures may be somewhat overstated due to incomplete data for the earlier years of the period, the trends are nonetheless clearly positive and indicative of a growing industry.

The financial performance of U.S. producers is not easily evaluated. From 1975 to 1978, net operating profits grew steadily to $5.8 million before declining to $3.5 million in 1979.[68] As a ratio of net sales, net profits started the period at below 3 percent, peaked at 7.6 percent in 1977, and then fell to 3.5 percent in 1979. The industry's financial performance has improved since 1975. While the level of profits does not indicate a healthy industry, I will discuss below how the aggregate figures are seriously skewed downward by the unusual problems of one firm.

[63] Report at A–8.
[64] Report at A–17.
[65] Report at A–22.
[66] Report at A–19.
[67] Report at A–20.
[68] New operating profits for 1975 are confidential.

During the period, U.S. imports of golf cars from Poland decline from 9,982 units in 1975 to 5,220 units in 1979, or by 48 percent.[69] The ratio of imports from Poland to apparent U.S. consumption of golf cars declined by an even greater percentage over the same period. In 1975, import penetration of the subject cars stood at its peak level since Melex began sales in 1971, the penetration declined irregularly through 1979.[70]

The price information collected by the Commission for the period 1977–1979 indicates that the prices paid for Melex cars by their dealers and distributors were consistently lower than the weighted average prices of U.S. producers' golf cars to their distributors and dealers.[71] In 1977, the price of the Melex three-wheel car was 11 percent below the weighted average unit price of domestic three-wheel electric cars; by 1979, the margin of underselling increased to 13 percent.[72] In 1977, the price of the Melex four-wheel car was seven percent below the weighted average unit price of domestic four-wheel electric cars; by 1979, the margin of underselling had increased to 11 percent.[73]

The price data used in these comparisons reflect neither the different levels of support services (*e.g.*, marketing services, financial assistance, inventory control plans, and training programs) nor the different warranties offered by U.S. producers and Melex, the exclusive importer of Polish golf cars to their dealers and distributors.[74] If such factors could be reflected in the price comparisons, the margins of underselling would be substantially reduced. Moreover, it appears that the price of the imported product has had a minimal effect on U.S. producers' prices. During the period 1977–1979, U.S. producers' weighted average prices for golf cars increased at a faster rate than prices for Melex cars. U.S. producers' weighted average prices for three- and four-wheel electric cars increased by 12.8 percent and 17.2 percent, respectively, from 1977 to 1979; whereas the weighted average prices for Melex three and four-wheel cars increased by only 11.3 and 11.2 percent respectively.[75] Thus, there are no indications of price suppression or depression due to the presence in the market of imports from Poland.

Only one U.S. golf car producer has made specific allegations of sales or leases lost to Melex cars due to price or the terms of the lease. However, in 25 of the 42 instances where the staff could confirm that a firm did in fact purchase or lease Melex cars during the period 1976–1979, the firms stated that price was not their primary consideration in selecting Melex cars over the comparable domestic models. Of these firms, 18 indicated that their decisions were based primarily on the quality of the imported car and/or the service provided by the Melex dealer. Price was not mentioned as a factor. The remaining seven firms indicated that while the price of the Melex car was a factor affecting their decisions, the quality of the car and the service provided were at least as important a consideration as price, if not more so.[76]

Special Considerations

A better understanding of the role of Polish golf cars is facilitated by an appreciation of the mature yet dynamic character of the industry. Full cognizance must also be taken of the manner in which one significant producer has skewed the aggregate statistics for the domestic industry.

Since 1954, when the first golf car was built, the industry has passed through three distinct phases. The small, specialized market of the 1950s underwent rapid expansion in the 1960s as golf became a big business in the United States. By the 1970s, however, the market neared the point of saturation. As the market's limits were approached, growth slowed, and the industry reached maturity.[77] The most recent decade has seen significant changes in the identity and performance of the indivudual firms. Between 1974 and 1978 six firms, two of them recent entries, exited the market. However, between 1977 and 1979, three new producers entered the market, two of

[69] Report at A–27.
[70] Import penetration figures are confidential for 1978 and 1979.
[71] The fact that the dealer price of Melex cars was lower does not necessarily indicate that the price to consumers was also lower. See below.
[72] Report at A–29.
[73] Report at A–29.
[74] In an attempt to obtain comparable data, Melex prices, which cover unassembled vehicles, were adjusted for costs of assembly, batteries, and chargers. (*See* Report at A–29. *Also*, Post-hearing Brief of Melex at 8.) A numerical adjustment for the qualitative factors mentioned above was not possible.
[75] Report at A–29.
[76] Report at A–41.
[77] This industry's life cycle is explained in the Report at A–5 and 6. An apparent factor in slowing the growth of the industry has been the rebuilding of used golf cars, now that large fleets are in place. Refurbished cars function as efficiently as new ones and cost 15 to 25 percent less. The rebuilding trade was not examined in sufficient detail in the present investigation to determine its significance. Because refurbishing is an outgrowth of business at the dealer level, it may help explain the relative success of manufacturers with factory-owned outlets. The most significant benefit of such outlets is probably the savings from the elimination of middlemen in the distribution network.

them domestic firms. Three firms have changed ownership. These entries into a mature industry are direct evidence that some firms, at the very least, believe that production of golf cars is not only viable, but within the reasonable future, can be made profitable.

The continued optimism of many firms in the industry—in face of the meager, if improving, aggregate profits already noted—is explained by the widely differing experiences of the individual producers in this market. One early entrant to the market has consistently made a strong showing, while the performance of the Harley-Davidson Motor Corp. in golf cars has deteriorated in the last five years, thus negatively affecting the overall industry data on profitability for the period. Harley's problems stem from an ill-fated attempt to introduce a new electric golf car in 1975–1977; its continuing problems in the last two years seem attributable to successful competition from other domestic producers as well as the entry of Japanese exports of gas and electric cars since 1977.

Indeed, the owner of Harley, AMF Incorparated, stated in its 1979 Form 10–K filed with the SEC: "Golf car revenues showed moderate declines reflecting strong domestic competition and a new entry from Japan." [78] No mention was made in the SEC filing of imports from Poland as a factor in Harley's situation. Recent entrants are still in the process of establishing their market presences. The success stories seem to be distinguished by dynamic marketing strategies including aggessive pricing and increasing reliance on factory-owned dealerships. Other domestic producers, excluding the most recent entrants which seem to be making satisfactory progress toward profitability, appear to be healthy. For example, the sales and income of Textron, Inc. are at record levels, and Textron is expanding its product line. [79]

A recent, yet significant, factor in the golf car market is the entry of a new gas car from Japan, considered by many in the industry to be a superior product. It made such a strong showing in 1978 and 1979 that U.S. consumption of golf cars was able to rise at a time when domestic production fell. One U.S. producer was able to expand its sales of gas cars in spite of the increased penetration of Japanese imports. Harley was not.

[78] Form 10–K, filed by AMF Incorporated with the SEC for the fiscal year ended Dec. 31, 1979, at page 7 of "1979 AMF Annual Report."

[79] Form 10–K, filed by Textron, Inc. with the SEC for the fiscal year ended Dec. 29, 1979, "1979 Textron Annual Report."

No Threat of Material Injury by Reason of LTFV Imports From Poland

There are a number of considerations which stongly argue against the threat of material injury by reason of LTFV imports from Poland. Pezetel, the Polish state-trading organization for golf cars, has demonstrated that it is able to undersell domestic producers without resorting to dumping. At the same time the price paid for Melex cars has been consistently lower than price paid for comparable domestic cars, there have apparently been no dumping margins on the imported product since September 1978. Without the benefit of LTFV margins, the Melex price advantage has grown. In any event, a significant segment of the golf car market does not appear to be price senstive. Additionally, the price paid for Melex cars f.o.b. Poland typically represents less than 50 percent of the final price of the golf car to the end user. [80] It is clear that Pezetel has little incentive to resume selling Melex cars at less than fair value. Despite a Polish production capacity of 10,000 units per year, [81] Melex has given the Commission assurances that its annual imports of golf cars from Poland will not exceed an average of 8,000 cars through 1985, and that Melex will not knowingly sell its product for less than "foreign market value" under the regulation for determining foreign market value. [82] Assuming that apparent U.S. golf car consumption during this period remains relatively unchanged from the 1979 level, the assurance on the volume of imports indicates that the subject imports' share of the U.S. market will remain at a level lower than the average market share held by Melex cars during 1975–1979. [83] Poland's economy is organized in terms of five-year plans, the most recent plan having begun January 1, 1980. There are apparently no plans to expand sales in the United States beyond the 8,000 unit level. [84] The number of Melex cars already contracted for delivery in 1980 and 1981 is well below that level. [85] In order to make additional sales, Melex must face the same stiff competition from other U.S. producers and importers that the petitioner has encountered. Simply put, there is no real and imminent threat of LTFV sales. Nor is there any threat of material injury to the domestic industry by reason of such sales, were they to occur.

By Order of the Commission.

Issued: June 3, 1980.

Kenneth R. Mason,

Secretary.

[FR Doc. 17660 Filed 6–10–80; 8:45 am]

BILLING CODE 7020–02–M

[80] *See* Hearing Transcript, April 16, 1980, at 58.

[81] The capacity of 10,000 units has been verified by the U.S. Customs Service.

[82] *See* Hearing Transcript, April 16, 1980, at 33.

[83] In fact, this calculation is conservative. Demand in the United States may grow at three percent annually in the next several years. (*See* Report at A–6.)

[84] Statement of Sygmunt Stepien, President of Melex, USA, Hearing Transcript, April 16, 1980, at 33.

[85] Confidential version of "Addendum to Appendix of Exhibits to Pre-hearing Statement of Melex USA, Inc." (April 11, 1980) at Tab B.

DEPARTMENT OF JUSTICE

Antitrust Division

Volusia County Medical Society, Inc.; Proposed Consent Judgment

The Department of Justice has received *Comments* from Mr. D. C. Ford on the *Proposed* Consent Judgment with Defendant Volusia County Medical Society, Inc. Submitted to the Court in the case of *U.S.* v. *Halifax Hospital Medcial Center et al.*, Civil Action No. 78–554–ORL–Civ.–y (District of Florida.)

Pursuant to the Antitrust Penalties and Procedures Act, 15 U.S.C. § 16(b)–(h), set forth below are the text of Mr. Ford's *Comments* as well as the Department of Justices' *Response* thereto.

Joseph H. Widmar,

Director of Operations, Antitrust Division, Department of Justice.

U.S. District Court, Middle District of Florida, Orlando Division

United States of America, Plaintiff, v. *Halifax Hospital Medical Center and Volusia County Medical Society, Inc., Defendants.*

Civil Action No. 78–554–ORL–CIV–Y.

Response to Comments Submitted by D.C. Ford Pursuant to the Proposed Consent Judgment With Defendant Volusia County Medical Society, Inc.

In a letter of May 15, 1980, Donald C. Ford of Ormond Beach, Florida has objected to the entry of the proposed consent judgment. A copy of his letter is attached; the letter and this response will be promptly published in the **Federal Register.** Mr. Ford does not address any specific provision of the proposed judgment and he does not contend that in whole or in any part it is inadequate or insufficient. His argument is that entry of this judgment would, if the Department of Justice reaches a similar agreement with defendant Halifax Hospital, deny the public the facts that a trial would disclose. This, of course, is true of any consent judgment which obviates the need for trial but it is not grounds, we think, for concluding that this judgment is not in the public interest within the meaning of the Antitrust Penalties and Procedures Act.

The purpose of the Antitrust Penalties and procedures Act (APPA), 15 U.S.C. § 16(b)–(h)

(1974) is to protect the integrity of and the public confidence in the procedures relating to the settlement of civil antitrust suits brought by the United States. The APPA does not question the utility, benefit or appropriateness generally of agreed-upon settlements. On the contrary, the first section, 15 U.S.C. § 16(a), which was not changed by the 1974 APPA amendments, has the effect of encouraging consent judgments as part of antitrust enforcement policies. H. of Rep. Report No. 93–1463.

A large majority of government civil antitrust suits are settled by a consent judgment thereby avoiding the delays and public expense of extended trials. The APPA legislative history is explicit in preserving settlements as an integral part of antitrust enforcement:

The Committee recognizes that a court must have broad discretion to accommodate a balancing of interests. On the one hand, the court must obtain the necessary information to make its determination that the proposed consent decree is in the public interest. On the other hand, *it must preserve the consent decree as a viable settlement option.* [S. Report No. 93–298, 93rd Congress, 1st Sess. 1, 6 (1973).] (Emphasis added.)

The ultimate issue is, of course, whether the Judgment terms are in the public interest. The standard by which to determine this issue is whether the Judgment provisions are consistent with the allegations of the Complaint and the enforcement of the antitrust laws. *United States* v. *Associated Milk Producers, Inc.*, 394 F. Supp. 29 (W.D. Mo 1975), aff'd 534 F. 2d 113 (8th Cir); *U.S.* v. *Gillette Co.*, 406 F. Supp. 713 (D. Mass. 1975); *U.S.* v. *Morgan Drive Away, Inc.*, 1976–1 Trade Cases ¶ 60,949 (D.D.C. 1976). Thus both the legislative history and legal precedents recognize that antitrust consent settlements are an appropriate and beneficial enforcement tool.

There has been no showing or suggestion that the proposed judgment is not adequate to deal with the offense alleged in the complaint and relief would be expeditious and certain. We respectfully submit that entry of the proposed judgment would be in the public interest.

Dated: May 22, 1980.

Terrence F. McDonald,

Attorney, Special Litigation Section, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530, Phone: (202) 633–3082.

Attachment.

Certificate of Service

I, Terrence F. McDonald, attorney for plaintiff, hereby certify that on May 22, 1980, I served the foregoing Response to Comments Submitted by D. C. Ford pursuant to the proposed consent judgment with Defendant Volusia County Medical Society, Inc. by first class mail on:

William Adams, Esq., Mahoney, Hadlow & Adams, Post Office Box 4099, Jacksonville, Florida 32201; William Loucks, Esq., Fink, Loucks, & Sweet, 149 Broadway, Daytona Beach, Florida 32018; *Attorneys for Volusia County Medical Society, Inc.*

Owen Johnson, Esq., Akin, Gump, Hauer & Feld, 1100 Madison Office Building, 1155 15th Street NW., Washington, D.C. 20005; Edgar Dunn, Esq., Suite 880, Atlantic Bank Building, 444 Seabreeze Boulevard, Daytona Beach, Florida 32015; William Crotty, Esq., P.O. Box 5488, 501 North Grandview Avenue, Daytona Beach, Florida 32018; *Attorneys for Halifax Hospital Medical Center.*

Terrence F. McDonald,

Attorney.

May 15, 1980.

Mr. John W. Poole, Jr.,
Chief of Special Litigation Section, Room 7218, Anti Trust Division, Department of Justice, Washington, D.C. 20530.

Case No. 78–554–ORL–CIB–Y, U.S. vs. Halifax Hospital Medical Center and the Volusia County Medical Society

Gentlemen: This is a public comment objecting to the proposed consent decree agreed to between the Justice Department and the Medical Society.

The "nine year conspiracy" referred to by the Justice Department's attorney is a valid response. The history of this period will be lost forever if this consent agreement is permitted to stand.

Should a similar agreement be reached between the Justice Department and Halifax Hospital, then all consumers, taxpayers, citizens will be denied the full facts that a full trial would disclose.

As a taxpayer and citizen, I want the option to choose between the traditional health care delivery system and the HMO concept anywhere in our country.

The future of the HMO concept throughout this country can profit significantly from a full disclosure of the facts during this "nine year conspiracy" period.

This period in history in respect to the HMO's ability to compete in the marketplace is as important as the history of the Civil War. It must not be lost.

The attitudes, peer pressures, meetings, hostilities, quiet resolutions, economic threats all combined during this period need to be exposed for the public good. This can result only by denying the consent decree and ordering a full trial so that the facts become public.

Cordially,

Donald C. Ford,

13 Silk Oaks Drive, Ormond Beach, Florida 32074

Telephone: (904) 677–2143.

[FR Doc. 80–17630 Filed 6–10–80; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Controlled Substances in Schedules I and II; Proposed 1980 Aggregate Production Quota for Lysergic Acid Methylpropylamide

Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Adminstrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

On May 20, 1980, the Drug Enforcement Administration received an application from Applied Science Laboratories of Oak Hall, Pennsylvania, to manufacture lysergic acid methylpropylamide, a Schedule I substance. This chemical is used for chemical analysis by analytical and forensic laboratories.

Therefore, the Administrator of the Drug Enforcement Administration, under the authority vested in the Attorney General by Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) and delegated to the Administrator by § 0.100 of Title 28 of the Code of Federal Regulations, hereby proposes the 1980 aggregate production quota for lysergic acid methylpropylamide, expressed in grams of anhydrous base:

Basic class	Proposed 1980 aggregate production quota
Lysergic acid methylpropylamide	1.2

All interested persons are invited to submit their comments and objections in writing regarding this proposal. Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, D. C. 20537, Attention: DEA Federal Register Representative, and must be received by July 14, 1980. If a person believes that one or more issues raised by him warrant a full adversary-type hearing, he should so state and summarize the reasons for his belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds, in his sole discretion, warrant an adversary-type hearing, the Administrator will have published in the **Federal Register** an order for a public hearing which will summarize the issues to be heard and which will set the time for the hearing (which will not be less than 30 days after the date of the order).

Dated: May 30, 1980.

Marion W. Hambrick,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 80–17589 Filed 6–10–80; 8:45 am]

BILLING CODE 4410–09–M

Controlled Substances in Schedules I and II; Proposed Revised 1980 Aggregate Production Quota for Hydromorphone

Section 306 of the Controlled Substances Act (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

On March 31, 1980, a notice of the proposed revised aggregate production quotas for 1980 was published in the **Federal Register** (45 FR 21063). In that notice, it was proposed that the quota for hydromorphone be reduced from 122,000 grams to 96,000 grams, expressed as anhydrous base. From comments received from Knoll Pharmaceutical Company of Whippany, New Jersey, the sole manufacturer of hydromorphone, it became evident that the calculation of the proposed quota did not take into account all of this company's 1979 sales. For this reason, this proposed quota has been recalculated.

Therefore, the Administrator of the Drug Enforcement Administration, under the authority vested in the Attorney General by Section 306 of the Controlled Substances Act of 1970 (21 U.S.C. 826) and delegated to the Administrator by § 0.100 of Title 28 of the Code of Federal Regulations, hereby proposes the following change in the 1980 aggregate production quota for hydromorphone, expressed in grams of anhydrous base:

Basic class	Previously established 1980 aggregate production quota	Proposed revised 1980 aggregate production quota
Hydromorphone	122,000	106,500

All interested persons are invited to submit their comments and objections in writing regarding this proposal. Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative, and must be received by July 14, 1980. If a person believes that one or more issues raised by him warrants a full adversary-type hearing, he should so state and summarize the reasons for his belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds, in his sole discretion, warrant an adversary-type hearing, the Administrator will have published in the **Federal Register** an order for a public hearing which will summarize the issues to be heard and which will set the time for the hearing (which will not be less than 30 days after the date of the order).

Dated: May 30, 1980.

Marion W. Hambrick,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 80-17590 Filed 6-10-80; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provision of the Federal Advisory Committee Act (Public Law 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506:

1. Date: June 30, 1980
Time: 9:00 a.m. to 5:30 p.m.
Room: 1023
Program: This meeting will review applications submitted for Planning and Assessment Studies Program, Office of Planning and Policy Assessment, for projects beginning after September 1, 1980.
2. Date: July 3, 1980
Time: 9:00 a.m. to 5:30 p.m.
Room: 314
Program: This meeting will review applications submitted for the Endowment's program of support to Centers for Advanced Study, Division of Fellowships, to begin after January 1, 1981.
3. Date: July 10 and 11, 1980
Time: 9:00 a.m. to 5:30 p.m.
Room: 807
Program: This meeting will review NEH publications proposals, Division of Research Programs, for projects beginning after September 1, 1980.
4. Date: July 17 and 18, 1980
time: 9:00 a.m. to 5:30 p.m.
Room: 807
Program: This meeting will review NEW publications proposals, Division of Research Programs, for projects beginning after September 1, 1980.

The proposed meetings are for the purpose of Panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose,

(1) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and

(3) information the disclosure of which would significantly frustrate implementation of proposed agency action;

pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506, or call (202) 724-0367.

Stephen J. McCleary,

Advisory Committee, Management Officer.

[FR Doc. 80-17641 Filed 6-10-80; 8:45 am]

BILLING CODE 7536-01-M

Theatre Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), as amended, notice is hereby given that a meeting of the Theatre Panel to the National Council on the Arts will be held June 26, 1980 from 9:00 a.m.-5:30 p.m. and June 27, 1980 from 9:00 a.m.-5:30 p.m. in Room 1340, Columbia Plaza Office Complex, 2401 E St., N.W., Washington, D.C.

A portion of this meeting will be open to the public on June 27, 1980 from 9:00 a.m.-5:30 p.m. for the discussion of Policy.

The remaining sessions of this meeting on June 26, 1980 from 9:00 a.m.-5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee

Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

Dated: May 30, 1980.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 80–17632 Filed 6–10–80; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Safeguards and Security; Meeting

The ACRS Subcommittee on Safeguards and Security will hold a meeting on June 26, 1980 in Room 1167, 1717 H Street, NW, Washington, DC 20555. Notice of this meeting was published May 15, 1980.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Thursday, June 26, 1980; 8:30 a.m. Until the Conclusion of Business

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, their consultants and other interested persons regarding pertinent portions of the NRC research program for the ACRS annual reports to NRC and Congress, recently completed NRC studies relating to reactor plant design to reduce vulnerability to sabotage, code development related to spent fuel storage pool consequence estimates from sabotage, and recent events relating to plant security.

The ACRS is required by Section 5 of the 1978 NRC Authorization Act to review the NRC research program and budget and to report the results of the review to Congress. In order to perform this review, the ACRS must be able to engage in frank discussions with members of the NRC Staff and such discussions would not be possible if held in public sessions. In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information regarding plant security. I have determined, therefore, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463), that, should such sessions be required, it is necessary to close portions of this meeting to prevent frustration of the above stated aspect of the ACRS' statutory responsibilities and to protect proprietary information regarding plant security. See 5 U.S.C. 552b(c)(9)(B) and 552b(c)(4).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Richard K. Major (telephone 202/634–1414) between 8:15 a.m. and 5 p.m., EDT.

Dated: June 5, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80–17521 Filed 6–10–80; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards Subcommittees on Waste Management and Fuel Cycle; Meeting

The ACRS Subcommittees on Waste Management and Fuel Cycle will hold a joint meeting on June 26–27, 1980 in Room 1046, 1717 H Street, NW, Washington, DC 20555. Notice of this meeting was published May 15, 1980.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Thursday, June 26, and Friday, June 27, 1980; 8:30 a.m. until the conclusion of business each day.

The Subcommittees may meet in Executive Session, with any of their consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting.

At the conclusion of the Executive Session, the Subcommittees will hear presentations by and hold discussions with representatives of the NRC Staff, their consultants and other interested persons regarding pertinent portions of the NRC research program for the ACRS annual report to NRC and Congress.

The ACRS is required by Section 5 of the 1978 NRC Authorization Act to review the NRC research program and budget and to report the results of the review to Congress. In order to perform this review, the ACRS must be able to engage in frank discussions with members of the NRC Staff and such discussions would not be possible if held in public sessions. I have determined, therefore, in accordance with Subsection 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463), that, should such sessions be required, it is necessary to close portions of this meeting to prevent frustration of the above stated aspect of the ACRS' statutory responsibilities. See 5 U.S.C. 552b(c)(9)(B).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Peter Tam (telephone 202/634–1413) between 8:15 a.m. and 5:00 p.m., EDT.

Dated: June 5, 1980.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 80–17522 Filed 6–10–80; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF MANAGEMENT AND BUDGET

Mandatory Information Requirements for Federal Assistance Program Announcements

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice of information requirements for program announcements.

SUMMARY: This notice contains information relating to the requirements for Federal assistance program announcements pursuant to Pub. L. 95–220, The Federal Program Information Act.

EFFECTIVE DATE: July 1, 1980.

FOR FURTHER INFORMATION CONTACT: Robert Brown, Branch Chief, Federal Program Information Branch, Office of Management and Budget, 726 Jackson Place, NW., Room 6001, Washington, DC 20503, (202) 395–6182 concerning the Catalog of Federal Domestic Assistance (CFDA) and Tom Snyder, Senior Management Analyst, Intergovernmental Affairs, Federal Assistance Information Branch, (202) 395–6911 for OMB Circular No. A–95 coordination.

SUPPLEMENTARY INFORMATION: To enable the Director of the Office of Management and Budget (OMB) to carry out the responsibilities mandated by the Federal Program Information Act and to assist A–95 clearinghouses in the review process, notice is hereby given that all Federal assistance program announcements are required to contain the following information: (1) The official program number and title as outlined by OMB Circular No. A–89. (2) A statement as to the applicability of OMB Circular No. A–95 regarding State and local clearinghouse review of Federal and Federally-assisted programs and projects.

Federal assistance program announcements include, but are not limited to, entries published as Final Regulations and Amendments under the Rules and Regulations section and as notices of any kind pertaining to ongoing programs under the Notices section.

Federal program offices are advised to coordinate the required program number and title with their internal agency representative for the CFDA as rescribed by OMB Circular No. A–89 and, for A–95 applicability, with their agency A–95 representative.

Documents placed on public inspection at the Office of the Federal Register the day before publication will be subject to monitoring by the OMB in coordination with the Office of the Federal Register. If a Federal assistance program announcement does not contain this essential information OMB will request that the document be withdrawn from the publication process until the required information is included.

David R. Leuthold,

Budget and Management Officer.

[FR Doc. 80-15387 Filed 5-20-80; 8:45 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

June 4, 1980.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Kyoto Ceramic Co., Ltd.—ADR's Representing 2 Shares of Common Stock, 50 Yen Per Share Par Value (File No. 7–5560)

C. I. Mortgage Group—Common Shares of Beneficial Interest, No Par Value (File No. 7–5562)*

D. C. Trading Development Corp.—Class A Stock, $.20 Par Value (File No. 7–5562)*

Filmways, Inc.—Common Stock, $.25 Par Value (File No. 7–5563)*

Grolier Inc.—Common Stock, $.50 Par Value (File No. 7–5564)*

Homasote Co.—Common Stock, $.20 Par Value (File No. 7–5565)*

Horn & Hardart Baking Co.—Common Stock, $1 Par Value (File No. 7–5566)*

Pittsburgh Brewing Company—Common Stock, $1 Par Value (File No. 7–5567)*

Reading Co.—Common Stock, $50 Par Value (File No. 7–5568)* [1]

These securities are listed and registered on one or more other national securities exchanges.

Interested persons are invited to submit on or before June 24, 1980 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-17651 Filed 6-10-80; 8:45 am]

BILLING CODE 8010-01-M

[1] Last sale information concerning these stocks is not reported in the consolidated transaction reporting system.

[Release No. 11200; 812-4623]

Constitution Fund, Inc. et. al.; Filing of Application Exempting Proposed Acquisition

June 4, 1980.

In the Matter of Constitution Fund, Inc., 99 High Street, Boston, Massachusetts 02104, and Keystone Custodian Funds, Inc., as Trustee for Keystone Custodian Fund, Series K–2, 99 High Street, Boston, Massachusetts 02104.

Notice is hereby given that Constitution Fund, Inc. ("Constitution") and Keystone Custodian Funds, Inc. ("Trustee") as trustee for Keystone Custodian Fund, Series K–2 ("K–2") (the Trustee on behalf of K–2 and Constitution collectively referred to herein as the "Applicants") filed an application on March 11, 1980, requesting an order of the Commission pursuant to Section 17(b) of the Investment Company Act of 1940 ("Act") exempting Applicants from the provisions of Section 17(a) of the Act to the extent necessary to permit K–2 to acquire all of the assets of Constitution as provided in an Agreement and Plan of Reorganization ("Agreement"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that Constitution and K–2 are each registered under the Act as open-end, diversified, management investment companies. K–2 is a common law trust duly organized and validly existing under the laws of the Commonwealth of Pennsylvania. Constitution is a corporation duly organized and validly existing under the laws of the Commonwealth of Massachusetts. As of December 31, 1979, K–2 had net assets of approximately $114.5 million and approximately 28,774 shareholders and Constitution had net assets of approximately $14.4 million and approximately 303 shareholders. The investment adviser of K–2 is the Trustee, which is registered under the Investment Advisers Act of 1940 ("Advisers Act"). The Trustee provides continued operation and management of K–2 and pays all of K–2's operating expenses (except taxes and interest) under the Trust Agreement pursuant to which K–2 was created ("Trust Agreement"). Applicants state that the Trustee is a wholly-owned subsidiary of the Travelers Corporation ("Travelers"), a publicly-owned company which is the parent of the Travelers Insurance Companies, an all-lines insurance business. Constitution's investment

adviser is Keystone Investment Management Company, Inc. ("KIMCO"), a registered investment adviser under the Advisers Act. KIMCO is a wholly-owned subsidiary of the Trustee, and the office facilities, support personnel, and many of the research staff available to KIMCO are the same as those used by the Trustee. Constitution generally bears its own charges and expenses.

Applicants state that upon the satisfaction of certain terms and conditions on or before a closing date ("Exchange Date"), K–2 will acquire all of the assets of Constitution in exchange for shares of K–2 and the assumption of all of the liabilities of Constitution by K–2. Following the acquisition of Constitution's assets, it will dissolve and liquidate. As part of the liquidation distribution, Constitution will distribute to its shareholders in exchange for their shares of Constitution the K–2 shares it receives upon the transfer of its assets and liabilities to K–2. Each Constitution shareholder will be entitled to receive that proportion of the K–2 shares to be received by Constitution which the number of Constitution shares owned by each shareholder bears to the number of Constitution shares outstanding on the Exchange Date.

As of December 31, 1979, Constitution had net unrealized appreciation on investments of $738,755, net realized capital losses of $140,159, and realized capital loss carryovers aggregating $2,874,000 expiring through 1987. Approximately one-half of Constitution's capital loss carryovers are expected to be available to K–2 after consummation of the transaction. As of December 31, 1979, K–2 had net unrealized appreciation on investments of $23,950,969, and had net realized capital losses for the two months then ended of $1,459,046. As of October 31, 1979, K–2 had realized capital loss carryovers aggregating $23,511,000 expiring through 1985.

The Agreement provides that K–2 will bear all fees and expenses incurred by K–2 and Constitution in connection with the reorganization which are solely and directly related to the reorganization, other than legal, printing, mailing and other expenses of Constitution in connection with proxy solicitation for its meeting of shareholders, to the extent that such expenses do not exceed those fees and expenses normally incident to an annual meeting of shareholders. However, because of the provisions of the Trust Agreement, the Trustee will bear all fees and expenses of the reorganization, except the proxy solicitation costs to be borne by Constitution.

Section 17(a) of the Act provides, in pertinent part, that it is unlawful for any affiliated person of a registered investment company, or any affiliated person of such an affiliated person, to sell any security or other property to such registered company, or to purchase from such registered company any security or other property.

Applicants believe that K–2 and Constitution are not "affiliated persons" of each other on the basis of presumptive control within the meaning of Section 2(a)(9) of the Act. However, under certain circumstances, two or more investment companies having the same investment adviser, or investment advisers under common control, may be affiliated persons of each other by virtue of Section 2(a)(3) of the Act. Constitution's investment adviser, KIMCO, is a wholly-owned subsidiary of the Trustee, and they have certain officers and investment personnel in common. Accordingly, because Constitution and K–2 might be deemed "affiliated persons" of each other, any disposition of portfolio securities by Constitution to K–2 or any acquisition by K–2 of portfolio securities of Constitution pursuant to the Agreement might be deemed to be prohibited by Section 17(a) of the Act.

Applicants assert that the proposed transaction would be permitted by the provisions of Rule 17a–8 recently adopted under the Act except for a possible question whether determinations by the Board of Directors of the Trustee meet the requirements of the Rule. Rule 17a–8 provides an exemption from the provisions of Section 17(a) of the Act for combinations of investment companies which may be affiliated persons of each other because of having a common investment adviser, common directors, and/or common officers provided that the following conditions are met:

(a) The board of directors of each such affiliated registered investment company participating in the transaction, including a majority of the directors of each registered investment company who are not interested persons of any registered investment company participating in the transaction, determine:

(1) That participation in the transaction is in the best interests of that registered investment company; and

(2) That the interests of existing shareholders of that registered investment company will not be diluted as a result of its effecting the transaction, and

(b) Such findings, and the basis upon which the findings were made, are recorded fully in the minute books of each registered investment company.

Applicants state that prior to the transactions being consummated such findings will have been made by the Board of Directors of Constitution (including a majority of its disinterested directors) and recorded in its minute books and by the Board of Directors of the Trustee of K–2 (including a majority of its disinterested directors) and recorded in the minute books of the Trustee. However, since K–2 is a common law trust without a Board of directors, there may be some question about this matter, and accordingly, Applicants ask that the Commission exempt the transaction from the prohibition of Section 17(a) of the Act pursuant to Section 17(b) of the Act.

Section 17(b) provides that a proposed transaction may be exempted from the provisions of Section 17(a) upon the issuance of a Commission order if the evidence establishes that: the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; the proposed transaction is consistent with the policy of each registered investment company concerned; and the proposed transaction is consistent with the general purposes of the Act.

The application states that the acquisition of Constitution's assets by K–2 shall be accomplished on the basis of the net asset values of the funds. No adjustment is to be made in the computation of K–2's or Constitution's net asset value on account of any relative differences between unrealized appreciation or depreciation or capital loss carryovers in each fund, or other relevant factors, it having been determined by the Boards of Directors of the Trustee and of Constitution that there is no identifiable and quantifiable detriment or benefit to the shareholders of either fund that would warrant such adjustment. Applicants assert that there is no assurance that K–2 will be able to utilize fully any capital loss carryovers of Constitution before they expire. In addition, Applicants contend that any adjustment would reflect only the potential value of a deferral of tax liability to shareholders of K–2 and would be likely to have an uneven impact on individual shareholders, in view of their different holding periods and tax bases for their shares and the various rates of tax to which they are subject.

The application indicates that prior to consummation of the reorganization, Constitution will declare a dividend to its shareholders of all of its

undistributed net taxable investment income and any net realized capital gain (not offset by a capital loss carryover) through the Exchange Date and K–2 will declare a dividend to its shareholders of all of its undistributed net taxable investment income through the Exchange Date.

As noted above, all costs of the transactions (with the exception of proxy solicitation expenses of Constitution normally incident to an annual meeting of shareholders) will in effect be borne by the Trustee which expects to achieve some savings of administrative time and expense in the future as a result of the transaction. Applicants state that most of the shareholders of Constitution will benefit from the lower expense ratio of K–2. Additionally, the Applicants expect that Constitution shareholders will indirectly benefit from the greater diversification of security holdings possible in a protfolio of K–2's size.

The application states that Constitution's Directors believe that the advantages of the proposed reorganization to Constitution's shareholders outweigh any disadvantage represented by the structural differences between the funds. Constitution is a traditionally organized corporate investment company. Its shareholders have one vote per share on all matters on which shareholders vote under Massachusetts law or the Act. In addition, Constitution has a board of twelve directors, nine of whom are not interested persons as defined in the Act, who have the usual responsibilities of directors as well as the special ones prescribed by the Act. K–2, which was created by a pre-Act Trust Agreement, has no board of directors but is a trust managed by the Trustee. However, in connection with Travelers' acquisition of the Trustee, Travelers agreed to use its best efforts for a period of three years commencing on January 26, 1979, to cause the Board of Directors of the Trustee to consist at all times, except as permitted by the Act, of at least 75% non-interested persons of Travelers, the Trustee, KIMCO or any predecessor of KIMCO. At the present time, the Trustee has a board of eight directors, six of whom are non-interested persons of Travelers and the Trustee. The Trust Agreement of K–2 provides that its shareholders have one vote per share only on certain matters. Shareholders are not called upon to approve the continuance of the Trustee as trustee or its duties and responsibilities thereunder. While not required by the Trust Agreement, shareholders of K–2 do vote triennially whether to continue its agreements with its principal underwriters.

Applicants content that the transaction is in the best interests of K–2's shareholders because, although no immediate monetary savings will be achieved, the increase in the value of K–2's net assets resulting from both this transaction and the proposed substantially contemporaneous acquisition by K–2 of all of the net assets of Independence Fund, Inc. (together with the increase in the value of the net assets of Keystone Custodian Funds, Series B–2 and K–1 which is expected to result from the proposed substantially contemporaneous acquisitions by those Funds of all of the net assets of Massachustees Fund for Income and Freedom Fund, Inc.) will assist K–2 in possibly benefitting from the reduced management and recurring fees on a larger asset base. It is further asserted that the transaction may benefit K–2's shareholders because the increase in
K–2's net assets may allow increased diversification of investments. This increase in K–2's net assets will be achieved without the transaction costs K–2 would incur if it were to invest a similar amount of cash.

Applicants represent that the proposed merger is consistent with the policies of K–2 and Constitution. Both K–2 and Constitution share a primary investment objective of seeking capital growth, while Constitution has growth of income as an additional objective. The investment policies of both permit investment in common stocks, debt securities, and preferred stocks. The investments of K–2 stress securities having the potential for future capital growth in combination with corporate short-term investments which are resistive to downward market movement. The investments of Constitution ordinarily stress high quality common stocks except when current economic and market conditions make investments in preferred stock and debt securities of comparable quality appropriate. Under current market conditions, this has resulted at January 31, 1980, in K–2's having a portfolio consisting of approximately 70.15 percent common stocks, and 29.85 percent short-term debt instruments and in Constitution's having a portfolio consisting of approximately 66.64 percent common stocks and 33.36 percent cash and short-term debt instruments.

Applicants submit that, in accordance with Section 17(b) of the Act, the terms of the proposed transaction are reasonable and fair to K–2 and Constitution and do not involve overreaching by any person concerned, and that the proposed transaction is consistent with the investment policies of each fund, and with the purposes of the Act.

Notice is further given that any interested person may, not later than June 30, 1980 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereto.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–17654 Filed 6–10–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 11201; 812–4625]

Freedom Fund, Inc., et al.; Filing of Application Exempting Proposed Acquisition

June 4, 1980.

In the matter of Freedom Fund, Inc., 100 Federal Street, Boston, Massachusetts 02110; and Keystone Custodian Funds, Inc., as Trustee for Keystone Custodian Fund, Series K–1, 99 High Street, Boston, Massachusetts 02104.

Notice is hereby given that Freedom Fund, Inc. ("Exchanging Fund"), and Keystone Custodian Funds, Inc. ("Trustee"), as trustee for Keystone Custodian Fund, Series K–1 ("Acquiring Fund") (the Trustee on behalf of the Acquiring Fund and the Exchanging

Fund collectively referred to herein as the "Applicants") filed an application on March 11, 1980, and an amendment thereto on June 2, 1980, requesting an order of the Commission pursuant to Section 17(b) of the Investment Company Act of 1940 ("Act") exempting Applicants from the provisions of Section 17(a) of the Act to the extent necessary to permit the Acquiring Fund to acquire all of the assets of the Exchanging Fund as provided in an Agreement and Plan of Reorganization ("Agreement"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the Acquiring Fund and the Exchanging Fund are each registered under the Act as open-end, diversified management investment companies. As of December 31, 1979, the Acquiring Fund had net assets of approximately $57.4 million and approximately 13,485 shareholders and the Exchanging Fund had net assets of approximately $14.3 million beneficially owned by approximately 1,822 shareholders. The investment adviser of the Acquiring Fund is the Trustee, which is registered under the Investment Advisers Act of 1940 ("Advisers Act"). According to the application, the Trustee provides continued operation and management of the Acquiring Fund and pays all of the Acquiring Fund's operating expenses (except taxes and interest) under the Trust Agreement pursuant to which the Acquiring Fund was created ("Trust Agreement"). Applicants state that the Trustee is a wholly-owned subsidiary of The Travelers Corporation ("Travelers"), a publicly-owned company which is the parent of The Travelers Insurance Companies which conduct an all-lines insurance business. The Exchanging Fund's manager and investment adviser is The Massachusetts Companies, Inc. ("Mass. Co."), a registered investment adviser under the Advisers Act. The Applicants indicate that the personnel of Mass. Co. providing investment advice to the Exchanging Fund are also investment personnel of the Trustee. Mass. Co. is also a wholly-owned subsidiary of Travelers. Additionally, the Exchanging Fund bears its own charges and expenses.

Applicants state that upon the satisfaction of certain terms and conditions on or before a closing date ("Exchange Date"), the Acquiring Fund will acquire all of the assets of the Exchanging Fund in exchange for shares of beneficial interest of the Acquiring Fund and the assumption of all the liabilities of the Exchanging Fund by the Acquiring Fund. Following the acquisition of the Exchanging Fund's assets, it will dissolve and liquidate. As part of the liquidation distribution, the Exchanging Fund will distribute to its shareholders in exchange for their shares of the Exchanging Fund the Acquiring Fund's shares it receives upon the transfer of its assets to the Acquiring Fund. Each Exchanging Fund shareholder will be entitled to receive that portion of the Acquiring Fund shares to be received by the Exchanging Fund that the number of Exchanging Fund shares owned by each shareholder bears to the number of Exchanging Fund shares outstanding on the Exchange Date.

As of December 31, 1979, the Exchanging Fund had net unrealized appreciation on investments of $502,243 and it had net realized capital losses for the three months then ended of $151,610. As of September 30, 1979, the Exchanging Fund had realized capital loss carryovers aggregating $4,474,936 expiring through 1987. Substantially all of the Exchanging Fund's capital loss carryovers are expected to be available to the Acquiring Fund after consummation of the transaction. As of December 31, 1979, the Acquiring Fund had net unrealized depreciation on investments of $2,459,342 and it had net realized capital losses for the six months then ended of $238,365. As of June 30, 1979, the Acquiring Fund had realized capital loss carryovers aggregrating $16,143,223 expiring through 1987. No adjustment is to be made in the computation of the Acquiring Fund's or the Exchanging Fund's net asset values on account of differences in unrealized appreciation or depreciation, capital loss carryovers or other relevant factors.

The Agreement provides that the Acquiring Fund will bear all fees and expenses incurred by the Acquiring Fund and the Exchanging Fund in connection with the reorganization which are solely and directly related to the reorganization, other than legal, printing, mailing and other expenses of the Exchanging Fund in connection with proxy solicitation for its meeting of shareholders, to the extent that such expenses do not exceed those fees and expenses normally incident to an annual meeting of shareholders. However, the Trust Agreement provides that the Trustee will bear all fees and expenses of the reorganization, except the proxy solicitation costs to be borne by the Exchanging Fund.

Section 17(a) of the Act provides, in pertinent part, that it is unlawful for any affiliated person of a registered investment company, or any affiliated person of such an affiliated person, to sell any security or other property to such registered company, or to purchase from such registered company any security or other property.

Applicants believe that the Acquiring Fund and the Exchanging Fund are not "affiliated persons" of each other on the basis of presumptive control within the meaning of Section 2(a)(9) of the Act. However, under certain circumstances, two or more investment companies having the same investment adviser, or investment advisers under common control, may be affiliated persons of each other by virtue of Section 2(a)(3) of the Act. The Acquiring Fund's trustee, the Trustee, and the Exchanging Fund's investment adviser, Mass. Co., are wholly-owned subsidiaries of Travelers and have certain directors, officers and investment personnel in common. Accordingly, because the Exchanging Fund and the Acquiring Fund might be deemed "affiliated persons" of each other, any disposition of portfolio securities by the Exchanging Fund to the Acquiring Fund or any acquisition by the Acquiring Fund of portfolio securities of the Exchanging Fund pursuant to the Agreement might be deemed to be prohibited by Section 17(a) of the Act.

Applicants assert that the proposed transaction would be permitted by the provisions of Rule 17a–8 recently adopted under the Act except for a possible question whether determinations by the Board of Directors of the Trustee meet the requirements of the Rule. Rule 17a–8 provides an exemption from the provisions of Section 17(a) of the Act for combinations of investment companies which may be affiliated persons of each other because of having a common investment adviser, common directors, and/or common officers provided that the following conditions are met:

(a) The board of directors of each such affiliated registered investment company participating in the transaction, including a majority of the directors of each registered investment company who are not interested persons of any registered investment company participating in the transaction, determine:

(1) That participation in the transaction is in the best interests of that registered investment company; and

(2) That the interests of existing shareholders of that registered investment company will not be diluted as a result of its effecting the transaction, and

(b) Such findings, and the basis upon which the findings were made, are

recorded fully in the minute books of each registered investment company.

Applicants state that prior to the transactions being consummated such findings will have been made by the board of directors of the Exchanging Fund (including a majority of its disinterested directors) and recorded in its minute books and by the board of directors of the Trustee of the Acquiring Fund (including a majority of its disinterested directors) and recorded in the minute books of the Trustee. However, since the Acquiring Fund is a common law trust without a Board of Directors, Applicants ask that the Commission exempt the transaction from the prohibition of Section 17(a) of the Act pursuant to Section 17(b) of the Act.

Section 17(b) provides that a proposed transaction may be exempted from the provisions of Section 17(a) upon the issuance of a Commission order if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; the proposed transaction is consistent with the policy of each registered investment company concerned; and the proposed transaction is consistent with the general purposes of the Act.

The application states that the acquisition of the Exchanging Fund's assets by the Acquiring Fund shall be accomplished on the basis of the net asset values of the funds. No adjustment is to be made in the computation of the Acquiring Fund's or the Exchanging Fund's net asset value on account of any relative differences between unrealized appreciation or depreciation or capital loss carryovers in each fund, or other relevant factors, it having been determined by the Board of Directors of the Trustee and of the Exchanging Fund that there is no identifiable and quantifiable detriment or benefit to the shareholders of either fund that would warrant such adjustment. Applicants assert that there is no assurance that the Acquiring Fund will be able to utilize fully any capital loss carryovers of the Exchanging Fund before they expire. In addition, Applicants contend that any adjustment would reflect only the potential value of the deferral of tax liability to shareholders of the Acquiring Fund and would be likely to have an uneven impact on individual shareholders, in view of their different holding period and tax bases for their shares and the various rates of tax to which they are subject.

The application indicates that prior to consummation of the reorganization, the Exchanging Fund will declare a dividend to its shareholders of all of its undistributed net taxable investment income and any net realized capital gain (not offset by a capital loss carryover) through the Exchange Date and the Acquiring Fund will declare a dividend to its shareholders of all of its undistributed net taxable investment income through the Exchange Date.

As noted above, all costs of the transactions (with the exception of proxy solicitation expenses of the Exchanging Fund normally incident to an annual meeting of shareholders) will in effect be borne by the Trustee which expects to achieve some savings of administrative time and expense in the future as a result of the transaction. Applicants state that most of the shareholders of the Exchanging Fund will benefit from the lower expense ratio of the Acquiring Fund. Additionally, the Applicants expect that the Exchanging Fund shareholders will indirectly benefit from the greater diversification of security holdings possible in a portfolio of the Acquiring Fund's size. The same sales charges on sales of shares and generally the same provisions regarding plans and privileges available to shareholders are applicable to both the Exchanging Fund and the Acquiring Fund and both have the same principal underwriters.

The application states that the Exchanging Fund's directors believe that the advantages of the proposed reorganization to the Exchanging Fund's shareholders outweigh any disadvantage represented by the structural differences between the funds. The Exchanging Fund is a traditionally organized corporate investment company. Its shareholders have one vote per share on all matters on which shareholders vote under Massachusetts law or the Act. In addition, the Exchanging Fund has a board of five directors, three of whom are not interested persons as defined in the Act, who have the usual responsibilities of directors as well as the special ones prescribed by the Act. The Acquiring Fund, which was created by a pre-Act Trust Agreement, has no board of directors but is a trust managed by the Trustee. However, in connection with Travelers acquisition of the Trustee, Travelers agreed to use its best efforts for a period of three years commencing on January 26, 1979, to cause the Board of Directors of the Trustee to consist at all times, except as permitted by the Act, of at least 75 percent non-interested persons of Travelers or the Trustee. At the present time, the Trustee has a board of eight directors, six of whom are non-interested persons of Travelers and the Trustee. The Trust Agreement of the Acquiring Fund provides that its shareholders have one vote per share only on certain matters and shareholders are not called upon to approve the continuance of the Trustee as trustee or its duties and responsibilities thereunder. While not required by the Trust Agreement, shareholders of the Acquiring Fund do vote triennially whether to continue its agreements with its principal underwriters.

Applicants contend that the transaction is in the best interests of the Acquiring Fund's shareholders because, although no immediate monetary savings will be achieved, the increase in the value of the Acquiring Fund's net assets (together with the increase in the value of the net assets of Keystone Custodian Funds, Series B–2 and K–2 expected to result from the proposed substantially contemporaneous acquisition by those Funds of all of the net assets of Massachusetts Fund for Income, Independence Fund, Inc. and Constitution Fund, Inc.) will assist the Acquiring Fund in possibly benefiting from the reduced management and recurring fees on a larger asset base. It is further asserted that the transaction may benefit the Acquiring Fund's shareholders because the increase in the Acquiring Fund's net assets may allow increased diversification of investments. This increase in the Acquiring Fund's net assets will be achieved without the transaction costs the Acquiring Fund would incur if it were to invest a similar amount of cash.

Applicants represent that the proposed merger is consistent with the policies of the Acquiring Fund and the Exchanging Fund. The primary investment objective of both the Acquiring Fund and the Exchanging Fund is seeking income, with secondary consideration being given to growth. The investment policies of both permit investment in debt securities, preferred stock and common stocks. The investments of the Acquiring Fund stress securities having a liberal current yield which is considered reasonably secure, while those of the Exchanging Fund ordinarily stress common stocks and convertibles except when investing in short-term debt securities for temporary or defensive purposes. Under current market conditions, this has resulted at January 31, 1980, in the Acquiring Fund having a portfolio consisting of approximately 44% common stocks, 34% bonds and 22% short-term debt instruments and in the

Exchanging Fund's having a portfolio consisting of approximately 68% common stocks, 8% convertible securities and 25% short-term debt instruments. Accordingly, if the proposed transaction were to be consummated under present conditions (including investment strategies and market conditions), it is expected that there would subsequently be some sales by the Acquiring Fund of common stocks acquired in the transaction and reinvestment of proceeds in bonds and short-term reserves, so that the ratio between debt and equity investments of the combined funds would approximate that ratio presently maintained by the Acquiring Fund. Applicants assert that any difference in investment emphasis between the Exchanging Fund and the surviving Acquiring Fund will be in the best interests of the shareholders of the Exchanging Fund since it is expected to result in increase income. For the fiscal year ended September 30, 1979, the Exchanging Fund's ratio of net investment income to average net assets was 5.62%, whereas for the fiscal year ended June 30, 1979, that ratio for the Acquiring Fund was 8.21%. At February 1, 1980, the current gross annualized yields (before expenses) of the portfolios were 7.67% for the Exchanging Fund and 9.68% for the Acquiring Fund.

Applicants submit that, in accordance with Section 17(b) of the Act, the terms of the proposed transaction are reasonable and fair to the Acquiring Fund and the Exchanging Fund and do not involve overreaching by any person concerned, and that the proposed transaction is consistent with the investment policies of each fund, and with the purposes of the Act.

Notice is further given that any interested person may, not later than June 30, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchanging Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-17648 Filed 6-10-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 11199; 812-4624]

Independence Fund, Inc., et al.; Filing of Application Exempting Proposed Acquisition

June 4, 1980.

In the matter of Independence Fund, Inc., 100 Federal Street, Boston, Massachusetts 02110; Keystone Custodian Funds, Inc., As Trustee for Keystone Custodian Fund, Series K–2, 99 High Street, Boston, Massachusetts 02104.

Notice is hereby given that Independence Fund, Inc. ("Exchanging Fund") and Keystone Custodian Funds, Inc. ("Trustee"), as trustee for Keystone Custodian Fund, Series K–2 ("Acquiring Fund") (the Trustee on behalf of Acquiring Fund and Exchanging Fund collectively referred to herein as the "Applicants") filed an application on March 11, 1980, and an amendment thereto on June 2, 1980, requesting an order of the Commission pursuant to Section 17(b) of the Investment Company Act of 1940 ("Act") exempting Applicants from the provisions of Section 17(a) of the Act to the extent necessary to permit Acquiring Fund to acquire all of the assets of Exchanging Fund as provided in an Agreement and Plan Reorganization ("Agreement"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the Acquiring Fund and the Exchanging Fund are each registered under the Act as open-end, diversified management investment companies. As of December 31, 1979, the Acquiring Fund had net assets of approximately $114.5 million and approximately 28,774 shareholders and the Exchanging Fund had net assets of approximately $13.9 million beneficially owned by approximately 3,667 shareholders. The investment adviser of the Acquiring Fund is the Trustee, which is registered under the Investment Advisers Act of 1940 ("Advisers Act"). According to the application, the Trustee provides continued operation and management of the Acquiring Fund and pays all of the Acquiring Fund's operating expenses (except taxes and interest) under the Trust Agreement pursuant to which the Acquiring Fund was ceated ("Trust Agreement"). Applicant states that the Trustee is a wholly-owned subsidiary of The Travelers Corporation ("Travelers"), a publicly-owned company which is the parent of the Travelers Insurance Companies which conduct an all-lines insurance business. The Exchanging Fund's manager and investment adviser is The Massachusetts Companies, Inc. ("Mass. Co."), a registered investment adviser under the Advisers Act. Applicants indicate that the personnel of Mass. Co. providing investment advice to the Exchanging Fund are also investment personnel of the Trustee. Mass. Co. is also a wholly-owned subsidiary of Travelers. Additionally, the Exchanging Fund bears its own charges and expenses.

Applicants state that upon the satisfaction of certain terms and conditions on or before a closing date ("Exchange Date"), the Acquiring Fund will acquire all of the assets of the Exchanging Fund in exchange for shares of beneficial interest of the Acquiring Fund and the assumption of all the liabilities of the Exchanging Fund by the Acquiring Fund. Following the acquisition of the Exchanging Fund's assets, it will dissolve and liquidate. As part of the liquidation distribution, the Exchanging Fund will distribute to its shareholders in exchange for their shares of the Exchanging Fund the Acquiring Fund's shares it receives upon the transfer of its assets to the Acquiring Fund. Each Exchanging Fund shareholder will be entitled to receive that portion of the Acquiring Fund shares to be received by the Exchanging Fund that the number of the Exchanging Fund shares owned by each shareholder bears to the number of the Exchanging Fund shares outstanding on the Exchange Date.

As of December 31, 1979, the Exchanging Fund had net unrealized appreciation on investments of $2,573,999 and it had net realized capital losses for the three months then ended of $140,154. As of September 30, 1979, the Exchanging Fund had realized capital loss carryovers aggregating $923,624 expiring through 1983.

Approximately one-half of the Exchanging Fund's capital loss carryover is expected to be available to the Acquiring Fund after consummation of the transaction. As of December 31, 1979, the Acquiring Fund had net unrealized appreciation on investments of $23,950,969 and it had net realized capital losses for the two months then ended of $1,459,046. As of October 31, 1979, the Acquiring Fund had realized capital loss carryovers aggregating $23,511,000 expiring through 1985. No adjustment is to be made in the computation of the Acquiring Fund's or the Exchanging Fund's net asset values on account of differences in unrealized appreciation or depreciation, capital loss carryovers or other relevant factors.

The Agreement provides that the Acquiring Fund will bear all fees and expenses incurred by the Acquiring Fund and the Exchanging Fund in connection with the reorganization which are solely and directly related to the reorganization, other than legal, printing, mailing and other expenses of the Exchanging Fund in connection with proxy solicitation for its meeting of shareholders, to the extent that such expenses do not exceed those fees and expenses normally incident to an annual meeting of shareholders. However, the Trust Agreement provides that the Trustee will bear all fees and expenses of the reorganization, except the proxy solicitation costs to be borne by the Exchanging Fund.

Section 17(a) of the Act provides, in pertinent part, that it is unlawful for any affiliated person of a registered investment company, or any affiliated person of such an affiliated person, to sell any security or other property to such registered company, or to purchase from such registered company any security or other property.

Applicants believe that the Acquiring Fund and the Exchanging Fund are not "affiliated persons" of each other on the basis of presumptive control within the meaning of Section 2(a)(9) of the Act. However, under certain circumstances, two or more investment companies having the same investment adviser, or investment advisers under common control, may be affiliated persons of each other by virtue of Section 2(a)(3) of the Act. The Acquiring Fund's trustee, the Trustee, and the Exchanging Fund's investment adviser, Mass. Co., are wholly-owned subsidiaries of Travelers and have certain directors, officers and investment personnel in common. Accordingly, because the Exchanging Fund and Acquiring Fund might be deemed "affiliated persons" of each other, any disposition of portfolio securities by the Exchanging Fund to the Acquiring Fund or any acquisition by the Acquiring Fund of portfolio securities of the Exchanging Fund pursuant to the Agreement might be deemed to be prohibited by Section 17(a) of the Act.

Applicants assert that the proposed transaction would be permitted by the provisions of Rule 17a–8 recently adopted under the Act except for a possible question whether determinations by the Board of Directors of the Trustee meet the requirements of the Rule. Rule 17a–8 provides an exemption from the provisions of Section 17(a) of the Act for combinations of investment companies which may be affiliated persons of each other because of having a common investment adviser, common directors, and/or common officers provided that the following conditions are met: (a) The board of directors of each such affiliated registered investment company participating in the transaction, including a majority of the directors of each registered investment company who are not interested persons of any registered investment company participating in the transaction, determine:

(1) That participation in the transaction is in the best interests of that registered investment company; and

(2) That the interest of existing shareholders of that registered investment company will not be diluted as a result of its effecting the transaction, and

(b) Such findings, and the basis upon which the findings were made, are recorded fully in the minute books of each registered investment company.

Applicants state that prior to the transaction being consummated such findings will have been made by the board of directors of the Exchanging Fund (including a majority of its disinterested directors) and recorded in its minute books and by the Board of Directors of the Trustee of the Acquiring Fund (including a majority of its disinterested directors) and recorded in the minute books of the Trustee. However, since the Acquiring Fund is a common law trust without a board of directors there may be some question about this matter. Applicants ask that the Commission exempt the transaction from the prohibition of Section 17(a) of the Act pursuant to Section 17(b) of the Act.

Section 17(b) provides that a proposed transaction may be exempted from the provisions of Section 17(a) upon the issuance of a Commission order if the evidence establishes that: The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; the proposed transaction is consistent with the policy of each registered investment company concerned; and the proposed transaction is consistent with the general purposes of the Act.

The application states that the acquisition of the Exchanging Fund's assets by the Acquiring Fund shall be accomplished on the basis of the net asset values of the funds. No adjustment is to be made in the computations of the Acquiring Fund's or the Exchanging Fund's net asset value on account of any relative differences between unrealized appreciation or depreciation or capital loss carryovers in each fund, or other relevant factors, it having been determined by the Boards of Directors of the Trustee and of the Exchanging Fund that there is no identifiable and quantifiable detriment or benefit to the shareholders of either fund that would warrant such adjustment. Applicants assert that there is no assurance that the Acquiring Fund will be able to utilize fully any capital loss carryovers of the Exchanging Fund before they expire. In addition, Applicants contend that any adjustment would reflect only the potential value of a deferral of tax liability to shareholders of the Acquiring Fund and would be likely to have an uneven impact on individual shareholders, in view of their different holding periods and tax bases for their shares and the various rates of tax to which they are subject.

The application indicates that prior to consummation of the reorganization, the Exchanging Fund will declare a dividend to its shareholders of all of its undistributed net taxable investment income and any net realized capital gain (not offset by a capital loss carryover) through the Exchange Date and the Acquiring Fund will declare a dividend to it shareholders of all of its undistributed net taxable investment income through the Exchange Date.

As noted above, all costs of the transaction (with the exception of proxy solicitation expenses of the Exchanging Fund normally incident to an annual meeting of shareholders) will in effect be borne by the Trustee which expects to achieve some savings of administrative time and expense in the future as a reult of the transaction. Applicants state that most of the shareholders of the Exchanging Fund will benefit from the lower expense ratio of the Acquiring Fund. Additionally, the Applicants expect that the Exchanging Fund shareholders will indirectly benefit

from the greater diversification of security holdings possible in a portfolio of the Acquiring Fund's size. The same sales charges on sales of shares and generally the same provisions regarding plans and privileges available to shareholders are applicable to both the Exchanging Fund and the Acquiring Fund and both have the same principal underwriters.

The application states that the Exchanging Fund's directors believe that the advantages of the proposed reorganization to the Exchanging Fund's shareholders outweigh any disadvantage represented by the structural differences between the funds. The Exchanging Fund is a traditionally organized corporate investment company. Its shareholders have one vote per share on all matters on which shareholders vote under Massachusetts law or the Act. In addition, the Exchanging Fund has a board of five directors, three of whom are not interested persons as defined in the Act, who have the usual responsibilities of directors as well as the special ones prescribed by the Act. The Acquiring Fund, which was created by a pre-Act Trust Agreement, has no board of directors but is a trust managed by the Trustee. However, in connection with Traveler's acquisition of the Trustee, Travelers agreed to use its best efforts for a period of three years commencing on January 26, 1979, to cause the Board of Directors of the Trustee to consist at all times, except as permitted by the Act, of at least 75% non-interested persons of Travelers or the Trustee. At the present time, the Trustee has a board of eight directors, six of whom are non-interested persons of Travelers and the Trustee. The Trust Agreement of the Acquiring Fund provides that its shareholders have one vote per share only on certain matters and shareholders are not called upon to approve the continuance of the Trustee as trustee or its duties and responsibilities thereunder. While not required by the Trust Agreement, shareholders of the Acquiring Fund do vote triennially whether to continue its agreements with its principal underwriters.

Applicants contend that the transaction is in the best interests of the Acquiring Fund's shareholders because, although no immediate monetary savings will be achieved, the increase in the value of the Acquiring Fund's net assets resulting from both this transaction and the proposed substantially contemporaneous acquisition by the Acquiring Fund of all of the net assets of Constitution Fund, Inc. (together with the increase in the value of the net assets of Keystone Custodian Funds, Series B–2 and K–1 expected to result from the proposed substantially contemporaneous acquisitions by those Funds of all of the net assets of Massachusetts Fund for Income and Freedom Fund, Inc.) will assist the Acquiring Fund in possibly benefitting from the reduced management and recurring fees on a larger asset base. It is further asserted that the transaction may benefit the Acquiring Fund's shareholders because the increase in the Acquiring Fund's net assets may allow increased diversification of investments. This increase in the Acquiring Fund's net assets will be achieved without the transaction costs the Acquiring Fund would incure if it were to invest a similar amount of cash.

Applicants represent that the proposed merger is consistent with the policies of the Acquiring Fund and the Exchanging Fund. The investment objective of both the Acquiring Fund and the Exchanging Fund is capital growth. While the stated investment policies of the Exchanging Fund are to invest in common stocks (except that it may purchase fixed income securities mainly for defensive purposes), whereas those of the Acquiring Fund include both stocks and debt securities, both Funds invest primarily in common stocks except for the portion of their portfolios invested in short-term reserves. At January 31, 1980, the portfolio of the Acquiring Fund consisted of about 70% common stocks and 30% short-term debt instruments and that of the Exchanging Fund consisted of about 61% common stocks and 39% short-term debt instruments. Applicants state that if the proposed transaction were to be consummated under January 31, 1980, conditions (including investment strategies and market conditions), it is expected that none of the common stocks acquired from the Exchanging Fund by the Acquiring Fund would be sold.

Applicants submit that in accordance with Section 17(b) of the Act, the terms of the proposed transaction are reasonable and fair to the Acquiring Fund and the Exchanging Fund and do not involve overreaching by any person concerned, and that the proposed transaction is consistent with the investment policies of each fund, and with the purposes of the Act.

Notice is further given that any interested person may, not later than June 30, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule O–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–17656 Filed 6–10–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 11198; 812–4615]

Investors Life Insurance Co. of North America and INA/Putnam Separate Account; Filing of Application for an Order Approving Certain Offers of Exchange and for an Order Exempting Proposed Transactions

June 3, 1980.

In the matter of Investors Life Insurance Company of North America and INA/Putnam Separate Account 1600 Arch Street, Philadelphia, PA 19101.

Notice is hereby given that Investors Life Insurance Company of North America ("Investors Life"), a stock life insurance company organized under the laws of the Commonwealth of Pennsylvania, and INA/Putnam Separate Account ("INA/Putnam"), a separate account of Investors Life registered under the Investment Company Act of 1940 ("Act") as a unit investment trust (collectively "Applicants"), filed an application on February 13, 1980, and an amendment thereto on March 14, 1980, pursuant to Section 11 of the Act for an order approving certain offers of exchange, and pursuant to Section 6(c) of the Act,

for an order of exemption from Sections 2(a)(32), 2(a)(35), 22(c), 26(a), 27(c)(1), 27(c)(2), and 27(d), of the Act, and Rule 22c–1 thereunder, to the extent necessary to permit Applicants to offer the variable annuity contracts described in the application. All interested persons are referred to the Application on file with the Commission for a statement of the facts and representations contained therein, which are summarized below.

INA/Putnam, a separate account of Investors Life, was organized as a unit investment trust on September 26, 1979, pursuant to the laws of Pennsylvania, with Investors Life as sponsor-depositor and custodian, and registered under the Act. INA/Putnam was established for the purpose of funding Single Premium Individual Deferred Variable Annuity Contracts ("Contracts") issued by Investors Life.

Each investor's payments under the Contracts will be allocated to between one and three of the five divisions of the separate account. Each division invests in shares of a specified open-end diversified management investment company registered under the Act. The five companies in which the separate Account invests are sometimes collectively referred to hereafter as the "Funds". Each Separate Account Division is divided into two subdivisions, one for allocation of Contract payments under qualified plans and the other for non-tax qualified payments. The principal distributor of the Contracts will be Putnam Fund Distributors, Inc., ("Putnam") of Boston, Massachusetts.

Applicants proposed to offer two series of Contracts which may be used for either immediate or deferred annuitization. One such series (the "Transfer Contract") will be offered through Putnam to persons who have owned shares of any of the Funds, with the exception of Putnam Daily Dividend Trust, for 45 days ("Eligible Shareholders"). The second series of Single Payment Individual Variable Annuity Contracts will be offered to the general public ("Direct Contract").

The proposed Contracts are substantively the same except with respect to the redemption charge provisions which are more fully discussed below. The minimum purchase payment under the Contracts will be $3,000. An annual charge of $25 will be deducted by Investors Life for administrative costs and an asset charge of .95% on an annual basis, determined daily will be assessed for the assumption by Investors Life of mortality and expense risks under the Contracts. Applicants estimate that approximately .80% of the asset charge will be for the assumption of mortality risks under the Contracts and .15% will be for the guarantee by Investors Life that the expenses charged to policyholders under the Contracts will never be raised even though the costs to Investors Life of issuing and administering the Contracts may exceed the amounts charged. The aforesaid deductions will be allocated to Investors Life's general account and no portion of the asset charge will be specifically related to the recovery of sales expenses.

Both Contracts will be offered without the imposition of an initial sales charge on the purchase payments. Instead, contingent deferred sales charges intended to reimburse Investors Life for Expenses incurred which are related to Contract sales will be applied upon Contract redemption or partial withdrawals during the early years of the Contracts.

Under the proposed Transfer Contract, during the accumulation period upon the redemption of the contract or the partial withdrawal of an amount thereunder during any of the first three years (measured from the issue date), the contract holder will upon a redemption be paid the total accumulated value less the applicable contingent deferred sales charge; or, upon a partial withdrawal the amount requested will be redeemed and paid and the applicable contingent deferred sales charge will be deducted from the accumulated Contract value at the same time. The contingent deferred sales charges are as follows: 1% will be assessed upon the amount withdrawn which equals or exceeds 10% of the original purchase payment made under the Contract. This charge is subject to an aggregate maximum deduction of 1% of the original purchase payment. No contingent deferred sales charge deduction will be applied under the Contract for a redemption or partial withdrawal made after the end of the third contract year.

Under the proposed Direct Contract, during the accumulation period upon the redemption of the Contract or the partial withdrawal of an amount thereunder during any of the first six years (measured from the issue date), the contract holder will, upon redemption, be paid the total accumulated value less the applicable contingent deferred sales charge; or, upon a partial withdrawal the amount requested will be redeemed and paid and the applicable contingent deferred sales charge will be deducted from the accumulated contract value. The contingent deferred sales charge will be scaled downward over the first six (6) contract years by 1% per successive year, from 6% to 1%. No such charge will be imposed after the end of the 6th contract year. The contingent deferred sales charges are subject to the limitation that the maximum amount to which the charge percentage may be applied will not exceed the original purchase payment.

Applicants maintain that the contingent deferred sales charge pricing structure will be advantageous to the contract purchasers since it will permit their entire purchase payment (except where state premium tax deduction is required) to be allocated to the Separate Account for investment in Fund shares. Accordingly, the purchaser will have the opportunity to have his entire purchase payment benefit from any investment growth in the separate account division(s) of his choice. Applicants believe that this arrangement is preferable to that which imposes a initial sales charge upon a variable annuity contract purchase payment since the effect of such charge is to reduce the amount initially allocated to the Separate Account (thus reducing the potential for investment gain). Applicants believe further that contract purchasers will have the advantage of never having their accumulations subject to the contingent deferred sales charge if they make no withdrawals under their Contracts during the periods for which the charges are applicable or if they annuitize.

Section 2(a)(35)

Section 2(a)(35) of the Act defines "sales load" as the difference between the price of a security to the public and that portion of the proceeds from its sale which is received and invested or held for investment by the issuer. In the context of a variable annuity contract, the sales load definition contemplates an initial sales charge. Applicants assert that although the proposed Contracts assess no such charge, the contingent deferred sales charge describe above, if deducted, will be used as a reimbursement to Investors Life for sales expenses. Applicants have represented that they will incur selling costs in connection with sales of the Contracts. These include commissions paid to sales personnel, the costs of sales literature, promotion and sales administration. They state that even though the contingent deferred sales charge may never be incurred by any contract holder, the nature of the charge raises a question as to whether it meets the definition in Section 2(a)(35). Applicants maintain that the statutory definition contemplates the deduction of a sales charge prior to investment of the

net purchase payment, but that the contingent deferred sales charge, as proposed, contemplates the deduction upon the redemption or partial redemption of the Contract. They maintain that although the principals involved are the same, their proposed arrangement does not meet the definition in the Act. Because of this, Applicants have requested an exemption from the provisions of Section 2(a)(35), to the extent necessary to permit the offer of the Contracts with the described contingent deferred sales charge pricing arrangement.

Sections 27(c)(2) and 26(a)

Section 27(c)(2) of the Act, in pertinent part, makes it unlawful to sell any periodic payment plan certificate unless the proceeds of all payments on such certificates are deposited with a custodian having the qualifications described in Section 26(a)(1), and are held by such custodian under an agreement containing substantially the provisions required in Sections 26(a)(2) and (3) of the Act. Section 26(a)(2)(C) provides essentially that no payment to the depositor of, or a principal underwriter for, a registered unit investment trust shall be allowed the trustee or the custodian as an expense except a fee, not exceeding such reasonable amount as the Commission may prescribe, as compensation for performing bookkeeping and other administrative duties normally performed by the custodian. Applicants have requested an exemption from the provisions of Sections 27(c)(2) and 26(a)(2)(C), to the extent necessary to implement the proposed transactions involving the payment of contingent deferred sales charges.

In addition, Applicants propose that all assets of the Separate Account will be held by Investors Life in custody for safekeeping rather than under a custodian or safekeeping agreement with a bank. An exemption is requested from the provisions of Sections 26(a) and 27(c)(2) of the Act, to the extent necessary, to permit assets of the Separate Account to be held in custody for safekeeping by Investors Life.

Applicants state that under provisions of the Pennsylvania Insurance Laws, funds allocated by Investors Life to the Separate Account may not be held by the company as trustee. Net purchase payments under the Contracts allocated to the Separate Account will be invested in the Funds. The shares of these Funds will be issued under an open account arrangement without the use of stock certificates and ownership of the Fund shares will be shown only on the books and records of the Separate Account and each Fund; ownership will not be represented by securities which would require a custodianship for safekeeping purposes.

Applicants assert that the Commission, in Investment Company Act Release No. 2974, previously stated that the requirements of section 27(c)(2) and certain of the provisions of Section 26(a) were apparently adopted in lieu of imposing requirements for financial responsibility upon sponsors and are "designed to mitigate the adverse effects of orphanage of the trust by the sponsor." Investors Life is subject to extensive supervision and control by the Pennsylvania Insurance Commissioner. Such control and supervision provide assurances against misfeasance and afford the essential protection of trusteeship. Applicants assert that under Pennsylvania law, Investors Life may not abrogate its obligations under the Contracts. Applicants believe that under the foregoing circumstances, the dangers against which Sections 26(a) and 27(c)(2) are directed are not present in this situation and request an exemption from the provisions of Sections 27(c) and 26(a) of the Act.

Applicants have consented that the foregoing requested exemption may be made subject to the following conditions: (1) That the deductions under the Contracts for administrative services shall not exceed such reasonable amounts as the Commission shall prescribe and the Commission may reserve jurisdiction for such purpose; and (2) that the payment of sums and charges out of the assets of the separate account shall not be deemed to be exempted from regulation by the Commission by reason of the requested order, provided that Applicants' consent to this condition shall not be determined to be a concession to the Commission of authority to regulate the payment of sums and charges out of such assets, other than the charges for administrative services, and Applicants reserve the right in any proceeding before the Commission, or in any suit or action in any court, to assert that the Commission has no authority to regulate the payment of such other sums and charges.

Sections 2(a)(32) and 27(d)

Section 2(a)(32) of the Act, in pertinent part, defines "redeemable security" as any security under the terms of which the holder, upon its presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof. Section 27(d) of the Act, in pertinent part, requires that the holder of a periodic payment plan certificate be able to surrender the certificate under certain circumstances with the recovery of certain initial sales charges. Applicants state that both of these sections of the Act contemplate an initial sales charge arrangement which is not present in Applicants' Contracts. Upon redemption of the contract prior to annuitization, the contract holder would be entitled to his proportionate share of the net assets determined in accordance with the contract provisions and based upon the value of the Separate Account division selected. If the redemption takes place during the period when the contingent deferred sales charge is applicable, such charge will reduce the amount of proceeds paid to the contract holder or the remaining value of his account. In Applicants' view this does not mean, however, that such proceeds were not determined in accordance with the appropriate separate account net asset value. They state that Section 27(d) is a provision to avoid the excessive loss of a previously paid sales load upon the early surrender of an investment company periodic payment plan certificate upon which a 15% or more initial sales charge has been levied. Applicants maintain the Section 27(d) is a legislative enactment designed to achieve parity with Section 27(a)(1), which requires that the sales load on a periodic payment plan certificate cannot exceed the 9% sales charge limit of the total payments to be made thereon. Applicants believe that there is a question as to whether the Transfer Contract and the Direct Contract can be considered to be periodic payment plan certificates since each Contract contemplates only a single purchase payment. Under Applicants' Contracts, the operation of the contingent deferred sales charge is subject to maximums which will assure that upon surrender during the period of applicability, the purchaser will never be subject to an excessive sales charge. Finally, Applicants state that the Contract holder is, upon redemption, entitled to his proportionate share of the applicable Separate Account Division's net asset value at the time of redemption. The contingent deferred sales charge arrangement defers the timing of the sales charge and further makes it possible that such charge will never be imposed. Applicants believe that this is an obvious benefit to the contract purchaser over a contract with an initial sales charge. However, in order to resolve any issues concerning the applicability of Sections 2(a)(32) and 27(d), exemptive relief is sought therefrom.

Section 27(c)(1)

Section 27(c)(1) of the Act, in pertinent part, makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor or underwriter of such company, to sell any such certificate unless such certificate is a redeemable security. Although Applicants question the applicability of Section 27(c)(1), to the extent that there is any question as to whether the Contracts are redeemable securities, they wish the issue to be free from doubt. They believe that the presence of a contingent deferred sales charge in the contracts does not operate to restrict their redeemability during the accumulation period. In their view the absence of an initial sales charge on the Contracts and the presence of a contingent deferred sales charge upon a redemption during the years that the charge is appliable has no meaningful bearing on the subject opf redeemability. The state that the redemption price of the Contracts is based upon a determination of the separate account's net asset value in a manner consistent with the provisions of the Act and that the contingency of the sales charge feature can operate as a benefit to the contract holder. They state that this is not the case in an initial sales charge situation where less of the gross purchase payment will be initially invested in the Separate Account. However, Applicants request the necessary exemptions from Section 27(c)(1) of the Act.

Section 22(c) and Rule 22c–1

Section 22(c) of the Act empowers to the Commission to make rules and regulations applicable to registered investment companies and others comparable to or superceding those made with regard to members of any securities association. Rule 22c–1 thereunder, in pertinent part, provides that no registered investment company selling any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next compted after receipt of a tender of such security for redemption. It is Applicants' view that the contingent deferred sales charge provisions of the Contracts do not violate Section 22(c) or Rule 22c–1 thereunder. Upon a request for a Contract redemption or upon the request for a partial withdrawal under a Contract, the investor will be paid the redemption value computed as of the next valuation date coincident with or next following the date the request for redemption is received by Investors Life. Applicants assert that this determination of Contract value is the equivalent of the net asset value determination required in Rule 22c–1. Depending upon the timing of the redemption or partial withdrawal, the contingent deferred sales charge deduction may be applicable. If it is, the amount of the charge will be deducted from the redemption proceeds to be paid to the policholder. Notwithstanding the possibility that such a deduction will be made, Applicants believe that the redemption value of the Contracts will be determined in a manner consistent with the requirements of Rule 22c–1. In order to avoid any doubt about the possibilities of an adverse interpretation of Section 22(c) or Rule 22c–1, they seek an exemption from those provisions.

Sections 11(a) and 11(c)

Applicants request approval pursuant to Sections 11(a) and 11(c) of the Act to permit certain exchange privileges under the Contracts, where permitted under applicable state and other law and by the retirement plan under which such Contracts may be issued. Approval is also requested to the extent deemed necessary to permit Applicants to offer the Transfer Contracts to the Eligible Shareholders.

Applicants propose that owners of the Contracts be permitted on any valuation date to transfer the partial or total value of their Contract from one or more Separate Account Division(s) another Division(s) at any time both prior to the time that annuity payments commence and after annuity payments commence. Allocation is permitted up to a maximum of three Separate Account Divisions (subdivisions) at any one time. Applicants represent that no charge will be imposed for effecting a transfer.

Section 11(a) of the Act provides that it shall be unlawful for any registered open-end company, or any principal underwriter for such a company, to make, or cause to be made, an offer to the holder of a security of such company, or of any other open-end investment company, to exchange his security for a security in the same or another such company on any basis other than the relative net asset value of the respective securities to be exchanged, unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of subsection (a) shall be applicable to any type of offer to exhange the securities of registered unit investment trusts for the securities of any other investment company.

Applicants do not necessarily concede that Section 11 of the Act is applicable to the type of transfers described since no variable annuity contract is actually exchanged under the plan. Further, Applicants do not believe that they will be making an offer of exchange within the contemplation of Section 11 since any exchange is made at the request of the investor. Nevertheless, because this view is not free from doubt, it is believed that it is appropriate to seek Commission approval of the proposal.

Applicants also seek approval under Section 11 to permit them to offer the Transfer Contract to the Eligible Shareholders. They represent that the Transfer Contract will be offered primarily as an accommodation to the Eligible Shareholders who desire to provide for their Fund accumulation in combination with the retirement features available under an annuity Contract. They state further that since the Eligible Shareholders will have already paid a sales charge in connection with their original Fund purchases, it would be inequitable to provide for the potential of a contingent deferred sales charge which is equal in amount or duration to that provided under the Direct Contract. Applicants state that they will incur greater sales expenses in the distribution of the Direct Contract than for the Transfer Contract since an original sales effort is involved. Accordingly, commission and promotional material expenses will be greater than for the Transfer Contract.

Applicants believe that the differences in contingent deferred sales charges between the Transfer Contract and the Direct Contract are non-discriminatory and recognize not only the distinctions in the selling costs borne by Investors Life, but also the status of the two groups of potential purchasers of the products. The proposed offer of the Transfer Contract to the Eligible Shareholders recognizes that the exchange will take place at the relative net asset values of the Fund shares redeemed and the Contracts purchased immediately thereafter.

For the aforesaid reasons, Applicants believe that the Commission approvals sought under Section 11 for both of the described transactions are appropriate and in the public interest.

Section 6(c)

Section 6(c) of the Act provides that the Commission, by Order upon application, may conditionally or unconditionally exempt any person, security or transaction or any class or classes or persons, securities or transactions from any provisions of the Act and the Rules promulgated thereunder if and to the extent such exemption is necessary or appropriate

in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the above stated reasons, the Applicants submit that the exemptions requested hereunder pursuant to Section 6(c) and the approval requested under Section 11 are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than June 27, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in case of attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following June 27, 1980, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered will receive notice of further developments in this matter including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–17649 Filed 6–10–80; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1–7134]

IPM Technology, Inc., Common Stock, Par Value $.25; Application To Withdraw From Listing and Registration

June 5, 1980.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 (the "Act") the Rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the Boston Stock Exchange, Inc. ("BSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The common stock of IPM Technology, Inc. (the "Company") became listed and registered for trading on the BSE on January 24, 1973. The Company has determined that because such listing on the BSE serves no purpose for the issuer or its stockholders, the Company wishes to have its securities listed with NASDAQ.

Any interested person may, on or before June 26, 1980, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–17653 Filed 6–10–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 11202; 812–4626]

Massachusetts Fund for Income et al.; Filing of Application Exempting Proposed Acquisition

June 4, 1980.

In the matter of Massachusetts Fund For Income, 100 Federal Street, Boston, Massachusetts 02110; Keystone Custodian Funds, Inc., as Trustee for Keystone Custodian Fund, Series B–2, 99 High Street, Boston Massachusetts 02104.

Notice is hereby given that Massachusetts Fund For Income ("Exchanging Fund") and Keystone Custodian Funds, Inc. ("Trustee") as trustee for Keystone Custodian Fund, Series B–2 ("Acquiring Fund") (the Trustee on behalf of the Acquiring Fund and the Exchanging Fund collectively referred to herein as the "Applicants") filed an application on March 11, 1980, and an amendment thereto on June 2, 1980, requesting an order of the Commission pursuant to Section 17(b) of the Investment Company Act of 1940 ("Act") exempting Applicants from the provisions of Section 17(a) of the Act, to the extent necessary to permit the Acquiring Fund to acquire all of the assets of the Exchanging Fund as provided in an Agreement and Plan of reorganization ("Agreement"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below.

Applicants state that the Acquiring Fund and the Exchanging Fund are each registered under the Act as open-end, diversified management investment companies. The Acquiring Fund is a common law trust only organized and validly existing under the laws of the Commonwealth of Pennsylvania. The Exchanging Fund is a Massachusetts voluntary association. As of December 31, 1979, the Acquiring Fund had net assets of approximately $48.3 million and approximately 5,666 shareholders and the Exchanging Fund had net assets of approximately $31.3 million and approximately 1,462 shareholders.

The investment adviser of the Acquiring Fund is the Trustee, which is registered under the Investment Advisers Act of 1940 ("Advisers Act"). According to the application, the Trustee provides continued operation and management of the Acquiring Fund and pays all of the Acquiring Fund's operating expenses (except taxes and interest) under the Trust Agreement pursuant to which the Acquiring Fund was created ("Trust Agreement").

Applicants state that the Trustee is a wholly-owned subsidiary of The Travelers Corporation, a publicly-owned company which is the parent of The Travelers Insurance Companies which conduct an all-lines insurance business. The Exchanging Fund's manager and investment adviser is The Massachusetts Companies, Inc. ("Mass. Co."), a registered investment adviser under the Advisers Act. Applicants indicate that the personnel of Mass. Co. providing investment advice to the Exchanging Fund are also investment personnel of the Trustee. Mass. Co. is also a wholly-owned subsidiary of Travelers. Additionally, the Exchanging Fund bears its own charges and expenses.

Applicants state that upon the satisfaction of certain terms and conditions on or before a closing date ("Exchange Date"), the Acquiring Fund will acquire all of the assets of the Exchanging Fund in exchange for shares of beneficial interest of the Acquiring Fund and the assumption of all the liabilities of the Exchanging Fund by the Acquiring Fund. Following the

acquisition of the Exchanging Fund's assets, it will dissolve and liquidate. As part of the liquidation distribution, the Exchanging Fund will distribute to its shareholders in exchange for their shares of the Exchanging Fund the Acquiring Fund's shares it receives upon the transfer of its assets and liabilities to the Acquiring Fund. Each Exchanging Fund shareholder will be entitled to receive that portion of the Acquiring Fund shares to be received by the Exchanging Fund that the number of Exchanging Fund shares owned by each shareholder bears to the number of the Exchanging Fund shares outstanding on the Exchange Date.

As of December 31, 1979, the Exchanging Fund had net unrealized depreciation on investments of $3,922,418 and realized capital loss carryovers aggregating $2,514,000 expiring through 1987. All of the Exchanging Fund's capital loss carryovers are expected to be available to the Acquiring Fund after consummation of the transaction. As of December 31, 1979 the Acquiring Fund had net unrealized depreciation on investments of $3,914,437 and it had net realized capital losses for the four months then ended of $608,992. As of August 31, 1979, the Acquiring Fund had realized capital loss carryovers aggregating $1,273,951 expiring through 1986. No adjustment is to be made in the computation of the Acquiring Fund's or the Exchanging Fund's net asset values on account of differences in unrealized appreciation or depreciation, capital loss carryovers or other relevant factors.

The Agreement provides that the Acquiring Fund will bear all fees and expenses incurred by the Acquiring Fund and the Exchanging Fund in connection with the reorganization which are solely and directly related to the reorganization, other than legal, printing, mailing and other expenses of the Exchanging Fund in connection with proxy solicitation for its meeting of shareholders, to the extent that such expenses do not exceed those fees and expenses normally incident to an annual meeting of shareholders. However, the Trust Agreement provides that the Trustee will bear all fees and expenses of the reorganization, except the proxy solicitation costs to be borne by the Exchanging Fund.

Section 17(a) of the Act provides, in pertinent part, that it is unlawful for any affiliated person of a registered investment company, or any affiliated person of such an affiliated person, to sell and any security or other property to such registered company, or to purchase from such registered company and security or other property.

Applicants believe that the Acquiring Fund and the Exchanging Fund are not "affiliated persons" of each other on the basis of presumptive control within the meaning of Section 2(a)(9) of the Act. However, under certain circumstances, two or more investment companies having the same investment adviser, or investment advisers under common control, may be affiliated persons of each other by virtue of Section 2(a)(3) of the Act. The Acquiring Fund's trustee, the Trustee, and the Exchanging Fund's investment adviser, Mass. Co., are wholly-owned subsidiaries of Travelers and have certain directors, officers, and investment personnel in common. Accordingly, because the Exchanging Fund and Acquiring Fund might be deemed "affiliated persons" of each other, any disposition of portfolio securities by the Exchanging Fund to the Acquiring Fund or any acquisition by the Aquiring fund of portfolio securities of the Exchanging Fund pursuant to the Agreement might be deemed to be prohibited by Section 17(a) of the Act.

Applicants assert that the proposed transaction would be permitted by the provisions of Rule 17a–8 recently adopted under the Act except for a possible question whether determinations by the board of Directors of the Trustee meet the requirements of the Rule. Rule 17a–8 provides an exemption from the provisions of Section 17(a) of the Act for combinations of investment companies which may be affiliated persons of each other because of having a common investment adviser, common directors, and/or common officers provided that the following conditions are met:

(a) The board of directors of each such affiliated registered investment company participating in the transaction, including a majority of the directors of each registered investment company who are not interested persons of any registered investment company participating in the transaction, determine:

(1) That participation in the transaction is in the best interests of that registered investment company; and

(2) That the interest of existing shareholders of that registered investment company will not be diluted as a result of it effecting the transaction, and

(b) Such findings, and the basis upon which the findings were made, are recorded fully in the minute books of each registered investment company.

Applicants state that prior to the transactions being consummated such findings will have been made by the Board of Trustees of the Exchanging Fund (including a majority of its disinterested trustees) and by the Board of Directors of the Trustee (including a majority of its disinterested directors) and recorded in the minute books of the Trustee. However, since the Acquiring Fund is a common law trust without a board of director there may be some question about this matter. Applicants ask that the Commission exempt the transaction from the prohibition of Section 17(a) of the Act pursuant to Section 17(b) of the Act.

Section 17(b) provides that a proposed transation may be exempted from the provisions of Section 17(a) upon the issuance of a Commission order if the evidence establishes that: The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not include overreaching on the part of any person concerned; the proposed transaction is consistent with the policy of each registered investment company concerned; and the proposed transaction is consistent with the general purposes of the Act.

The application states that the acquisition of the Exchanging Fund's assets by the Acquiring Fund shall be accomplished on the basis of the net asset values of the funds. No adjustment is to be made in the computation of the Acquiring Fund's or the Exchanging Fund's net asset value on account of any relative differences between unrealized appreciation or depreciation or capital loss carryovers in each fund, or other relevant factors, it having been determined by the Board of Directors of the Trustee and of the Exchanging Fund that there is no identifiable and quantifiable detriment or benefit to the sharehlders of either fund that would warrant such adjustment. Applicants assert that there is no assurance that the Acquiring Fund will be able to utilize fully any capital loss carryovers of the Exchanging Fund before they expire. In additions, Applicants contend that any adjustment would reflect only the potential value of a deferral of tax liability to shareholders of the Acquiring Fund and would be likely to have an uneven impact on individual shareholders, in view of their different holding periods and tax bases for their shares and the various rates of tax to which they are subject.

The application indicates that prior to consummation of the reorganization, the Exchanging Fund will be declare a dividend to its shareholders of all of its undistributed net taxable investment income and any net realized capital gain (not offset by a capital loss carryover)

through the Exchange Date and the Acquiring Fund will declare a dividend to its shareholders of all of its undistributed net taxable investment income through the Exchange Date.

As noted above, all costs of the transactions (with the exception of proxy solicitation expenses of the Exchanging Fund normally incident to an annual meeting of shareholders) will in effect be borne by the Trustee which expects to achieve some savings of administrative time and expense in the future as a result of the transaction. Applicant state that most of the shareholders of the Exchanging Fund will benefit from the lower expense ratio of the Acquiring Fund. Additionally, the Applicants expect that the Exchanging Fund's shareholders will indirectly benefit from the greater diversification of security holdings possible in a portfolio of the Acquiring Fund's size. The same sales charges on sales of shares and generally the same provisions regarding plans and privileges available to shareholders are applicable to both the Exchanging Fund and the Acquiring Fund and both have the same principal underwriters.

The application states that the Exchanging Fund's trustees believe that the advantages of the proposed reorganization to the Exchanging Fund's shareholders outweigh any disadvantage represented by the structural differences between the funds. The Exchanging Fund is a traditionally organized investment company. Its shareholders have one vote per share on all matters on which shareholders vote under the Declaration of Trust or the Act. In addition, the Exchanging Fund has a board of five trustees, three of whom are not interested persons as defined in the Act, who have the usual responsibilities of trustees as well as the special ones prescribed by the Act. The Acquiring Fund, which was created by a pre-Act trust agreement, has no board of directors but is a trust managed by the Trustee. However, in connection with Traveler's acquisition of the Trustee, Travelers agreed to use its best efforts for a period of three years commencing on January 26, 1979, to cause the Board of Directors of the Trustee to consist at all times, except as permitted by the Act, of at least 75% non-interested persons of Travelers or the Trustee. At the present time the Trustee has a board of eight directors, six of whom are non-interested persons of Travelers and the Trustee. The Trust Agreement of the Acquiring Fund provides that its shareholders have one vote per share only on certain matters and shareholders are not called upon to approve the continuance of the Trustee as trustee or its duties and responsibilities thereunder. While not required by the Trust Agreement, shareholders of the Acquiring Fund do vote triennially whether to continue its agreements with its prinicipal underwriters.

Applicants contend that the transaction is in the interests of the Acquiring Fund's shareholders because, although no immediate monetary savings will be achieved, the increase in the value of the Acquiring Fund's net assets (together with the increase in the value of the net assets of Keystone Custodian Funds, Series K–1 and K–2 expected to result from the proposed substantially contemporaneous acquisitions by those funds of all of the net assets of Freedom Fund, Inc., Independence Fund, Inc. and Constitution Fund, Inc.) will assist the Acquiring Fund in possible benefiting from the reduced management and recurring fees on a larger asset base. It is further asserted that the transaction may benefit the Acquiring Fund's shareholders because the increase in the Acquiring Fund's net assets may allow increased diversification of investments. This increase in the Acquiring Fund's net assets will be achieved without the transaction costs the Acquiring Fund would incur if it were to invest a similar amount of cash.

Applicants respresent that the proposed merger is consistent with the policies of the Acquiring Fund and the Exchanging Fund. The investment objective of both the Acquiring Fund and the Exchanging Fund is producing maximum current income consistent with avoiding undue principal risk. While the investment policies of the Exchanging Fund would permit a portion of its assets to be invested in preferred stocks and dividend paying common stocks, whereas the investment policies of the Acquiring Fund limit its investments to debt securities, the Exchanging Fund's recent practice has been to invest substantially all of its assets in debt securities and at January 31, 1980, all of its portfolio consisted of debt securities. It should also be noted that at January 31, 1980, the portfolio of the Exchanging Fund placed more emphasis on high-rated debt securities. The portfolio of the Acquiring Fund had a substantially lesser percentage of its assets in high-rated debt securities. Nevertheless, such percentage for the Acquiring Fund was consistent with the stated policies of the Exchanging Fund and at the same time the portfolio of the Acquiring Fund was producing a somewhat higher current gross yield.

Applicants submit that, in accordance with Section 17(b) of the Act, the terms of the proposed transaction are reasonable and fair to the Acquiring Fund and the Exchanging Fund and do not involve overreaching by any person concerned, and that the proposed transaction is consistent with the investment policies of each fund, and with the purposes of the Act.

Notice is further given that any interested person may, not later than June 30, 1980, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will received any notices and orders issued in this matter, including the date of the hearing (if ordered) and any posponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–17647 Filed 6–10–80; 8:45 am]

BILLING CODE 8010–01–M

[Release 34–16874; File No. SR–NASD–80–9]

National Association of Securities Dealers, Inc.; Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on May 23, 1980, the above-mentioned self-regulatory organization filed with the Securities

and Exchange Commission a proposed rule change as follows:

The NASD's Statement of the Terms of Substance of the Proposed Rule Change

The following is the full text of the proposed revisions to Schedule D under Section XVI of the By-Laws of the National Association of Securities Dealers, Inc. (new language is italicized; deleted language is bracketed).

XI

Public Dissemination of Quotations to the News Media

C. Local Quotations Lists (deleted in its entirety)

D. *C.* Revisions of the OTC NASDAQ Lists

E. *D.* Authority of the NASDAQ Committee [and Local Quotations Committees]

The NASDAQ Committee, a standing Committee of the Association and under authority delegated to it by the Association's Board of Governors, shall have overall responsibility for the administration of the foregoing standards and the publication and dissemination of quotations carried on the National OTC–NASDAQ List and the Additional OTC–NASDAQ List. The Committee may under appropriate circumstances grant exceptions to the foregoing standards or fill vacancies in either of the foregoing lists prior to the time that such lists are required to be redrawn if it is in the public interest to do so. [In addition, the local quotations committees, appointed by and acting under the authority of the NASDAQ Committee, shall have responsibility for publication and dissemination of local quotations lists. Any exceptions to the standards set forth above which a local quotations committee may desire to make must first be submitted to the NASDAQ Committee in writing which will have authority to approve or disapprove any exceptions.]

"Explanation of the Board of Governors" following Part XI is deleted in its entirety.

XII

Local Quotations Program

The NASD Local Quotation Program is a service of the Association designed to provide a source of quotations to the media for securities of particular interest to specific communities. All quotations shall be interdealer quotations, represent the market for the security and, except for unusual circumstances, contain both bid and asked quotations. Nominal and "asked only" quotations shall not be released.

A. Authority of the NASDAQ Committee

The Local Quotations Program is administered by the NASDAQ Committee of the Corporation. It shall appoint the members of the Local Quotations Committees, consider requests for exceptions from the national inclusion standards set forth in Section C of this Part XII, and review and establish procedures for the administration of the program.

B. Role of the Local Quotations Committees

The various Local Quotations Committees shall be designated by the NASDAQ Committee and their members appointed by it. The Local Quotations Committees shall select securities to be included on their local quotations list, supervise the administration of the local quotation program, and develop local inclusion standards.

C. National Inclusion Standards

1. All securities of companies included in NASDAQ shall be eligible for inclusion in Local Quotations Lists.

2. The following inclusion standards shall apply to securities not included in NASDAQ:

a. Compliance with one of the following:

i. The bid price for a security shall be at least $2.00 or

ii. The issuer reports total assets not less than $1,000,000 and capital and surplus not less than $500,000 and may continue to be included so long as it continues to report total assets not less than $500,000 and capital and surplus not less than $250,000.

b. The issuer shall make prompt and full disclosure of all material corporate developments.

c. The issuer shall annually submit to its shareholders a balance sheet and income statement.

d. CUSIP numbers shall be imprinted on all stock certificates of the issuer.

D. Local Inclusion Standards

Whether an issue is selected to be included on a local quotations list shall depend upon considerations of sufficient shareholder interest, reflected by the number of shareholders residing in the area, or other fair and reasonable standards. Local Quotations Committees may, in response to local market conditions or space limitations, impose additional inclusion requirements, or inclusion requirements greater than the national requirements set forth in Section C, for its local quotations list. It shall file such increased standards with the NASDAQ Committee.

The NASD's Statement of Purpose of Proposed Rule Change

The change is indicated to simplify administration of the Local Quotations Program by eliminating unnecessary applications and reports. It also adjusts the price requirements for securities to be included in the local quotations program.

The NASD's Statement of Basis Under the Act for the Proposed Rule Change

Section 15A(b)(11) of the Act provides that the rules of the Association must be designed to promote orderly procedures for collecting, distributing, and publishing quotations.

Comments Received From Members, Participants or Others on Proposed Rule Change

Article XVI of the Association's By-Laws does not require membership approval of changes to Schedule D. No comments were solicited or received regarding this proposed rule change.

The NASD's Statement on Burden on Competition

This rule change will simplify the administration of the dissemination of quotations through the local quotations program. The adjustment of the price requirement may cause some securities previously eligible to become ineligible and some securities otherwise ineligible to become eligible. The Association believes that this possible burden on competition is necessary and appropriate in furtherance of the purposes of the Act.

On or before July 16, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submission should file six (6) copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be

available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before July 2, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

June 5, 1980.

[FR Doc. 80-17652 Filed 6-10-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 16860; SR-NASD-79-11]

National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

May 30, 1980.

On October 18, 1979, the National Association of Securities Dealers, Inc. ("NASD"), 1735 K Street, NW., Washington, D.C. 20006, filed with the Commission pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) ("Act") and Rule 19b-4 thereunder, copies of a proposed rule change [1] to adopt a set of rules that would conform its present rules on arbitration to the Uniform Code of Arbitration ("Code").[2] The Code was drafted by the Securities Industry Conference on Arbitration [3] and provides arbitration procedures for the settlement of disputes arising between customers and broker-dealers. The NASD arbitration procedures also apply to disputes arising between members.

The proposal also amends Section 1 of the NASD's Code of Arbitration Procedures, "Matters Eligible for Submission," to delete the requirement that disputes be "securities-related" so that any dispute, claim or controversy arising out of or in connection with the business of an NASD member is arbitrable. An exception is provided for disputes involving the insurance business of any member which is also an insurance company. The NASD states that these changes will make arbitrable certain disputes involving a member's business which are not presently eligible for arbitration.[4]

A primary purpose of this proposal is to provide investors and members of the NASD with a simple and inexpensive procedure for the resolution of their controversies. Further, the proposal anticipates that the Code will be adopted by other self-regulatory organizations thereby providing a uniform system of arbitration throughout the securities industry. [5]

The Commission finds that the proposed rule change is consistent with the requirement of the Act and the rules and regulations thereunder applicable to a securities association and, in particular, the requirements of Section 15A(b)(6) of the Act that the rules of a securities association be designed to promote just and equitable principles of trade.[6]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-17655 Filed 6-10-80; 8:45 am]

BILLING CODE 8010-01-M

---

[1] Notice of the rule proposal was made in Securities Exchange Act Release No. 16425 (December 14, 1979) and in the **Federal Register** 44 FR 75255 (December 19, 1979). No comments were received. The NASD submitted an amendment to the filing on May 21, 1980, to make certain technical revisions to the proposed rule change.

The current filing supersedes two earlier filings pertaining to the NASD's Code of Arbitration Procedure, File Nos. SR-NASD-77-19 and SR-NASD-78-19. Notice of SR/NASD-77-19 was made in Securities Exchange Act Release No. 14252 (December 12, 1977) and in the **Federal Register** 42 FR 63830 (December 20, 1977). Because of deficiencies in SR-NASD-78-19, of which the NASD was informed by letter dated January 23, 1979, that proposal was never noticed.

[2] The Code was published on December 28, 1979, as the *Second Report of the Securities Industry Conference on Arbitration to the Securities and Exchange Commission.*

[3] The SICA was organized on April 5, 1977, pursuant to the Commission's stated position that there was a need to implement a nationwide investor dispute resolution system. *See* Securities Exchange Act Release No. 12528 (June 9, 1976), 9 SEC Docket 833 (June 23, 1976), 41 FR 23803 (June 11, 1976); Securities Exchange Act Release No. 13470 (April 26, 1977), 12 SEC Docket 186 (May 10, 1977), 42 FR 23892 (May 11, 1977).

The SICA members consist of: the American Stock Exchange, Inc., the Boston Stock Exchange, Incorporated; the Cincinnati Stock Exchange; the Midwest Stock Exchange, Incorporated; the Municipal Securities Rulemaking Board; the National Association of Securities Dealers, Inc.; the New York Stock Exchange, Inc.; the Pacific Stock Exchange Incorporated; the Philadelphia Stock Exchange, Inc., as well as the Securities Industry Association and three public representatives.

[4] The NASD Board of Governors' resolution allowing for disciplinary action against a member which fails to submit a dispute to arbitration combined with the broad scope of arbitrable matters provided for in the current rule change does not authorize the NASD to utilize its powers to compel arbitration in these cases where disputes concern matters not related to the purposes of the Act or to the administration of the NASD.

[5] The Code has already been adopted by a number of self-regulatory organizations including the American Stock Exchange, Inc.; the Boston Stock Exchange, Incorporated; the Cincinnati Stock Exchange; the Midwest Stock Exchange, Incorporated; the Municipal Securities Rulemaking Board; the New York Stock Exchange, Inc.; and the Pacific Stock Exchange, Inc.

[6] The Commission emphasizes, however, that notwithstanding the proposed rule change, arbitration clauses contained in customers' agreements that purport to bind customers to arbitrate all future disputes raising claims under the federal securities laws cannot be enforced against those customers who choose to obtain a judicial determination of such claims. *See* Securities Exchange Act Release No. 15984 (July 2, 1979), 17 SEC Docket 1167 (July 17, 1979), 44 FR 4062 (July 10, 1979).

[File No. 22-10322]

Panhandle Eastern Pipe Line Co.; Application and Opportunity for Hearing

June 5, 1980.

Notice is hereby given that Panhandle Eastern Pipe Line Company (the "Company") has filed an application pursuant to clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Commission that the trusteeship of The Chase Manhattan Bank (National Association) ("Chase") under an Indenture of the Company dated as of April 1, 1964 (the "1964 Indenture") which was heretofore qualified under the Act, and the trusteeship by Chase under an Indenture dated as of April 1, 1980 (the "New Indenture") which is not qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chase from acting as Trustee under the 1964 Indenture and under the New Indenture.

Section 310(b) of the Act, which is included in Section 7.08 of the 1964 Indenture, provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of this section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities of the same issuer are outstanding.

The present application, filed pursuant to clause (ii) of Section 310(b)(1) of the Act (as set forth in Section 7.08 of the 1964 Indenture), seeks to exclude the new Indenture from the operation of Section 310(b)(1) of the Act.

The effect of the proviso contained in clause (ii) of Section 310(b)(1) of the Act on the matter of the present application

is such that the New Indenture may be excluded from the operation of Section 310(b)(1) of the Act (as set forth in Section 7.08 of the 1964 Indenture) if the Company shall have sustained the burden of proving by this application to the Commission and after opportunity for hearing thereon that the trusteeship of Chase under the 1964 Indenture and under the new Indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Chase from acting as trustee under one of these Indentures.

The Company alleges that:

(1) At December 31, 1979, it had outstanding $16,007,000 principal amount of 4.60% Debentures due 1984 issued under the 1964 Indenture. The Debentures issued pursuant to the 1964 Indenture were registered under the Securities Act of 1933 (File No. 2–22120) and the 1964 Indenture was qualified under the Trust Indenture Act of 1939;

(2) It proposes to issue and sell $25,000,000 principal amount of 11.95% Debentures due 1984 to be issued under the new Indenture. Chase is trustee under the new Indenture. All the Debentures to be issued pursuant to the New Indenture will be purchased by an institutional investor for investment and not with a view to distribution. The issuance of these Debentures is therefore exempt from the registration requirements of the Securities Act of 1933 and the new Indenture is exempt from the qualification provisions of the Trust Indenture Act of 1939;

(3) The 1964 Indenture and the New Indenture are wholly unsecured and rank pari passu;

(4) It is not in default under the 1964 Indenture;

(5) Such differences as exist between the 1964 Indenture and the new Indenture are not likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of any of the Debentureholders to disqualify Chase from acting as Trustee under the 1964 Indenture.

The Company has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Securities and Exchange Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission's Public Reference Section, 1100 L Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than June 26, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–17650 Filed 6–10–80; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[License No. 04/04–5184]

Issuance of License; First B.D.J. Financial Services, Inc., Fort. Lauderdale, Fla.

On January 25, 1980, a Notice was published in the **Federal Register** (45 FR 6224), stating that The First B.D.J. Financial Services, Inc. located at 5250 Griffin Road, Ft. Lauderdale, Florida 33314, has filed an application with the Small Business Administration (SBA) pursuant to 13 C.F.R. 107.102 (1980) for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested persons were given until the close of business February 11, 1980, to submit their written comments to SBA. No comments were received.

Notice is hereby given that having considered the application and other pertinent information the SBA has issued License No. 04/04–5184 to The First B.D.J. Financial Services, Inc. on May 20, 1980.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies).

Dated: June 4, 1980.

Michael K. Casey,

Associate Administrator for Investment.

[FR Doc. 80–17644 Filed 6–10–80; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Granting of Relief; Disabilities Incurred by Conviction

Correction

In the issue of Friday, May 30, 1980, on page 36575, in the third column, a document appeared correcting FR Doc. 80–15289 (See FR 32825, Monday, May 19, 1980). In the third paragraph, the third line reads "on May 13, 1969, on the Supreme Court of . . .".

This was an error and should be corrected to read: "on May 13, 1969, in the Superior Court of . . .".

BILLING CODE 1505–01–M

Customs Service

(TMK–2–RRUEE)

Application for Recordation of Trade Name; Florasynth, Inc.

Application has been filed pursuant to section 133.12 Customs Regulations (19 CFR 133.12), for recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124) of the trade name Florasynth, Inc. used by Florasynth Inc., a corporation organized under the laws of the State of New York, located at 410 East 62nd Street, New York, New York 10021.

The applicant states that the trade name is applied to essences and aromatic ingredients used as bases for cosmetics, toilet preparations, perfumes and colognes, and as flavor in foods, beverages and tobacco products; essential oils, used as an odorant to mask disinfectants, insecticides, and similar products; extracts, flavors, oils and emulsions for use in making soft drink syrups and bases; non-alcoholic preparation for producing a foam in soft drinks and a flavoring agent used in the preparation of root beer; orange compound adapted to produce a cloud in non-alcoholic, maltless soft drink beverages and having flavoring ingredients; natural and synthetic organic flavors, extracts, oils, and blenders for alcoholic beverages; imitation vanilla bean flavor; grapefruit juice powder, lemon juice powder, lime juice powder, orange juice powder, and brown sugar powdered flavor; citrus oils for food purposes; onion powder and garlic powder; and coffee, manufactured in Brazil, Canada, England, France, Japan, Mexico and the United States. Various foreign subsidiaries are authorized to use the trade name.

Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20229, in time to be received not later than July 11, 1980.

Notice of the action taken on the application for recordation of the trade name will be published in the **Federal Register.**

Date: June 6, 1980.

Donald W. Lewis,

Director, Office of Regulations and Rulings.

[FR Doc. 80-17622 Filed 6-10-80; 8:45 am]

BILLING CODE 4810-22-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 114
Wednesday, June 11, 1980

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Commodity Futures Trading Commission	1
Council on Environmental Quality	2
Federal Communications Commission	3, 4
Federal Deposit Insurance Corporation	5
Federal Mine Safety and Health Review Commission	6
Legal Services Corporation	7
National Science Board	8
Nuclear Regulatory Commission	9
Occupational Safety and Health Review Commission	10
Postal Rate Commission	11
Educational Research, National Council	12

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., Friday, June 20, 1980.

PLACE: 2033 K Street N.W., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-1122-80 Filed 6-9-80; 9:24 am]

BILLING CODE 6351-01-M

2

June 5, 1980.

COUNCIL ON ENVIRONMENTAL QUALITY.

TIME AND DATE: June 20, 1980, 11:30 a.m.

PLACE: Conference Room, 722 Jackson Place, N.W. Washington, D.C. 20006.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Old Business.
2. Briefing on status of Conservation Incentives Study.

CONTACT PERSON FOR MORE INFORMATION: John F. Shea III, (202) 395-4616.

[S-1131-80 Filed 6-9-80; 3:12 pm]

BILLING CODE 3125-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Wednesday, June 11, 1980.

PLACE: Room 856, 1919 M Street N.W., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: Additional item to be considered.

Agenda, Item No., and Subject

Cable Television—3—Docket No. 20423, concerning the divestiture requirement of the cable television-broadcast television cross-ownership rules.

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given consideration of this additional item.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 254-7674.

Issued: June 9, 1980.

[S-1129-80 Filed 6-9-80; 2:42 pm]

BILLING CODE 6712-01-M

4

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Wednesday, June 11, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission Meeting following the Open meeting which commences at 9:30 a.m.

CHANGES IN THE MEETING:

Additional item to be considered.

Agenda, Item No., and Subject

General—1—Request for litigation instructions in case of *MCI* v. *FCC*, No. 79-2315.

The prompt and orderly conduct of Commission business requires that less than 7-days notice be given consideration of this additional item.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public affairs Office, telephone number (202) 254-7674.

Issued: June 9, 1980.

[S-1130-80 Filed 6-9-80; 2:42 pm]

BILLING CODE 6712-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Agency Meeting.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 11:30 a.m. on Thursday, June 5, 1980, the Board of Directors of the Federal Deposit Insurance Corporation met by telephone conference call to authorize payment of the insured deposits in The Citizens State Bank, Viola, Kansas, which was closed by the State Bank Commissioner of the State of Kansas as of the close of business Wednesday, June 4, 1980, and to appoint a liquidator for the assets of the closed bank.

In calling the meeting, the Board determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting pursuant to subsection (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(9)(B)).

Dated: June 5, 1980.

Federal Deposit Insurance Corporation.

Alan J. Kaplan,

Assistant Executive Secretary.

[S-1126-80 Filed 6-9-80; 11:35 am]

BILLING CODE 6714-01-M

6

June 6, 1980.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, June 11, 1980.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will also consider and act on the following:

2. Discussion of Commission procedural rule 30, 29 CFR § 2700.30 (1979).

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on this item and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202–653–5632.

[S–1132–80 Filed 6–9–80; 3:47 pm]

BILLING CODE 6820–12–M

7

LEGAL SERVICES CORPORATION. Meeting of the Board of Directors.

PLACE: Legal Services Corporation, 8th Floor Conference Room No. 2–3, 733 15th Street NW., Washington, D.C.

TIME AND DATE: 9 a.m., 5:30 p.m., Friday and Saturday, June 20–21, 1980.

STATUS: Open Meeting.

MATTERS TO BE CONSIDERED:

1. Adoption of Agenda
2. Approval of Minutes of May 1–2, 1980 Meeting
3. Report on Status of Congressional Reauthorization and fiscal year 1981 Budget Request
4. Report from Committee on Provision of Legal Services:
   - Delivery Systems Study Report
   - 1980 Expansion Report
5. Report from Committee on Appropriations and Audit:
   - Allocation of 1979 Unexpended Funds and Unallocated Investment Income
   - Selection of Corporation Auditor for fiscal year 1980 and fiscal year 1981
6. Report from Committee on Operations:
   - Regulation 1601, Bylaws of the Corporation
7. Planning for the 1980's: Report by Howard R. Sacks
8. President's Report
9. Future Meeting Dates
10. Other Business

CONTACT PERSON FOR MORE INFORMATION: Dellanor Young, Office of the President, (202) 272–4040.

Issue Date: June 6, 1980.

Dan J. Bradley,

President.

[S–1127–80 Filed 6–9–80; 11:45 am]

BILLING CODE 6820–35–M

8

NATIONAL SCIENCE BOARD.

DATE AND TIME: June 19, 1980 9:00 a.m. Open Session; June 20, 1980 10:30 a.m. Open Session; June 20, 1980 11:00 a.m. Closed Session.

PLACE: Stanford University, Stanford, California.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED AT THE OPEN SESSION:

Thursday, June 19

1. Minutes—Open Session—Thirtieth Annual (216th) Meeting
2. Chairman's Report
3. Director's Report:
   (a) Report on Grant & Contract Activity—5/16—6/17/80
   (b) Organizational and Staff Changes
   (c) Congressional and Legislative Matters
   (d) NSF Budget for Fiscal Year 1981
   (e) Other Items
4. Board Committees—Reports on Meetings
   (a) Executive Committee
   (Agenda Item 4 continued on Friday)
5. Reports on Meetings, Site Visits, and Other Events
6. Comments on Planning Environment Review
7. Interim Reports of Discussion Groups
8. Other Business
9. Next Meeting: National Science Board, August 21–22, 1980

Friday, June 20

4. Board Committees—Reports on Meetings (continued from Thursday)
   (b) Committee on Budget.
10. Final Reports of Discussion Groups.

MATTERS TO BE CONSIDERED AT THE CLOSED SESSION.

A. Minutes—Closed Session—Thirtieth Annual (216th) Meeting
B. Grants and Contracts
C. NSB and NSF Staff Nominees
D. NSB Annual Reports
E. NSF Budgets for Fiscal Year 1982 and Subsequent Years.

CONTACT PERSON FOR INFORMATION: Miss Vernice Anderson, Executive Secretary, (202) 357–9582.

[S–1125–80 Filed 6–9–80; 11:38 am]

BILLING CODE 7550–01–M

9

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: June 6, 10 and 12, 1980.

PLACE: As indicated.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

Friday, June 6; 1:30 p.m.

1. ACRS Meeting (Siting Evaluation Policy, Room 1046, H St., as announced).
2. Continuation of Discussion of Action Plan (Policy Statement, Approximately 1¾ hours, Open/Portions May be Closed, Commissioners' Conference Room).

Tuesday, June 10

Commissioners' Conference Room.

10 a.m.

Continuation of Discussion of TMI Venting, As Announced).

2 p.m.

Discussion of Houston Lighting & Power (ALAB–590, Allens Creek, Approximately 1 hour, Closed—Exemption 10, Tentative).

Thursday, June 12

10 a.m.

Commissioners' Conference Room.

Discussion of Progress, Status and Plans of the Nuclear Safety Analysis Center (Approximately 2 hours, public meeting).

2 p.m.

Discussion of Management-Organization and Internal Personnel Matters (Approximately 1½ hours, Closed/Exemption 2 and 6).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Automatic telephone answering service for schedule update: (202) 634–1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

Dated: June 5, 1980.

Roger M. Tweed,

Office of the Secretary.

[S–1128–80 Filed 6–9–80; 2:08 pm]

BILLING CODE 7590–01–M

10

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 26258, May 29, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m. on June 11, 1980.

CHANGES IN THE MEETING: This meeting has been *rescheduled for 9:30 a.m.* on June 11, 1980.

Dated: June 9, 1980.

[S–1123–80 Filed 6–9–80; 9:42 am]

BILLING CODE 7600–01–M

11

POSTAL RATE COMMISSION.

TIME AND DATE: 2 p.m., Thursday, June 26, 1980.

PLACE: Conference Room, Room 500, 2000 L Street N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Election of the Vice Chairman.

CONTACT PERSON FOR MORE INFORMATION: Dennis Watson, Information Officer, Postal Rate Commission, Room 500, 2000 L Street N.W., Washington, D.C. 20268, Telephone (202) 254–5614.

[S–1124–80 Filed 6–9–80; 9:46 am]

BILLING CODE 7715–01–M

12

NATIONAL COUNCIL ON EDUCATIONAL RESEARCH.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: (S–900–80 Filed 5–5–80; 10:36 a.m.)

DATE AND TIME: June 20, 1980, 9 a.m.–3 p.m.

PLACE: Room 823, National Institute of Education, 1200 19th Street NW., Washington, D.C.

STATUS: Certification has been received from the Department of Education, Office of General Counsel, that in the opinion of that office, the NCER "would be authorized to close portions of its meeting on June 20, 1980, under 5 U.S.C. 522b(c)(9)(B) and 45 CFR 1440.2(a)(9) for the purposes of reviewing and discussing with the Director of NIE, the proposed executive branch budget for fiscal 1981/82, in particular, the sections dealing with the proposed budget and funding priorities of NIE." Agenda item #5 will be closed, the rest of the agenda remains open to the public.

MATTERS TO BE CONSIDERED:

1. Swearing-in Ceremony (9 a.m.–9:15 a.m.)
2. Director's Report (9:15 a.m.–10 a.m.)
3. Executive Committee Report (10 a.m.–10:30 a.m.)
4. Policy on Dissemination (10:30 a.m.–11:15 a.m.)
5. Closed session: FY 1981/82 Budgets (11:15 a.m.–12 Noon)
6. Discussion of Topics for 1980/81 Agendas (1 p.m.–3 p.m.)

CONTACT PERSON FOR MORE INFORMATION: Ella L. Jones, Administrative Coordinator, Telephone: 202/254–7900.

Peter H. Gerber,

Chief, Policy and Administrative Coordination, National Council on Educational Research.

[S–1134–80 Filed 6–10–80; 11:25 a.m.]

BILLING CODE 4110–39–M

federal register

Wednesday
June 11, 1980

Part II

Department of Education

Office of the Secretary

Participation of Children Enrolled in Private Schools

DEPARTMENT OF EDUCATION

Office of the Secretary

45 CFR Part 100b

Participation of Children Enrolled in Private Schools

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the Education Division General Administrative Regulations (EDGAR) to clarify this Department's policy regarding the participation of students enrolled in private schools. The program under Title I of ESEA is currently involved in a rulemaking proceeding. The experience under this program and the information gained from its rulemaking proceeding indicate that there is a need to clarify this Department's general policy regarding participation by private school children.

This document accordingly proposes to clarify the general policy by amending EDGAR on participation by students enrolled in private schools.

DATE: Comments must be received on or before August 11, 1980.

ADDRESS: Comments must be submitted to Mr. Fred Hundemer, Department of Education, 400 Maryland Ave., SW., (ROB–3, Room 5680), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Hundemer. Telephone (202) 245–8604.

SUPPLEMENTARY INFORMATION:

Changes to the Regulations for Participation by Private Schoolchildren

The proposed amendments to the regulations on the participation of students enrolled in private schools are listed below. The changes to the regulations in 45 CFR Part 100b affect State administered programs that are subject to requirements that private school children participate. EDGAR contains a cross reference in 45 CFR 100a.650 that adopts these regulations for the direct grant programs that require participation by private school children. Therefore, a grantee under a direct grant program that is covered by the EDGAR regulations for private school children would comply with these new requirements in Part 100b.

1. The Secretary proposes to amend § 100b.652 to encourage subgrantees to consult with representatives of students enrolled in private schools regarding the selection and placement of personnel who are paid with program funds. The Secretary also proposes to amend § 100b.659 by inserting a paragraph that makes it clear that a subgrantee is solely responsible for the selection and placement of these personnel.

2. The Secretary proposes to amend § 100b.655 to ensure that private school students are not denied comparable educational benefits. The regulations would exclude excessive overhead expenditures in the computation of the average amount of funds spent on program benefits. This proposed amendment does not prohibit the use of funds for these overhead expenditures. But a subgrantee may not include these expenditures in the computation of the average amount that it uses to provide program benefits to students.

3. The Secretary proposes to delete the word "normally" from § 100b.659. The use of this word introduces too much subjectivity into the determination of whether a subgrantee may use public school personnel at private school facilities.

4. The Secretary proposes to amend § 100b.661 to clarify the limitation on the use of equipment and supplies.

Comments

Please send your comments on these revisions to the address specified at the beginning of this document. In making your comments, please use the following guidelines:

1. Identify each section in these proposed regulations on which you want to comment.

2. For each of these sections, explain what you like or dislike about the section. Is the policy expressed in the section a good policy or a poor policy? Why do you think so?

3. If you believe that a section needs to be changed, explain what you want done and explain why your change would improve the proposed regulations.

All comments will be available for public inspection at the address at the beginning of this preamble between the hours of 8:00 a.m. and 4:30 p.m., except Saturdays, Sundays, and Federal holidays.

The reader will find a citation of statutory of other legal authority in parenthesis after each substantive provision of these proposed regulations.

Dated: June 2, 1980.

Shirley M. Hufstedler,

Secretary of Education.

The Secretary proposes to amend Title 45 of the Code of Federal Regulations as indicated in the following numbered paragraphs (the entire sections containing the revised language are included for the reader's benefit):

1. Section 100b.652 is revised to read as follows:

§ 100b.652 Consultation with representatives of private school students.

(a) An applicant for a subgrant shall consult with appropriate representatives of students enrolled in private schools during all phases of the development and design of the project covered by the application, including consideration of—

(1) Which children will receive benefts under the project;

(2) How the children's needs will be identified;

(3) What benefits will be provided;

(4) How the benefts will be provided, including the selection and placement of personnel who are paid with program funds; and

(5) How the project will be evaluated.

(b) A subgrantee shall consult with appropriate representatives of students enrolled in private schools before the subgrantee makes any decision that affects the opportunities of those students to participate in the project.

(c) The applicant or subgrantee shall give the appropriate reprsentatives a genuine opportunity to express their views regarding each matter subject to the consultation requirements in this section.

(20 U.S.C. 1221e–3(a)(1))

2. Section 100b.655 is revised to read as follows:

§ 100b.655 Level of expenditures for students enrolled in private schools.

(a) Subject to paragraph (b) of this section, a subgrantee shall spend the same average amount of program funds on—

(1) A student enrolled in a private school who receives benefits under the program; and

(2) A student enrolled in a public school who receives benefits under the program.

(b)(1) The subgrantee shall spend a different average amount on program benefits for a student enrolled in a private school if the average cost of meeting the needs of that student is different from the average cost of meeting the needs of a student enrolled in a public school.

(2) For the purposes of this section, "average amount" consists of expenditures for—

(i) Instructional services, excluding salary increments based on length of service; and

(ii) Support services, excluding expenditures for general administration and transportation.

(20 U.S.C. 1221e–3(a)(1))

3. Section 100b.659 is revised to read as follows:

§ 100b.659 Use of schoool personnel.

(a) A subgrantee may use program funds to make public personnel available in other than public facilities—

(1) To the extent necessary to provide equitable program benefits designed for students enrolled in a private school; and

(2) If those benefits are not provided by the private school.

(b) A subgrantee may use program funds to pay for the services of an employee of a private school if—

(1) The employee performs the services outside of his or her regular hours of duty; and

(2) The employee performs the services under public supervision and control.

(c) A subgrantee shall select and place personnel who are paid with program funds.

(20 U.S.C. 1221e–3(a)(1))

§ 100b.660 [Reserved]

4. Section 100b.660 is incorporated into § 100b.659 and § 100b.660 is reserved.

5. Section 100b.661 is revised to read as follows:

§ 100b.661 Equipment and supplies.

(a) If a program statute requires a public agency to keep title to and exercise continuing administrative control of all equipment and supplies that the subgrantee acquires with program funds, paragraphs (b), (c) and (d) of this section apply. This public agency is usually the subgrantee.

(b) The subgrantee may place equipment and supplies in a private school for the period of time needed for the project.

(c) The subgrantee shall ensure that the equipment or supplies placed in a private school—

(1) Are used only for the purposes of the project;

(2) Can be removed from the private school without remodeling the private school facilities; and

(3) Are not designed for religious worship or instruction.

Cross-reference. See 45 CFR 74.140 Equipment management requirements.

(d) The subgrantee shall remove equipment or supplies from a private school if—

(1) The equipment or supplies are no longer needed for the purposes of the project; or

(2) Removal is necessary to avoid use of the equipment or supplies for other than project purposes.

(20 U.S.C. 1221e–3(a)(1))

[FR Doc. 80–17332 Filed 6–10–80; 8:45 am]
BILLING CODE 4110–02–M

federal register

Wednesday
June 11, 1980

Part III

Department of Education

Financial Assistance to Local and State Agencies To Meet Special Educational Needs; and Financial Assistance to Local Educational Agencies for Children With Special Educational Needs

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

45 CFR Parts 116 and 116a

Financial Assistance to Local and State Agencies To Meet Special Educational Needs; and Financial Assistance to Local Educational Agencies for Children With Special Educational Needs

AGENCY: Department of Education.

ACTION: Notice of proposed regulations.

SUMMARY: The Secretary issues proposed regulations for Title I of the Elementary and Secondary Education Act of 1965, as amended. These proposed regulations implement all changes required by the Title I statute as re-enacted by the Education Amendments of 1978 (Pub. L. 95–561). They supersede the proposed Title I regulations that were published in the **Federal Register** on June 29, 1979 (44 F.R. 38400–38413).

These proposed regulations consist of two parts: Part 116 contains requirements that apply to all Title grantees—local educational agencies (LEAs), State agencies operating projects for handicapped children or projects for neglected or delinquent children, and State educational agencies (SEAs) operating projects for migrant children. The provisions of Part 116 also apply to State and Federal administration of Title I programs. Part 116a contains requirements that apply only to those Title I projects operated by LEAs to provide supplemental educational services for educationally deprived children in eligible low-income areas and for children in local institutions for neglected or delinquent children.

DATE: All comments on these proposed regulations must be received on or before August 11, 1980.

ADDRESS: Comments should be addressed to Dr. John F. Staehle, Department of Education, 400 Maryland Avenue, S.W. (ROB–3, Room 3642), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr. John F. Staehle, Telephone (202) 245–2720.

SUPPLEMENTARY INFORMATION:

A. Overview of the Proposed Regulations

These proposed regulations substantially revise—

(a) The current Title I regulations contained in 45 CFR Parts 116 and 116a; and

(b) The proposed Title I regulations that were published in the **Federal Register** on June 29, 1979 (44 F.R. 38400).

These proposed regulations differ substantially from the June 29, 1979 version of the proposed regulations in the following ways:

(A) The format of these proposed regulations generally follows the format of the Title I statute.

(b) These proposed regulations include all major Title I statutory requirements.

(c) These proposed regulations include additional or modified standards, criteria, and examples that are required by the Title I statute or are needed to provide clarity.

In addition, Part 116a of these proposed regulations incorporates provisions from previously published—

(a) Interpretive rules concerning—

(1) The rights of parents to elect the members of Title I advisory councils (§§ 116a.150–116a.162); and

(2) The amount of funds that an SEA shall refund to the Department if an adult reveals that an LEA failed to comply with the Title I requirement that State and locally funded services in project areas be comparable to those in non-project areas (§ 116a.124); and

(b) Final regulations for—

(1) The evaluation of Title I projects operated by LEAs (§§ 116a.170–116a.177); and

(2) Title I concentration grants (§§ 116a.30–116a.37).

B. Other Applicable Regulations

Other Title I Regulations

As previously indicated, the proposed regulations in Part 116 apply to all programs authorized under the Title I statute. The proposed regulations in Part 116 are supplemented by the regulations in 45 CFR Parts 116a through 116d, which contain additional requirements relating to each of the categories of Title I programs.

The proposed regulations for Part 116a apply to Title I projects that are operated by LEAs for educationally deprived children in eligible low-income areas and for children in local institutions for neglected or delinquent children.

The regulations in 45 CFR Parts 116b through 116d were published separately and are now in effect as final regulations. Part 116b governs Title I grants to State agencies operating projects for handicapped children. Part 116c governs Title I grants to State agencies operating projects for neglected or delinquent children. Part 116d governs Title I grants to SEAs operating projects for migratory children.

Education Division General Administrative Regulations (EDGAR)

These proposed regulations do not contain certain types of general administrative requirements that apply to all State-administered programs under which the Department provides assistance. Those requirements are covered in the Education Division General Administrative Regulations (EDGAR), which replace the General Provisions for Office of Education Programs Regulations. EDGAR was published as final regulations in the **Federal Register** on April 3, 1980 (45 F.R. 22494–22631).

C. Public Participation

Nearly 300 persons, agencies, and organizations submitted more than 1400 written comments or presented oral testimony at regional meetings on the June 29, 1979 version of the proposed regulations. In addition, staff members held meetings with all the State Title I directors, several local Title I project directors, representatives or organizations, and interested citizens to receive comments on a draft version of these proposed regulations.

These meetings on the draft version were publicized in a Notice for Interested Organizations and Individuals to Participate in Workshops or Briefings on the Revision of Title I, ESEA, Draft Regulations (45 F.R. 6810) on January 30, 1980. In preparing these revised proposed regulations, the Department of Education considered comments and suggestions it received on both the June 29, 1979 proposed regulations and on the draft version of these proposed regulations.

D. Summary of Changes From the June 29, 1979, Proposed Regulations

Changes in Part 116

The proposed regulations in Part 116 reflect the statutory provisions that were added by the Education Amendments of 1973 (Pub. L. 95–561) and clarify certain requirements that were inadequately addressed in the June 29, 1979 version of the proposed regulations. The following list identifies certain provisions in Part 116 of the proposed regulations that differ significantly from the June 29, 1979 version:

(a) The performance of noninstructional duties by Title I instructional personnel (§ 116.61)

(b) The use of Title I funds for construction (§ 116.80)

(c) The use of Title I funds for equipment (§ 116.81)

(d) Maintenance of State and local fiscal effort (§ 116.91)

(e) The use of Title I funds to supplement, not supplant non-Federal funds (§ 116.93)

(f) The use of Title I funds only for the "excess costs" of Title I projects (§ 116.94)

(g) State rulemaking that applies to Title I projects (§§ 116.120–116.122)

(h) Access to information (§ 116.41)

(i) Technical assistance and dissemination of information (§§ 116.170–116.172)

(j) Resolution of complaints that are filed with LEAs, State agencies, and SEAs (§§ 116.180–116.188)

(k) State audit procedures (§§ 116.191–116–193)

(l) State collection and repayment of misspent funds (§§ 116.194–116.196)

(m) SEA withholding of Title I payments (§§ 116.200–116.201)

(n) State compliance agreements (§§ 116.210–116.214)

(o) Federal administration with respect to—

(1) Approval of State applications (§§ 116.220–116.221);

(2) Evaluation (§ 116.230);

(3) Complaint review and resolution (§§ 116.240–116.248);

(4) Audits and audit resolution (§§ 116.250–116.252);

(5) Repayment and collection of misspent funds (§§ 116.253–116.254);

(6) Withholding of Title I payments (§§ 116.260–116.263);

(7) Federal compliance agreements (§§ 116.270–116.275); and

(8) Cease and desist proceedings (§§ 116.280–116.282).

The following discussion briefly explains some of the major provisions in Part 116 and summarizes the most significant changes that have been made since publication of the June 29, 1979 version of the proposed regulations:

Maintenance of Effort (§§ 116.91–116.92)

Section 126(a) of the Title I statute provides that an LEA or State agency may not receive Title I funds if that agency's expenditures of State and local funds for the free public education of children are less for the first preceding fiscal year than for the second preceding fiscal year.

Section 116.91 of these proposed regulations implements this statutory requirement and retains the following interpretations that were contained in the June 29, 1979 version:

(a) "First preceding fiscal year" means the fiscal year preceding the year in which an application is submitted; and

(b) For purposes of determining the LEA's or State agency's compliance with the maintenance of effort requirement, the SEA may disregard a decrease of less than two percent from the second preceding fiscal year to the first preceding year.

Section 116.91(a)(2) also includes a new prohibition against using a fiscal year as the "second preceding fiscal year" unless the LEA or State agency used that year as the first preceding fiscal year on a previous Title I project application. This prohibition is designed to ensure that an agency cannot, by changing the date on which it submits its project application, skip a fiscal year in making its maintenance of effort comparison.

Section 116.91(g) of the proposed regulations describes the Secretary's standards for making a determination that an LEA or State agency is in substantial compliance with the maintenance of effort requirements. Section 116.92 contains the Secretary's criteria for exercising the statutory authority to waive the maintenance of effort requirements in § 116.91 for a particular LEA or State agency for one fiscal year if the waiver is reasonable because of "exceptional and unforeseen circumstances."

Under § 116.92(c), exceptional and unforeseen circumstances do not include referenda or acts of State legislatures, school boards, or other governmental bodies that prevent the agency from maintaining the level of its fiscal effort.

Use of Title I Funds for the Excess Costs of Projects (§ 116.94)

Under section 126(b) of the Title I statute, an agency that receives Title I assistance must use Title I funds for only the "excess costs" of a Title I project. In implementing this statutory requirement, § 116.94(b) of the proposed regulations defines "excess costs" as average per pupil costs directly attributable to a Title I project over and above the agency's average per pupil expenditure, by grade level or levels, for all pupils in the grades included in the agency's Title I project.

Section 116.94(c) indicates that an agency is presumed to be in compliance with the excess cost requirement "if the agency maintains records demonstrating that instructional services provided by the agency with Title I funds do not constitute more than 20 percent of the time—computed on a per day, per week, per month, or per year basis—that any child would, in the absence of Title I funds, spend receiving instructional services provided by a particular teacher paid with non-Title I funds." This presumption has been included in recognition of the fact that—

(a) Agencies generally do not keep the kind of detailed expenditure records that would be needed to demonstrate actual compliance with the excess cost requirement in section 126(b) of the statute and § 116.94(b) of the proposed regulations; and

(b) State and locally funded instructional services account for most per pupil costs and are sometimes replaced with certain services funded by Title I (e.g., reading or mathematics).

Under § 116.94(c) an agency could—without incurring any additional Title I responsibilities—use an instructional service funded by Title I to replace up to 20 percent of the time a child would otherwise spend receiving instructional services from a particular teacher who is paid with non-Title I funds. However, if the agency uses services funded by Title I to substitute for more than 20 percent of the time that a child would otherwise spend receiving instructional services from a particular teacher who is paid with non-Title I funds, that agency must—

(a) Maintain records demonstrating that the average per pupil costs directly attributable to its Title I project exceed the agency's average per pupil expenditure, by grade level or levels, for all pupils in the grades included in the agency's Title I project; or

(b) Maintain records demonstrating that the agency has contributed one of the following to the Title I project:

(1) The full-time equivalent number of staff not funded by Title I that—in the absence of the Title I service—would have been used to provide the instructional service not funded by Title I that is replaced with the service funded by Title I; or

(2) The amount of non-Title I funds required to provide the number of staff not funded by Title I who are referred to in paragraph (b)(1).

For purposes of computing the contribution required under § 116.94(c), an agency may disregard a fraction of a full-time equivalent staff member.

Use of Title I Funds to Supplement, Not Supplant NonFederal Funds (§ 116.93)

Under section 126(c) of the Title I statute, each agency that receives Title I funds must use those funds "to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available from regular non-Federal sources and from non-Federal sources for State phase-in programs described in section 131(b) for the education of pupils participating in Title I projects." Section 126(c) goes on to specifically state that in no case may Title I funds be used to supplant funds from those non-Federal sources.

Section 116.93 of the proposed regulations contains this basic

"supplement, not supplant" requirement that applies to all Title I projects. As indicated in § 116.93(b), an LEA that receives Title I assistance shall also comply with the more detailed and specific "supplement, not supplant" requirements in (§§ 116a.130–116a.143.

State Rulemaking (§§ 116.120–116.122)

Under section 165 of the Title I statute, SEAs are specifically authorized to adopt rules, regulations, procedures, guidelines, criteria, or other requirements that apply to Title I projects—so long as they do not conflict with any applicable Federal laws, including all requirements in the Title I statute and regulations. Section 116.120 of the proposed regulations implements this statutory provision, and § 116.121 contains certain limitations on State rulemaking, including the requirement that an SEA may not use its rulemaking authority to prohibit any practice that is authorized under Title I. In addition, § 116.122 provides some examples of permissible State rulemaking.

Complaint Review and Resolution (§§ 116.180–116.188; §§ 116.240–116.248)

Section 128 of the Title I statute requires each agency that receives Title I assistance to develop and implement—in accordance with criteria prescribed by the Secretary—written procedures for the resolution of complaints concerning violations of Title I made to that agency by advisory councils, parents, teachers, or other concerned organizations or individuals.

Sections 116.180–116.185 of the proposed regulations contain the criteria that apply to that complaint resolution process. Similarly, in keeping with section 168 of the Title I statute, §§ 116.185–116.188 of the proposed regulations describe the responsibilities of SEAs for resolving complaints and reviewing appeals from decisions of LEAs or State agencies with respect to complaints.

Under section 184 of the Title I statute, the Secretary is required to develop and implement written procedures for resolving direct complaints and appeals from an SEA's final resolutions of complaints. Sections 116.240–116.248 of the proposed regulations contain those written procedures.

The procedures are similar to the Commissioner's appeal and direct complaint procedures that were published as a notice in the **Federal Register** on October 23, 1979 (44 FR 61109–61111). Section 116.242 of the proposed regulations clarifies the Secretary's procedures for handling direct complaints and specifies the circumstances under which a direct complaint will be referred to the appropriate SEA for resolution.

State Audits (§ 116.250)

Under section 170(a) of the Title I statute, each State that receives Title I funds is required to conduct audits of Title I expenditures. Section 116.190 of the proposed regulations contains requirements that apply to these audits, including requirements concerning the frequency of the audits and the independence of the auditors.

Consistent with the advice that the Office of Education previously gave in response to inquiries, § 116.190(c) provides that these State audits must be performed by auditors who are—

(a) Employed by the State but are independent of the organizational unit that administers Title I in the State; or

(b) Employed by a private audit firm under State supervision.

Compliance Agreements (§§ 116.210–116.214; §§ 116.270–116.275)

Sections 116.210–116.214 of the proposed regulations implement the statutory provisions that authorize an SEA to enter into a compliance agreement with an LEA or State agency instead of initiating or continuing an action to withhold Title I funds. Section 116.210(b) clarifies that such an agreement may be entered into before the SEA takes any steps to begin a withholding action under § 116.200, or at any stage of the withholding action.

Section 116.210(c) describes what types of matters may be covered by a State compliance agreement and specifies that a compliance agreement "applies only to current or future violations." Section 116.212 provides that a State compliance agreement may not remain in effect for more than 60 days after it is entered into. However, if the SEA believes that the LEA or State agency needs more than 60 days to come into compliance, the SEA may wish to pursue a compliance agreement with the Secretary.

Under the procedures in §§ 116.270–116.275, the Secretary may enter into a Federal compliance agreement with an SEA for a period of time that may exceed 60 days.

Changes in Part 116a

The proposed regulations in Part 116a contain specific Title I requirements that—in conjunction with the requirements in Part 116—govern Title I projects that are operated by LEAs. The following list identifies certain provisions in the proposed regulations that contain additions to, or significant variations from, the version of proposed Title I regulations that was published on June 29, 1979:

(a) The allocation of basic, concentration, and special incentive grants to LEAs (§§ 116a.10–116a.37).

Note.—The provisions that apply to concentration grants merely incorporate the final regulations for concentration grants published in the **Federal Register** on April 3, 1980 (45 FR 22654–22655).

(b) Reallocation of Title I funds (§§ 116a.38–116a.39)

(c) Selection of school attendance areas and schools for Title I projects (§§ 116a.60–116a.65)

(d) Selection of children to be served (§§ 116a.70–116a.71)

(e) Schoolwide projects (§§ 116a.72–116a.74)

(f) The "by-pass" provisions under which the Secretary provides Title I services for private school children (§§ 116a.94–116a.99)

(g) Needs assessment (§§ 116a.100–116a.105)

(h) Comparability of services in schools serving project areas (§§ 116a.112–116a.125)

(i) The use of Title I funds to supplement, not supplant non-Federal funds (§§ 116a.130–116a.143)

(j) The establishment of Title I advisory councils (§§ 116a.150–116a.162)

(k) Evaluation by LEAs of Title I projects (§§ 116a.170–116a.177).

Note.—These provisions merely incorporate the final regulations for LEA evaluations of Title I projects published in the **Federal Register** on October 12, 1979 (44 FR 59152–59159).

The following discussion highlights some of the most significant changes that have been made in Part 116a since publication of the June 29, 1979 version of the proposed regulations.

Reallocation of Title I Funds by SEA's (§ 116a.39)

Section 193(b) of the Title I statute requires SEAs to determine which, if any, LEAs in the State have received allocations of Title I funds that—under criteria prescribed by the Secretary—exceed the amount that the LEA will use for its current Title I project. Section 193(b) also requires the SEA to reallocate the excess Title I funds—in accordance with criteria prescribed by the Secretary—to LEAs that have the greatest need for Title I funds.

Section 116a.38 of the proposed regulations implements these statutory requirements by—

(a) Specifying examples of factors that the SEA may consider in determining whether an LEA has received excess Title I funds; and

(b) Describing the basis on which the SEA shall reallocate any excess funds.

Identifying Eligible School Attendance Areas (§ 116a.51)

Section 116a.51(d)(4) modifies the "no-wide-variance" rule for identifying school attendance areas as eligible to receive Title I services.

Under § 116a.51(d)(4), an LEA may identify as eligible all the school attendance areas in the school district of the LEA or in a grade span grouping if the variation between (a) the percentage of children from low-income families in the school attendance area with the highest concentration of children from low-income families and (b) the percentage of such children in the school attendance area with the lowest concentration is not more than the greater of: (1) five percent; or (2) one third of the percentage of children from low-income families in the LEA's district as a whole.

Continuation of Eligibility for Certain School Attendance Areas or Schools (§ 116a.64)

Section 116a.64(a) of the proposed regulations retains the previous policy of permitting an LEA to select a school attendance area of school to receive Title I services—even though that area or school does not qualify under the LEA's current ranking and selection procedures—if the area or school qualified and was selected as a Title I project area or project school in either of the two fiscal years preceding the fiscal year for which the Title I funds will be granted.

However, § 116a.64 provides that the eligibility conferred by that provision is for only one fiscal year. In addition, § 116a.64 imposes the following restrictions:

(a) If a school attendance area or school that was selected as a project area or school in either of the two preceding years is substantially different from what it was during those years, the LEA may not select that school attendance area or school as a project area or project school on the basis of this section.

(b) The LEA may not use the provisions in § 116a.64 to provide Title I services in more school attendance areas or schools than the number that could have received Title I services under the method of ranking used by the LEA during the current fiscal year.

Infrequent Participation by a Limited Number of Children Who Are Not in Greatest Need of Assistance or Who Have Not Been Identified as Educationally Deprived (§ 116a.71(d))

The Secretary recognizes that it is not always practical for an LEA to exclude all children who have not been selected to participate in a Title I project at the time that a particular Title I service is provided to children who have been selected. Therefore, § 116a.71(d) of the proposed regulations permits an LEA to provide a particular Title I service—on an incidental basis and under certain specific circumstances—to a limited number of children who are not in greatest need of assistance or who have not been identified as educationally deprived.

This new provision will relieve LEAs of the responsibility for excluding every ineligible child from Title I services in situations in which such exclusion is unreasonable and extreme. Section 116a.71(d) is designed, however, to ensure that the incidental inclusion of such children will not dilute the effectiveness of Title I services for participating children. For example, if an LEA includes in its Title I project children who have not been selected to participate, the LEA shall demonstrate that—

(a) The Title I service is designed to meet the special educational needs of children who have been selected to participate and is focused on those children;

(b) It is impractical to exclude the children who have not been selected from the particular Title I service at the time that the service is provided;

(c) The children who have not been selected are in the same grade or age level as the children who have been selected;

(d) The inclusion of the children who have not been selected in the group being served does not—

(1) Decrease the effectiveness or quality of the Title I services received by the children who have been selected;

(2) Result in the exclusion of children who have been selected and would otherwise receive the Title I service; or

(3) Increase the cost of providing the Title I service.

In no event may the number of children who have not been selected but who will receive a Title I service constitute in any school of the LEA more than five percent of the total number of children who are receiving that Title I service in that school.

Participation of Children Enrolled in Private Schools (§§ 116a.80–116a.82; §§ 116a.94–116a.99)

Under section 130(a) of the Title I statute, an LEA must provide equitable Title I services to educationally deprived children in its school district who are enrolled in private schools. Although the basic regulations that implement this requirement are now contained in Subpart F of the Education Division General Administrative Regulations (EDGAR) 45 CFR Part 110b.650–110b.662, these proposed regulations contain several additional requirements in §§ 116a.80–116a.82.

As defined in § 116a.81, a child enrolled in a private school is eligible to receive Title I services if that child is educationally deprived and resides in a project area. To be selected fo receive these services, a private school child must meet criteria identical or comparable to those adopted by the LEA for public school children. In addition, § 116a.82 prohibits Title I personnel who provide services in private schools from performing the noninstructional duties permitted under § 116a.61.

If an LEA does not fulfill its responsibility to provide equitable Title I services to eligible private school children, section 130(b) of Title I authorizes the Secretary to by-pass that LEA and to arrange for alternative services that meet the requirements in §§ 116a.80–116a.82. The general standard for by-pass actions is contained in § 116a.94. Before taking a final by-pass action, the Secretary provides the LEA and its SEA, according to the provisions in § 116a.95, with notice of the proposed by-pass and an opportunity to appear at a hearing to show cause why the by-pass should not be implemented. Section 116a.96 affords the LEA or SEA the right to appeal the Secretary's final by-pass decision to the appropriate United States court of appeals.

If the Secretary determines that the LEA has failed to provide equitable Title I services to private school children as required in §§ 116a.80–116a.82, the Secretary (a) waives the LEA's responsibility for providing those services; (b) arranges for alternative Title I services; and (c) deducts the cost of the alternative services from the LEA's Title I allocation, according to the provisions in § 116a.97. Section 116a.99 permits a by-pass action to continue until the Secretary determines that there will no longer be a failure by the LEA to comply with the requirements in §§ 116a.80–116a.82.

Needs Assessment (§§ 116a.80–116a.105)

Under section 124(b) of the Title I statute, an LEA may receive Title I assistance only if it makes an annual assessment of the educational needs of its children.

Section 116a.101 of these proposed regulations requires the LEA to identify the instructional areas (e.g., reading, mathematics) on which the project will focus, including the grade or age levels to be served and the educational needs to be addressed. Section 116a.102 requires the LEA to identify the educationally deprived children in its eligible school attendance areas and schools.

After the LEA completes the procedures in § 116a.101 and § 116a.102, it must, under § 116a.103, select those educationally deprived children who are in the greatest need of assistance in the instructional areas identified in § 116a.101. For those children selected under § 116a.103 to participate in the Title I project, the LEA must determine their educational needs under § 116a.104 and develop educational objectives and instructional strategies to remediate those needs under § 116a.105.

Comparability of Services (§§ 116a.112–116a.125)

Under section 126(e) of the Title I statute, an LEA may receive Title I funds "only if State and local funds will be used in the district of such agency to provide services in *project areas* which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving Title I funds." (Emphasis added.)

Section 126(e), as re-enacted by the Education Amendments of 1978, includes a new requirement that "[w]here, under regulations of the Secretary, all *school attendance areas* in the district of the agency are designated as *project areas*, the agency may receive [Title I] funds only if State and local funds are used to provide services which, taken as a whole, are substantially comparable, in accordance with regulations of the Secretary, in each *project area*." (Emphasis added.)

As shown by the emphasis that has been added to the above-quoted portion of the statute, the comparability requirement in section 126(e) applies only to project areas—not project schools. Although the Office of Education previously interpreted the comparability requirements as applying to both project areas and project schools, §§ 116a.112–116a.125 of the proposed regulations follow the literal language of the statute and apply the comparability requirement only to project areas. Thus, project schools—located in ineligible attendance areas—that participate in Title I because their enrollment has a high concentration of children from low-income families are not included in the LEA's comparability determinations.

In keeping with a new provision in section 126(e) of the Title I statute, § 116a.113(b)(3) of these proposed regulations indicates that an LEA that was not required to file a report concerning comparability by December 1, 1978—because, at that time, all of its school attendance areas were project areas—is not currently required to file a comparability report to its SEA. However, the fact that an LEA is relieved of the obligation to file such a report does not relieve it of the obligation to comply with the comparability requirements in § 116a.112 and §§ 116a.116–116a.120.

Section 116a.124 of the proposed regulations incorporates the interpretation contained in an interpretive rule published in the **Federal Register** on July 6, 1979 (44 FR 39404–39405). According to that interpretation as restated in § 116a.124, the SEA must refund to the Department the total amount of funds that, according to an audit, were spent to operate a Title I project in each of an LEA's noncomparable schools. Section 116a.124 identifies the expenditures to be included in determining that total amount.

Use of Title I Funds To Supplement, Not Supplant NonFederal Funds (§§ 116a.130–116a.143)

Sections 116a.130–116a.143 of the proposed regulations govern an LEA's use of both non-Federal and Title I funds to ensure compliance with statutory supplement, not supplant requirements. These requirements are designed to ensure that Title I funds are used in addition to, and not in place of, "funds that would, in the absence of Title I be made available" from State and local sources. Three basic concepts underlie the regulatory provisions:

First, Title I projects, like other federally funded programs, should be operated in a way that does not discriminate on the basis of handicap or national origin. This principle is clearly stated in order to remove any doubt that may have existed regarding the eligibility of handicapped children and children with limited proficiency in the English language to participate in Title I projects.

The proposed regulations also provide that Title I funds may be used as needed to provide to handicapped children special services and materials not otherwise required to be made available using State and local funds. The purpose is to ensure these children an equal opportunity to benefit from Title I services. Similarly, Title I services should be provided using bilingual education teachers and bilingual materials, as necessary, to ensure children with limited proficiency in the English language an equal opportunity to benefit.

Second, the proposed regulations require that State and local funds available to an LEA be distributed equitably so that children who participate in the Title I project receive their fair share and are not discriminated against in the distribution of funds. The "equitable distribution" concept has long been included in Office of Education policy and finds express support in the legislative history of the 1978 Education Amendments (S. Rep. No. 856, 95th Cong., 2d Sess. 16 (1978); H.R. Rep. No. 1137, 95th Cong. 2d Sess. 30 (1978)).

Third, the proposed regulations prohibit the use of Title I funds for services that an LEA is required to provide under Federal, State, or local law or court order. The reason for this provision is that funds for these services are funds that the LEA would have to provide regardless of the availability of Title I.

Admittedly, there is no express statement in the Title I statute or its legislative history that directly addresses the issue of whether Title I funds may be used to fill a gap in services where an LEA has failed to provide those services required by law. However, the Secretary believes that the Congress assumed that funds that an LEA is required to provide would be available in the absence of Title I.

The Secretary has accordingly retained the "required by law" standard. At the same time, the Secretary has concluded that Congress did not intend to exclude children, who may be most in need because they suffer from multiple disadvantages, from the opportunity to benefit from Title I services. Accordingly, the proposed regulations make clear that children who are entitled to receive certain special services under Federal, State, or local law are not, by virtue of that fact, ineligible for the supplemental services available under Title I.

Both of these latter two concepts—that an LEA must equitably distribute State and local funds and that an LEA may not use Title I funds for services that it is required by law to provide from State and local funds—apply in a somewhat different way with regard to:

(1) Regular funds and funds for State phase-in programs; and (2) certain special programs—that is, certain compensatory education programs and programs for special education and bilingual education.

The statutory prohibition governing supplanting of regular funds and funds for State phase-in programs applies to those funds available to participating children in the absence of Title I funds. Consequently, those types of State and local funds must be equitably distributed among Title I participants and non-participants alike.

To avoid violating this requirement, an LEA must comply with the Title I excess cost requirements, must not systematically assign a greater number of students per teacher in classes attended by children participating in the Title I project, and must not deny Title I participating children an equal opportunity to participate in State phase-in programs or services provided from regular State and local funds.

At the same time, an LEA may not use Title I funds to provide services required by Federal, State, or local law or by court order.

With regard to special programs, the statutory prohibition governing supplanting of non-Federal funds was amended in 1978 to prevent the use of Title I funds to take the place of non-Federal funds available to children, in the aggregate, eligible for Title I services. This amendment was designed to provide an LEA with greater flexibility in its allocation of State and local funds to children eligible for, but not selected to participate in, Title I services.

Applied in this context, the equitable distribution standard requires an LEA to distribute—or to justify its failure to distribute—to children eligible for each type of special program in Title I eligible areas, a proportionate share of the State and local funds available in the district as a whole for that type of special program.

At the same time these proposed regulations apply the "required by law" standard to prohibit use of Title I funds to meet obligations imposed by Federal, State, or local law. The proposed regulations specifically address application of this standard with regard to requirements imposed by Federal laws relating to handicapped children and by Title VI of the 1964 Civil Rights Act.

In the case of handicapped children, for example, a model of compliance is provided, indicating that an LEA will be presumed to be in compliance if it does not distinguish between handicapped and non-handicapped children in designing its Title I project, in setting project objectives, in selecting participants (i.e., if the LEA uses uniform criteria), in using a particular educational setting, or in providing services at a particular intensity on instruction.

An LEA may also demonstrate compliance by justifying use of separate settings or differences in the intensity of instruction provided in order for handicapped children to benefit from the Title I services. In any event, however, an LEA may select—to participate in the Title I project—only handicapped students who can reasonably be expected to make substantial progress toward achieving project objectives without the LEA's substantially modifying the level of the subject matter or intensity of instruction provided.

Separate but generally similar provisions of proposed regulations address the use of Title I funds to provide services to children whose primary or home language is other than English. These provisions differ in two respects from those applicable to handicapped children:

First, there is no threshold requirement, applicable to selection of children whose primary or home language is other than English, which compares to the requirement that handicapped children selected for participation be expected to make substantial progress toward achieving project objectives without substantial modification of the level or intensity of instruction.

Second, an LEA is permitted, as an alternative means of complying with the non-supplanting requirement, to demonstrate that it is using non-Title I funds to satisfy obligations under Title VI specified by court order, or compliance agreement, or to continue past practices recognized as satisfying those obligations in earlier compliance reviews.

Finally, with regard to the use of Title I funds to meet obligations under State law, the regulations provide that an LEA may demonstrate compliance with the "required by law" standard if State and local officials certify that the LEA is meeting State and local requirements and if the LEA has supporting evidence available for review.

It is doubtful that the Congress intended the Department to review and determine what is required under State law and to enforce that law against State and local agencies. Thus, these proposed regulations give State and local officials considerable flexibility in interpreting and enforcing their own laws. In brief, services appropriate to Title I that a State and its LEAs demonstrate are not required by State and local laws may be provided by using Title I funds.

In developing the supplement, not supplant requirements included in these proposed regulations, the Secretary has carefully considered public comments on the June 29, 1979 version of the proposed regulations, as well as comments from State and local Title I staffs and other intersted parties in response to a draft version of these proposed regulations.

The Secretary believes that these new proposed regulations represent a significant advance in meeting legal, policy, and practical considerations. Members of the public are encouraged to comment on those sections of the proposed regulations that deal with the supplement, not supplant requirements.

Parental Involvement (§§ 116a.150–116a.162)

To encourage the involvement of parents in the planning, implementation, and evaluation of Title I projects, section 125(a) of the Title I Statute requires an LEA to establish advisory councils. Following the enactment of this provision, Pub. L. 96–46 incorporated technical amendments to the Title I statute that particularly revised the requirements for parental involvement. These proposed regulations reflect the requirements in both the Title I statute and its technical amendments.

Section 116a.151 of these proposed regulations provides for the establishment of a district advisory council for the LEA's entire school district and an advisory council for each project area and project school. According to § 116a.152, a district advisory council must have a majority of members who are parents of children to be served by the project. In addition, § 116a.152 requires that each district advisory council include at least two members who represent eligible-but-not-participating children and children in eligible-but-not-participating school attendance areas and schools.

Section 116a.153 provides models for electing the members of a district advisory council. Election may be by (a) parents of children in project areas and project schools; or (b) members of the project area advisory councils and project school advisory councils. In addition, the parents of eligible-but-not-participating children and of children in eligible-but-not-participating school attendance areas are to elect the persons to represent their children. Section 116a.154 contains the procedures for these elections.

Similarly, §§ 116a.155–116a.157 require an LEA to establish an advisory council for each project area and project school unless, as provided in § 116a.155(c), not more than one full-time equivalent staff member is paid with Title I funds and not more than 40 students receive Title I services. Section 116a.156, in accordance with the Title I statute, requires each of these advisory councils to have a majority of members who are parents of the children to be served by the Title I project. Additional members may be teachers associated with the project area or project school, regardless of where they reside, and residents of the LEA's school district. These advisory council members are to be elected according to the procedures in § 116a.157.

Section 116a.159 prohbits the LEA from imposing additional restrictions on the rights of parents to elect advisory council members; § 116a.159 defines the responsibilities of advisory councils; and § 116a.160 requires the LEA to provide certain information to advisory councils.

In addition, § 116a.161 regulates the training of advisory council members. The LEA must develop a program for training its advisory council members, but that training must meet certain conditions. For example, under § 116a.161(c), the LEA may not include attendance at a regional or national conference as part of its training program unless (a) the Secretary determines that the conference will provide unique and valuable experiences; (b) the LEA determines in advance that the conference is relevant to the LEA's project; and (c) the LEA limits the number of members attending the conference at Title I expense to the minimum required to communicate the information presented to the other advisory council members. Finally, § 116a.162 identifies certain allowable expenditures relating to advisory councils.

E. Invitation to Comment

Interested persons are invited to submit comments and recommendations on these proposed regulations. Written comments must be sent to the address given at the beginning of this notice. All comments received on or before August 11, 1980, will be considered in developing the final regulations for Part 116 and Part 116a.

The Secretary reminds the commenters that many of these proposed regulations simply repeat, or are based entirely on, provisions in the Title I statute. The Secretary has no authority to change these statutory provisions.

In addition, the Secretary emphasizes that the regulatory provisions for Title I concentration grants (§§ 116a.30–116a.37) and evaluation of Title I projects operated by LEAs (§§ 116a.170–116a.177) have recently been published as final regulations (*see* 45 FR 22654–22657 and 44 FR 59152–59159, respectively). Although these regulatory provisions are currently in effect, they have been included in the proposed regulations as a convenience to the public. Except for minor editorial changes, these provisions remain unchanged from the form in which they were published as final regulations. Thus, further comments are not being sought on them and will not be considered.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 3642, Regional Office Building No. 3, 7th and D Streets, SW, Washington, D.C., between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

F. Citations of Authority

Both the statutory and United States Code citations and, in some cases, other legal authority are included in parenthesis on the line following each provision in these proposed regulations. References to Sec. in these citations of authority relate to sections of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments fo 1978, Pub. L. 95–561.

(Catalog of Federal Domestic Assistance No. 13.428, Educationally Deprived Children-Local Educational Agencies and No. 13.430, Educationally Deprived Children-State Administration)

Dated: June 2, 1980.

Shirley M. Hufstedler,

Secretary of Education.

The Secretary amends Part 116 of Title 45 of the Code of Federal Regulations to read as follows:

PART 116—FINANCIAL ASSISTANCE TO LOCAL AND STATE AGENCIES TO MEET SPECIAL EDUCATIONAL NEEDS

Subpart A—General

Sec.

116.1 Purpose.
116.2 Applicability of regulations in this part.
116.3 Applicability of other Title I regulations.
116.4 Applicability of other statutes and regulations.
116.5 Definitions.
116.6 Abbreviations that are frequently used.
116.7–116.9 [Reserved]

Subpart B—Allocation of Title I Funds

Sec.

116.10 Amount of funds available for Title I grants.
116.11–116.19 [Reserved]

Subpart C—Documents a State Must Submit Before Receiving Title I Funds

116.20 State application.
116.21 State monitoring and enforcement plan (MEP).
116.22–116.29 [Reserved]

Subpart D—Program Requirements That Apply to All Agencies That Receive Title I Funds

Participation

116.30 Teacher and school board participation.
116.31 Parental participation.
116.32–116.39 [Reserved]

Consultation and Coordination

116.40 Coordination with other programs.
116.41 Coordination of health, nutrition, or social services.
116.42 Simultaneous use of Title I funds and other funds.
116.43 Jointly operated projects.
116.44–116.49 [Reserved]

Project Design

116.50 Use of evaluations in planning.
116.51 Sufficient size, scope, and quality of projects.
116.52 Prohibition against using Title I funds to provide general aid.
116.53 Minimum expenditure for a Title I project.
116.54 Sustaining educational gains.
116.55 Individualized educational plan.
116.56–116.59 [Reserved]

Personnel

116.60 Training education aides and volunteers.
116.61 Noninstructional duties.
116.62–116.69 [Reserved]

Allowable Costs

116.70 Allowable costs under EDGAR.
116.71 Specific requirements concerning allowable costs under Title I.
116.72 Use of Title I funds for planning.
116.73 Use of Title I funds for State administration.
116.74 Use of Title I funds for health, nutrition, or social services.
116.75 Use of Title I funds for training eligible persons.
116.76 Use of Title I funds for bonus pay.
116.77 Use of Title I funds for evaluation.
116.78 LEA's use of Title I funds for selecting children to receive Title I services.
116.79 LEA's use of Title I funds for expenses related to advisory councils.
116.80 Use of Title I funds for construction.
116.81 Use of Title I funds for equipment.
116.82–116.89 [Reserved]

Subpart E—Fiscal Requirements That Apply to All Agencies That Receive Title I Funds

116.90 Prohibition against considering Title I funds in determining State aid.
116.91 Maintenance of effort.
116.92 Waiver of the maintenance of effort requirement.

Sec.
116.93 Supplement, not supplant.
116.94 Excess costs.
116.95–116.99 [Reserved]

Subpart F—State and Local Administrative Responsibilities

General

116.100 Applicability of the regulations in Subpart F.
116.101 Payments for State administration.
116.102 Payments by SEAs.
116.103–116.109 [Reserved]

Application Approval

116.110 SEA approval of applications from LEAs and State agencies.
116.111 Opportunity for a hearing on application disapproval.
116.112 Appeal to the Secretary.
116.113 Amendments to the application.
116.114–116.119 [Reserved]

State Rulemaking

116.120 Authority for State rulemaking.
116.121 Limitations on State rulemaking authority.
116.122 Examples of State rulemaking.
116.123–116.129 [Reserved]

Evaluation

116.130 Evaluation procedures.
116.131–116.139 [Reserved]

Recordkeeping

116.140 Recordkeeping requirements.
116.141 Access to information.
116.142 Access by State and Federal auditors.
116.143–116.149 [Reserved]

State Monitoring

116.150 Obligation to adopt standards for monitoring.
116.151 Minimum standards for monitoring.
116.152–116.159 [Reserved]

Reporting

116.160 Reporting to the Secretary.
116.161 Reporting to the SEA.
116.162–116.169 [Reserved]

Technical Assistance and Dissemination of Information

116.170 Technical assistance provided by the SEA.
116.171 Dissemination of information to LEAs and State agencies.
116.172 Dissemination of information to teachers and administrators.
116.173–116.179 [Reserved]

Complaint Review and Resolution

116.180 Contents of a complaint.
116.181 Who may file a complaint.
116.182 Where to file a complaint.
116.183 Required procedures for resolution of complaints that are filed with LEAs or State agencies.
116.184 Time limit for resolution of complaints that are filed with LEAs or State agencies.
116.185 Appeals from resolutions by LEAs or State agencies.
116.186 Required procedures for resolution of appeals and complaints that are filed with SEAs.
Sec.
116.187 Time limit for resolution of appeals and complaints that are filed with SEAs.
116.188 Contents of the final resolution by an SEA.
116.189 [Reserved]

State Audits, Resolution, and Repayment

116.190 State audits.
116.191 Audit resolution.
116.192 Audit appeals.
116.193 Appeal to the Secretary.
116.194 Repayment of misspent Title I funds.
116.195 Use of misspent funds that are repaid to SEAs.
116.196 Collection action by the Secretary.
116.197–116.199 [Reserved]

State Withholding of Payments

116.200 SEA withholding of Title I payments.
116.201 Notice to the public of SEA withholding.
116.202 Appeal to the Secretary.
116.203–116.209 [Reserved]

State Compliance Agreements

116.210 Use of a State compliance agreement.
116.211 Contents of a State compliance agreement.
116.212 Duration of a State compliance agreement.
116.213 Effect of expiration of a State compliance agreement.
116.214 Notice of a State compliance agreement.
116.215–116.219 [Reserved]

Subpart G—Federal Administrative Responsibilities

Application Approval

116.220 Approval of State applications.
116.221 Opportunity for a hearing on disapproval of a State application.
116.222–116.229 [Reserved]

Evaluation

116.230 Secretary's evaluation procedures.
116.231–116.239 [Reserved]

Complaint Review and Resolution

116.240 Contents of a complaint.
116.241 Procedures for receiving direct complaints.
116.242 Procedures for handling direct complaints.
116.243 Appeals from final resolutions by SEAs.
116.244 Preliminary review of appeals.
116.245 The designated official's procedures for resolving direct complaints and appeals.
116.246 Administrative appeals from the designated official's resolution.
116.247 Preliminary review of administrative appeals.
116.248 The Assistant Secretary's procedures for resolving administrative appeals.
116.249 [Reserved]

Audits and Audit Resolution

116.250 Audits by the Secretary.
116.251 Audit resolution procedures.
116.252 Judicial review of audit resolutions.
Sec.
116.253 Repayment of misspent funds.
116.254 Repayment to the agency of recovered Title I funds.
116.255–116.259 [Reserved]

Withholding of Payments

116.260 Withholding of Title I payments.
116.261 Suspension of Title I payments pending completion of withholding proceedings.
116.262 Judicial review of withholding actions.
116.263 Notice to the public of the Secretary's withholding.
116.264–116.269 [Reserved]

Federal Compliance Agreements

116.270 Use of a Federal compliance agreement.
116.271 Contents of a Federal compliance agreement.
116.272 Time period for coming into compliance under a Federal compliance agreement.
116.273 Duration of a Federal compliance agreement.
116.274 Effect of expiration of a Federal compliance agreement.
116.275 Notice of a Federal compliance agreement.
116.276–116.279 [Reserved]

Cease and Desist Proceedings

116.280 Procedures for issuing cease and desist orders.
116.281 Judicial review of cease and desist orders.
116.282 Enforcement of cease and desist orders.
116.283–116.289 [Reserved]

Authority: Sec. 101–198 of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95–561 (20 U.S.C. 2701–2854), unless otherwise noted.

PART 116—FINANCIAL ASSISTANCE TO LOCAL AND STATE AGENCIES TO MEET SPECIAL EDUCATIONAL NEEDS

Subpart A—General

§ 116.1 Purpose.

The programs authorized by Title I of the Elementary and Secondary Education Act of 1965, as amended, provide financial assistance to—

(a) Local educational agencies (LEAs) for projects designed to meet the special educational needs of—

(1) Educationally deprived children in low-income areas; and

(2) Children in local institutions for neglected or delinquent children;

(b) State agencies for projects designed to meet the special educational needs of—

(1) Handicapped children; and

(2) Children in institutions for neglected or delinquent children, or in adult correctional institutions; and

(c) State educational agencies (SEAs) for projects designed to meet the special educational needs of migratory children

of migratory agricultural workers or fishers.

(Sec. 101, 20 U.S.C. 2701)

§ 116.2 Applicability of regulations in this part.

The regulations in this part apply to all programs authorized under Title I of the Elementary and Secondary Education Act of 1965, as amended.

(Sec. 101–198, 20 U.S.C. 2701–2854)

§ 116.3 Applicability of other Title I regulations.

The regulations in this part are supplemented by the regulations in 45 CFR Parts 116a through 116d, which contain additional requirements relating to each of the categories of Title I programs:

(a) 45 CFR Part 116a applies to projects—

(1) Designed to meet the special educational needs of—

(i) Educationally deprived children in low-income areas; and

(ii) Children in local institutions for neglected or delinquent children; and

(2) Operated by LEAs.

(b) 45 CFR Part 116b applies to projects—

(1) Designed to meet the special educational needs of handicapped children; and

(2) Operated by the State agencies directly responsible for providing free public education for those children.

(c) 45 CFR Part 116c applies to projects—

(1) Designed to meet the special educational needs of children in institutions for neglected or delinquent children, or in adult correctional institutions; and

(2) Operated by the State agencies directly responsible for providing free public education for those children.

(d) 45 CFR Part 116d applies to projects—

(1) Designed to meet the special educational needs of migratory children of migratory agricultural workers or fishers; and

(2) Operated by SEAs.

(Sec. 101–198, 20 U.S.C. 2701–2854)

§ 116.4 Applicability of other statutes and regulations.

In addition to the regulations in this part and in 45 CFR Parts 116a through 116d, the following statutes and regulations apply to financial assistance provided under Title I of the Elementary and Secondary Education Act of 1965, as amended:

(a) General Education Provisions Act (GEPA) in 20 U.S.C. 1221 *et seq.*

(b) Education Division General Administrative Regulations (EDGAR) in 45 CFR Part 100b (State-administered programs), 45 CFR Part 100c (General), and 45 CFR Part 100d (Education Appeal Board).

(Sec. 101–198, 20 U.S.C. 2701–2854; 20 U.S.C. 1221 *et seq.*; 45 CFR Parts 100b, 100c, 100d)

§ 116.5 Definitions.

The following definitions apply to this part and to 45 CFR Parts 116a through 116d.

"Applicant" means a party requesting a grant or subgrant under a program administered by the Department.

"Application" means a request for a grant or subgrant under a program administered by the Department.

"Assistant Secretary" means the Assistant Secretary for Elementary and Secondary Education within the Department.

"Average daily attendance" (ADA) means attendance determined under State law. However, if the LEA in which any child resides makes or contracts to make a tuition payment for the free public education of that child in a school situated in another LEA, that child shall be considered—

(a) To be in attendance at a school of the LEA that makes or contracts to make the tuition payment; and

(b) Not to be in attendance at a school of the LEA receiving the tuition payment or entitled to receive the tuition payment under the contract.

"Average per pupil expenditure"—

(a) In the case of a State or the United States, this terms means the sum of (1) the aggregate current expenditures of all LEAs in the State or in the United States, as the case may be, and (2) any direct current expenditures by the State or all of the States, as the case may be, for the operation of these LEAs; divided by (3) the aggregate number of children in ADA to whom these LEAs provided free public education during the year preceding the one for which the computation is made.

(b) For purposes of this definition, aggregate current expenditures are—

(1) Aggregate expenditures during the third fiscal year preceding the fiscal year for which the computation is made; or

(2) If satisfactory data for the third preceding fiscal year in paragraph (b)(1) of this section are not available, aggregate expenditures during the most recent preceding fiscal year for which satisfactory data are available.

(c) Direct current expenditures shall be computed without regard to the source of funds from which these expenditures are made.

(d) For purpose of this definition, the United States means the 50 States plus the District of Columbia.

"Cease and desist" means to discontinue a prohibited practice or initiate a required practice.

"Children" means persons—

(a) Not above age 21 who are entitled to a free public education not above grade 12; or

(b) Who are of preschool age.

"Construction" means any work needed for—

(a) The preparing of drawings and specifications for school facilities; or

(b) The erection, building, acquiring, altering, remodeling, improving, or extending of school facilities.

"County" means those divisions of a State that are used by the Secretary of Commerce in compiling and reporting data regarding counties.

"Current expenditures" means expenditures for free public education. The term—

(a) Includes expenditures for administration, instruction, attendance, health services, pupil transportation, plant operation and maintenance, fixed charges, and net expenditures to cover deficits for food services and student activities; and

(b) Does not include expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under Title I or Part B (Instructional materials and school library resources) and Part C (Improvement in local educational practice) of Title IV of the Elementary and Secondary Education Act of 1965, as amended.

"Department" means the United States Department of Education.

"Elementary school" means a day or residential school that provides elementary education, as determined by State law.

"Equipment" means—

(a) Machinery, utilities, and building equipment;

(b) Any enclosures or structures necessary to house the items in paragraph (a) of this definition; and

(c) All other items necessary for the functioning of a facility that is used to provide educational services, including—

(1) Items like instructional equipment and necessary furniture;

(2) Printed, published, and audio-visual instructional materials; and

(3) Books, periodicals, documents, and other related materials.

"Fiscal year" means the Federal fiscal year—a period beginning on October 1 and ending on the following September 30—or another twelve-month period normally used by the State educational agency for recordkeeping.

"Free public education"—

(a) Means education that is provided—

(1) At public expense, under public supervision and direction, and without tuition charge; and

(2) As elementary or secondary school education in the applicable State; and

(b) Does not include any education provided beyond grade 12.

"Grant period" means the period for which grant funds have been awarded.

"Local educational agency" (LEA)—

(a) Means a public board of education or other public authority legally constituted within a State for either administrative control or direction of—or to perform a service function for—public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or a combination of school districts or counties recognized in a State as an administrative agency for public elementary or secondary schools; and

(b) Includes any public institution or agency—other than those specified in paragraph (a) of this definition—having administrative control and direction of a public elementary or secondary school.

"Parent" means natural parent, step-parent, parent through adoption, legal guardian, or other familiy members acting in the place of a parent.

"Participating children" means children selected to receive Title I services during the current fiscal year.

"Preschool children" means children who are—

(a) Below the age and grade level at which the applicant agency provides free public education; and

(b) Of the age or grade level at which they can benefit from an organized instructional program provided in a school or instructional setting.

"Project" means the activity described in an application.

"Project period" means the period for which the SEA or the Secretary approves a project.

"Public," as applied to an agency, organization, or institution, means that the agency, organization, or institution is under the administrative supervision or control of a government other than the Federal Government.

"School facilities"—

(a) Means classrooms and related facilities, including initial equipment, for free public education, or interests in land, including site, grading, and improvements, on which the facilities are constructed; and

(b) Does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

"Secondary school"—

(a) Means a day or residential school that provides secondary education, as determined by State law; and

(b) Does not include any education provided beyond grade 12.

"Secretary" means the United States Secretary of Education.

"State" means—

(a) A State of the United States; or

(b) Puerto Rico, Guam, the District of Columbia, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

"State agency" means—

(a) A State-operated agency directly responsible for providing free public education for handicapped children, as that term is defined in section 602(1) of the Education of the Handicapped Act (20 U.S.C. 1401(1));

(b) A State-operated agency directly responsible for providing free public education for children in institutions for neglected or delinquent children, or in adult correctional institutions; or

(c) A State educational agency in its capacity as an agency operating a program for migratory children of migratory agricultural workers or fishers. The term "State agency" does not include a State educational agency in its capacity as the agency carrying out State administrative responsibilities under Subpart F of this part.

"State educational agency" (SEA) means the State Board of Education or other agency or officer primarily responsible for the supervision of public elementary and secondary schools in the State. In the absence of this officer or agency, it is an officer or agency designated by the Governor or State law.

"Suspension" means temporarily stopping payment of Federal funds to an agency receiving Title I assistance and stopping that agency's authority to charge costs to a Title I project, pending the outcome of a withholding hearing.

"Title I" means Title I of the Elementary and Secondary Education Act of 1965, as amended, dealing with financial assistance to meet the special educational needs of children.

"Title IV" means Title IV of the Elementary and Secondary Education Act of 1965, as amended, dealing with educational improvement, resources, and support.

"Title V" means Title V of the Elementary and Secondary Education Act of 1965, as amended, dealing with State leadership.

"Withholding" means stopping payment of Federal funds to an agency receiving Title I assistance and stopping that agency's authority to charge costs to a Title I project for the period of time the agency is in violation of a requirement.

(Sec. 101–198, 20 U.S.C. 2701–2854; Sec. 408 of GEPA, 20 U.S.C. 1221e–3(a)(1))

§ 116.6 Abbreviations that are frequently used.

The following abbreviations are used frequently in this part and 45 CFR Parts 116a through 116d:

"ADA" stands for average daily attendance.

"EDGAR" stands for the Education Division General Administrative Regulations.

"ESEA" stands for the Elementary and Secondary Education Act of 1965, as amended.

"GEPA" stands for the General Education Provisions Act.

"LEA" Stands for local educational agency.

"MEP" stands for monitoring and enforcement plan.

"SEA" stands for State educational agency.

(Secs. 101–198, 20 U.S.C. 2701–2854; sec. 408(a)(1) of GEPA, 20 U.S.C. 1221e–3(a)(1))

§§ 116.7–116.9 [Reserved]

Subpart B—Allocation of Title I Funds

§ 116.10 Amount of funds available for Title I grants.

(a) *Grants to SEAs.* The Secretary annually notifies an SEA of the amount of funds the SEA is eligible to receive for the next fiscal year for—

(1) Allocation to State agencies under paragraph (b) of this section and to LEAs under paragraph (c) of this section;

(2) State administration of Title I programs; and

(3) If applicable, projects under 45 CFR Part 116d for migratory children of migratory agricultural workers or fishers.

(b) *Grants to State agencies.* The SEA shall annually notify each eligible State agency of the amount of Title I funds that the Secretary has determined the State agency is eligible to receive under 45 CFR Parts 116b or 116c for the next fiscal year.

(c) *Grants to LEAs.* The SEA, on the basis of State and county allocations provided by the secretary and on the basis of other data, shall annually—

(1) Determine the amount of Title I funds that each LEA is eligible to receive under 45 CFR Part 116a for the next fiscal year; and

(2) Notify each LEA of the amount determined under paragraph (c)(1) of this section.

(d) *Payments to the Department of the Interior.* The Secretary annually

determines the amount of Title I funds allotted for payments to the Secretary of the Interior to meet the special educational needs of educationally deprived Indian children.

(Sec. 1111, 20 U.S.C. 2711)

§§ 116.11–116.19 [Reserved]

Subpart C—Documents a State Must Submit Before Receiving Title I Funds

§ 116.20 State application.

(a) *Submission of the State application.* A State that wishes to receive Title I funds, except funds for a project for migratory children covered by 45 CFR Part 116d, shall have on file with the Secretary an application that—

(1) Has been properly submitted to the Secretary by the SEA of that State; and

(2) Meets the requirements of paragraph (b) of this section.

(b) *Contents of the State application.* The application required by paragraph (a) of this section must include—

(1) Satisfactory assurances that the SEA will comply with all applicable requirements of—

(i) The Title I statute and regulations;

(ii) EDGAR; and

(iii) GEPA (Section 435 of GEPA, which specifically requires that an application contain certain assurances); and

(2) Any additional information that the Secretary considers necessary to make the findings required under section 182 of Title I pertaining to approval of applications.

(Sec. 162, 20 U.S.C. 2802; Sec. 182, 20 U.S.C. 2832; Sec. 435 of GEPA, 20 U.S.C. 1232d)

§ 116.21 State monitoring and enforcement plan (MEP).

(a) *Submission of the MEP.* An SEA that receives Title I assistance shall submit to the Secretary—

(1) A single MEP that covers all Title I programs; or

(2) A separate MEP for each of the four categories of Title I programs described in § 116.3.

(b) *Frequency of submission.*

(1) The SEA shall submit the MEP, or MEPs, required under paragraph (a) of this section at the times the Secretary prescribes.

(2) In any case, this shall be at least once every three years.

(c) *Contents of the MEP.* The MEP must include—

(1) A report of the Title I monitoring and enforcement activities that the SEA has conducted since submitting its previous MEP;

(2) A schedule of regular visits by SEA personnel to Title I projects that meets the requirements in § 116.151;

(3) A statement of the matters to be reviewed during the site visits that meets the requirements in § 116.151;

(4) A description of the SEA's procedures for verifying information provided by LEAs and State agencies, including the use of other sources available to the SEA to verify that information;

(5) A description of—

(i) The State's procedures for conducting regular audits of Title I expenditures made by LEAs and State agencies under § 116.190; and

(ii) The SEA's procedures for resolving audit findings and recommendations under §§ 116.191–116.196;

(6) A description of the SEA's procedures for resolving direct complaints and appeals under §§ 116.180–116.188; and

(7) A description of the SEA's methods for determining that LEAs are in compliance with the requirements in 45 CFR 116a.80–116a.82 and 45 CFR 116a.94–116a.99 concerning the equitable provision of services to children enrolled in private schools.

(d) *Amendments.* An SEA shall submit to the Secretary amendments to an MEP whenever the SEA has substantially changed a policy or procedure that is described in that MEP.

(Sec. 171, 20 U.S.C. 2821)

§§ 116.22–116.29 [Reserved]

Subpart D—Program Requirements That Apply To All Agencies That Receive Title I Funds

Participation

§ 116.30 Teacher and school board participation.

An agency that receives Title I assistance shall—

(a) Involve the following persons in both planning for Title I projects and evaluating their effectiveness:

(1) Teachers in schools participating in the Title I project.

(2) School boards, or comparable authorities, that have jurisdiction over the schools participating in the Title I project and are responsible to the public; and

(b) Make available to the persons described in paragraph (a) of this section a copy of the Title I project evaluation required by § 116.130 so that those persons can use the evaluation in planning and improving projects to be carried out in subsequent years.

(Sec. 124(i), 20 U.S.C. 2743(i))

§ 116.31 Parental participation.

(a) *Required parental participation.* An agency that receives Title I assistance shall give the parents of children participating in Title I projects an opportunity to—

(1) Participate in establishing Title I projects;

(2) Make recommendations concerning the instructional goals of Title I projects; and

(3) Assist their children in achieving the instructional goals.

(b) *Information for parents.* In order to facilitate the parental participation described in paragraph (a) of this section, the agency that receives Title I assistance shall inform the parents of children participating in its Title I projects of—

(1) The instructional goals of the current Title I projects; and

(2) The progress that their children are making toward achieving the instructional goals.

(c) *Other applicable regulations on parental involvement.* Title 45 CFR Parts 116a and 116d contain additional requirements for parental involvement in the Title I projects covered by those parts.

(Sec. 124(j), 20 U.S.C. 2734(j))

§§ 116.32–116.39 [Reserved]

Consultation and Coordination

§ 116.40 Coordination with other programs.

(a) An agency that receives Title I assistance shall demonstrate in its Title I project application that—

(1) In developing its Title I project, it has taken into consideration the benefits and services that are or may be available, during the period covered by the application, through other public and private agencies, organizations, or individuals; and

(2) In order to avoid duplication of effort and to ensure that all projects complement each other, it has considered suggestions and offers of assistance made by other agencies.

(b) The Secretary strongly encourages the agency to coordinate Title I instructional services with services provided under other programs, including the regular instructional program provided by the LEA.

(Sec. 124(f)(1), 20 U.S.C. 2734(f)(1))

§ 116.41 Coordination of health, nutrition, or social services.

(a) *Requests for assistance.* (1) Before an agency that receives Title I assistance may use Title I funds for health, nutrition, or social services, it must ask the SEA for assistance in locating and using other Federal and State programs that provide these services.

(2) In its request for the assistance described in paragraph (a)(1) of this section, the agency shall ask the SEA for information concerning—

(i) Other programs that provide the types of health, nutrition, or social services that the agency wishes to provide with Title I funds;

(ii) The types of services provided by these programs; and

(iii) The conditions and procedures for obtaining the services under these other programs.

(b) *Approval by the SEA.* The SEA may approve the use of Title I funds for health, nutrition, or social services only if—

(1) The services are designed to address an identified need of the children who have been selected to participate in the Title I project; and

(2) The funds and services available from other programs are being fully used and are inadequate to meet the identified needs of the children who are eligible to participate in the Title I project.

(Sec. 124(f)(2), 20 U.S.C. 2734(f)(2))

§ 116.42 Simultaneous use of Title I funds and other funds.

If an agency that receives Title I assistance does not meet the requirements in § 116.140(c), the agency may simultaneously use Title I funds and funds from other sources to finance portions of a particular service or project if—

(a) The agency clearly and separately identifies the portion of the service or project supported with Title I funds, and the portion or portions supported by each other source of funds; and

(b) The agency maintains records that are adequate to document that all Title I funds are spent in compliance with all applicable Title I requirements.

(Sec. 124(f), 20 U.S.C. 2734(f); Sec. 173, 20 U.S.C. 2823)

§ 116.43 Jointly operated projects.

Two or more agencies may apply to operate a Title I project jointly if—

(a) The agencies have entered into an agreement for carrying out the jointly operated project; and

(b) The terms of the agreement are specified in a joint Title I project application.

(Sec. 124(o), 20 U.S.C. 2734(o))

§§ 116.44–116.49 [Reserved]

Project Design

§ 116.50 Use of evaluations in planning.

An agency that receives Title I assistance shall use the results of the evaluations required under § 116.130 in planning effective Title I projects.

(Sec. 124(g), 20 U.S.C. 2734(g))

§ 116.51 Sufficient size, scope, and quality of projects.

An agency that receives Title I assistance may use Title I funds for a project only if—

(a) The educational objectives of the project are directly related to one or more of the special educational needs of the children participating in the project;

(b) The resources to be used in the project and the plans for their use are consistent with and show reasonable promise of meeting the educational objectives of the project; and

(c) The project is concentrated on a sufficiently limited number of services and a sufficiently limited number of children to show reasonable promise of meeting the educational objectives of the project.

(Sec. 124(d), 20 U.S.C. 2734(d))

§ 116.52 Prohibition against using Title I funds to provide general aid.

Except as provided in 45 CFR 116a.71(d) and 45 CFR 116a.72–116a.74, an agency that receives Title I assistance—

(a) Shall use Title I funds only for projects that are designed to meet, and have the effect of meeting, the special educational needs of the eligible children that are selected to participate in the project; and

(b) May not use Title I funds for a project that has been designed to meet, or will have the effect of meeting, the general needs of—

(1) A school;

(2) The agency;

(3) An entire grade; or

(4) The student body at large in a school.

(Sec. 124(a), 20 U.S.C. 2734(a))

§ 116.53 Minimum expenditure for a Title I project.

(a) Except as provided in paragraph (b) of this section, a Title I project must involve expenditures of at least $2,500 of Title I funds.

(b) An SEA may reduce the minimum expenditure requirement in paragraph (a) of this section if the SEA determines that it is impossible for the agency that is receiving Title I assistance to—

(1) Meet the requirement on its own; or

(2) Join with another agency or agencies for the purpose of meeting the requirement, for reasons such as—

(i) The distance between the agencies; or

(ii) The difficulty of travel between the agencies.

(Sec. 124(d), 20 U.S.C. 2734(d))

§ 116.54 Sustaining educational gains.

(a) In developing a project to be assisted with Title I funds, an agency shall consider including components designed to sustain the educational gains of children participating in the project beyond the school year during which the agency conducts the project.

(b) Examples of components the agency may consider in meeting the requirement in paragraph (a) of this section include, but are not limited to—

(1) Summer school projects;

(2) Projects at the intermediate level—for example, junior high or middle school projects; and

(3) Projects at the secondary school level.

(Sec. 124(k), 20 U.S.C. 2734(k))

§ 116.55 Individualized educational plan.

The Secretary encourages an agency that receives Title I assistance to develop, if feasible, an individualized educational plan for each child that participates in the Title I project. The plan shall be—

(a) Agreed to by a representative of the agency, the child's Title I teacher, a parent of the child, and, if appropriate, the child; and

(b) Evaluated periodically and revised accordingly.

(Sec. 129, 20 U.S.C. 2739)

§§ 116.56–116.59 [Reserved]

Personnel

§ 116.60 Training education aides and volunteers.

An agency operating a Title I project that includes education aides or volunteers shall provide to those education aides and volunteers training that—

(a) Is directly related to a Title I service that—

(1) Is being provided during the fiscal year in which the training is provided; or

(2) Will be provided during the next fiscal year; and

(b) Includes the participation of the professional staff who are, or will be, assisted by the education aides and volunteers.

(Sec. 124(l), 20 U.S.C. 2734(l))

§ 116.61 Noninstructional duties.

(a) *Conditions for assigning Title I instructional personnel.* An agency that receives Title I assistance may assign instructional personnel paid with Title I funds to certain duties that are not related to classroom instruction and that do not benefit only the children participating in the Title I project, if—

(1) These noninstructional duties are limited, rotating, and supervisory;

(2) Personnel with functions similar to those of the Title I personnel, but who are not paid with Title I funds, are assigned to these noninstructional duties at the same school site;

(3) These noninstructional duties do not include substitute teaching or regular supervision of a homeroom that includes children who are not participating in the Title I project;

(4) The Title I personnel do not perform any duties for pay that non-Title I personnel perform without pay; and

(5) The proportion of total work time that Title I personnel spend performing these noninstructional duties does not exceed the lessor of either—

(i) The proportion of total work time that non-Title I personnel spend performing these noninstructional duties; or

(ii) Ten percent of the Title I person's total work time.

(b) *Examples.* Examples of the types of noninstructional duties that might meet the conditions in paragraph (a) of this section include hall duty, lunchroom supervision, playground supervision, and other tasks commonly shared among the staff in a school.

(Sec. 124(a), 20 U.S.C. 2734(a))

§§116.62–116.69 [Reserved]

Allowable Costs

§ 116.70 Allowable costs under EDGAR.

Subject to the requirements in § 116.71, an agency that receives Title I assistance may, in accordance with the requirements in Subpart F of 45 CFR Part 100b of EDGAR, use those funds to meet the direct costs of project activities and certain indirect costs of project activities.

(Sec. 101–198, 20 U.S.C. 2701–2854; Sec. 408(a)(1) of GEPA, 20 U.S.C. 1221e–3(a)(1))

§ 116.71 Specific requirements concerning allowable costs under Title I.

In addition to meeting the requirements concerning allowable costs in Subpart F of 45 CFR Part 100b of EDGAR, an agency that receives Title I assistance shall use those funds in compliance with the requirements in the Title I statute and Title I regulations, including the requirements in §§ 116.72–116.81.

(Sec. 101–198, 20 U.S.C. 2701–2854; Sec. 408(a)(1) of GEPA, 20 U.S.C. 1221e–3(a)(1))

§ 116.72 Use of Title I funds for planning.

(a) Subject to the limitation on amount in paragraph (b) of this section, an agency may use Title I funds for planing if—

(1) The planning directly relates to a Title I project and results, or is reasonably likely to result, in a Title I project; and

(2) The Title I funds are needed for planning because—

(i) Of the innovative nature of the project; or

(ii) The agency lacks the resources that are required to plan adequately for the project.

(b) During a fiscal year the amount of Title I funds that an agency may use for the planning described in paragraph (a) of this section may not exceed the larger of—

(1) One percent of the total amount of Title I funds received by that agency for that fiscal year; or

(2) $2,000.

(Sec. 124(a), 20 U.S.C. 2754(a); Sec. 124(c), 20 U.S.C. 2734(c))

§ 116.73 Use of Title I funds for State administration.

An SEA shall comply with the specific requirements in § 116.101 concerning the use of Title I funds for State administration.

(Sec. 194, 20 U.S.C. 2844; Sec. 510 of Title V, 20 U.S.C 3150)

§ 116.74 Use of Title I funds for health, nutrition, or social services.

An agency may use Title I funds for health, nutrition, or social services only if the requirements in § 116.41 are met.

(Sec. 124(f)(2), 20 U.S.C. 2734(f)(2))

§ 116.75 Use of Title I funds for training eligible persons.

(a) An agency may use Title I funds to train—

(1) Staff members paid with Title I funds, advisory council members, and volunteers who will perform services in a Title I project;

(2) Regular classroom teachers paid with non-Federal funds or staff specialists paid with non-Federal funds if those persons provide instructional services to participating children or children who will participate in the next school year; and

(3) Principals of schools in which children who participate in a Title I project or who will participate in the next school year are enrolled.

(b) *Scope of the training.* The training referred to in paragraph (a) of this section must be—

(1) Directly related to the Title I services to be provided during the school year in which the training is being provided or in the next school year;

(2) Directly related to the functions that the persons receiving the training provide for the children participating in the Title I project; and

(3) Necessary to meet the needs of the participating children.

(c) *Other requirements.* (1) The training for education aides and volunteers must also meet the requirements of § 116.60.

(2) The training of advisory council members must also meet the requirements of 45 CFR 116a.161.

(Sec. 124(a), 20 U.S.C. 2734(a); Sec. 124(1), 20 U.S.C. 2734(1); Sec. 125(d), 20 U.S.C. 2735(d))

§ 116.76 Use of Title I funds for bonus pay.

An agency may use Title I funds to pay teachers amounts in excess of regular salaries as a bonus for services in Title I project areas and project schools.

(Sec. 124(a), 20 U.S.C. 2734(a))

§ 116.77 Use of Title I funds for evaluation.

An agency that receives Title I assistance shall comply with the requirements in § 116.130 concerning the use of Title I funds for evaluation.

(Sec. 124(g), 20 U.S.C. 2734(g))

§ 116.78 LEA's use of Title I funds for selecting children to receive Title I services.

An LEA that receives Title I assistance may, in accordance with 45 CFR 116a.103, use Title I funds for the cost of selecting children to receive Title I services from among children that the LEA has already identified as educationally deprived.

§ 116.79 LEA's use of title I funds for expenses related to advisory councils.

To the extent permitted under 45 CFR § 116a.162, an LEA that receives Title I assistance may use Title I funds for expenses related to advisory councils.

(Sec. 125, 20 U.S.C. 2735)

§ 116.80 Use of Title I funds for construction.

An agency that receives Title I assistance may use Title I funds for construction of school facilities, as defined in § 116.5, only if—

(a) The agency meets the construction requirements in 45 CFR 100b.600 of EDGAR;

(b) The agency demonstrates in its Title I application that—

(1) The proposed construction is essential to the success of the Title I project; and

(2) It has made every reasonable effort to find other funds to pay for the construction before applying to use Title I funds for that purpose;

(c) The proposed construction is consistent with the overall State plan for the construction of school facilities;

(d) The proposed construction meets the labor standards in section 433 of GEPA;

(e) The plans for the proposed school facility meet any standards that the Secretary prescribes to ensure that school facilities constructed with Title I funds are—to the extent appropriate in view of the uses to be made of the facilities—accessible to and usable by handicapped persons; and

(f) In developing plans for the proposed school facility, the agency has given adequate consideration to—

(1) Excellence of architecture and design; and

(2) The inclusion of works of art, which may represent up to one percent of the cost of the facility.

(Sec. 124(a), 20 U.S.C. 2734(a); Sec. 124(n), 20 U.S.C. 2734(n))

§ 116.81 Use of Title I funds for equipment.

An agency that receives Title I assistance may use Title I funds to purchase equipment only if the agency demonstrates in its Title I application that—

(a) The equipment is needed to operate effectively the Title I project;

(b) In meeting the needs of the Title I Project, it has made every reasonable effort to use equipment that it already has; and

(c) It has made every reasonable effort to find other funds to pay for the equipment before applying to use Title I funds for that purpose.

(Sec. 124(a), 20 U.S.C. 2734(a))

§§ 116.82–116.89 [Reserved]

Subpart E—Fiscal Requirements that Apply to All Agencies that Receive Title I Funds

§ 116.90 Prohibition against considering Title I funds in determining State aid.

(a) Except as provided in paragraph (b) of this section, a State may not consider Title I funds in determining—

(1) The eligibility of an LEA for State aid; or

(2) The amount of State aid to be paid to the LEA for the free public education of children.

(b) The State may provide additional State funds to an LEA on the basis of the LEA's eligibility for, or receipt of, Title I funds.

(Sec. 174, 20 U.S.C. 2824))

§ 116.91 Maintenance of effort.

(a) *Basic standard.* (1) Except as provided in § 116.92 and paragraphs (f) and (g) of this section, an SEA may approve a title I application from an LEA or State agency only if that agency demonstrates the following in the application: Its expenditures of State and local funds for the free public education of children—on an aggregate or per pupil basis—are not less for (i) the first fiscal year preceding the fiscal year in which the agency is applying for Title I funds than for (ii) the second proceding fiscal year.

(2) Except if the LEA or State agency did not participate in Title I in the preceding fiscal year, the agency may not use as a second preceding fiscal year a fiscal year that the agency did not use as a first preceding fiscal year on a previous application.

(b) *Meaning of "per pupil basis".* As used in this section, "per pupil basis" means per child included in ADA.

(c) *Expenditures to be considered.* The expenditures the SEA shall consider in determining the LEA's or State agency's compliance with the basic standard in paragraph (a) of this section are—

(1) State and local expenditures for free public education. These include expenditures for administration, instruction, attendance, health services, pupil transportation, plant operation and maintenance, fixed charges, and net expenditures to cover deficits for food services and student activities; and

(2) expenditures of Federal funds for free public education for which the LEA or State agency is not accountable to the Federal Government. These include expenditures of funds under the School Assistance in Federally Affected Areas program.

(d) *Expenditures not to be considered.* The SEA may not consider the following expenditures in determining the LEA's or State agency's compliance with the basic standard in paragraph (a) of this section:

(1) Any expenditures for community services, capital outlay, or debt services.

(2) Any expenditures of Federal funds for which the agency is accountable to the Federal Government. These include expenditures made from funds provided under Title I or Part B (Instructional materials and school library resources) and Part C (improvement in local educational practice) of Title IV.

(e) *Rounding off expenditures.* For purposes of determining compliance with the basic standard in paragraph (a) of this section, expenditures may be rounded off in the following manner:

(1) Per pupil expenditures for each of the fiscal years being compared may be rounded to the nearest ten dollars.

(2) The aggregate expenditures for each of the fiscal years being compared may be rounded to the nearest 100 dollars.

(f) *Two percent leeway.* For purposes of determining the LEA's or State agency's compliance with the basic standard in paragraph (a) of this section, the SEA may disregard a decrease of less than two percent from the second preceding fiscal year to the first preceding fiscal year.

(g) *Substantial compliance.*—(1) *Standard.* The SEA shall consider the LEA or State agency to be in compliance with the basic standard in paragraph (a) of this section if—

(i) The LEA or State agency submits a written request asking the Secretary to determine that the LEA or State agency is in substantial compliance with the basic standard in paragraph (a) of this section;

(ii) The written request referred to in paragraph (g)(1)(i) of this section demonstrates that any decrease in expenditures from the second preceding fiscal year to the first preceding fiscal year did not result in any decrease in the level of services that the LEA or State agency provides; and

(iii) The Secretary issues a written determination that the LEA or State agency is in substantial compliance with the basic standard in paragraph (a) of this section.

(2) *Example.* An example of a situation that would meet the standard in paragraph (g)(1) of this section is a change in staffing at an agency resulting in a lower-paid employee providing the same level of service previously provided by a higher-paid employee.

(Sec. 126(a), 20 U.S.C. 2736(a))

§ 116.92 Waiver of the maintenance of effort requirement.

(a) *Waiver authority.* Under section 126(a)(2) of Title I (Waiver of maintenance of effort), the Secretary may waive the maintenance of effort requirements in § 116.91 for a particular LEA or State agency for one fiscal year if the Secretary determines that the waiver is equitable because of exceptional and unforeseen circumstances.

(b) *Waiver request.* An LEA or State agency that has not maintained its fiscal effort as required in § 116.91 may ask the Secretary to grant a waiver of that requirement by submitting a waiver request that includes—

(1) A statement of the expenditures for the two fiscal years being compared;

(2) A statement of the difference between (i) the agency's level of fiscal effort in the preceding fiscal year and (ii) the agency's level of fiscal effort in the second preceding fiscal year; and

(3) A description of the circumstances that the agency considers to be "exceptional and unforeseen."

(c) *Secretary's criteria.* The Secretary considers granting a waiver under

paragraph (a) of this section only if the Secretary determines that—

(1) The agency requesting the waiver used every opportunity available under State and local laws to maintain the necessary level of expenditures; and

(2) The failure to maintain effort was due to—

(i) A natural disaster;

(ii) A major and unforeseen decline in State or local financial resources, such as a major loss of tax base not due to public or governmental actions;

(iii) A major and unforeseen decline in Federal funds for free public education and for which the agency is not accountable to the Federal Government;

(iv) An extended strike; or

(v) Other exceptional and unforeseen circumstances, which may not include referenda or acts of State legislatures, school boards, or other governmental bodies.

(d) *Actions resulting from a waiver.* If the Secretary grants a waiver under paragaph (a) of this section—

(1) The SEA shall reduce the affected agency's Title I allocation for the fiscal year covered by the waiver in exact proportion to that agency's failure to maintain the effort required by § 116.91;

(2) If the affected agency is an LEA, the State shall reallocate the reduction to other LEAs in the State in accordance with 45 CFR 116a.38; and

(3) For the fiscal year immediately following the fiscal year for which the waiver was granted, the SEA shall determine the affected agency's compliance with the basic standard in § 116.91 on the basis of the level of fiscal effort that would have been required if the affected agency had not been granted the waiver.

(Sec. 126(a), 20 U.S.C. 2736(a))

§ 116.93 Supplement, not supplant.

(a) *Basic requirement for all Title I projects.* An agency that receives Title I assistance—

(1) shall use Title I funds to supplement and—to the extent practical—increase the level of funds that would, in the absence of Title I funds, be made available for the education of children participating in Title I projects from non-Federal sources for—

(i) Regular programs; and

(ii) The State phase-in programs described in 45 CFR 116a.118(c); and

(2) May not use Title I funds to supplant the non-Federal funds referred to in paragraph (a)(1) of this section.

(b) *Additional requirement for LEAs.* In addition to meeting the basic requirement in paragraph (a) of this section, an LEA that receives Title I assistance must comply with the supplement, not supplant requirements in 45 CFR 116a.130–116a.143.

(Sec. 126(c), 20 U.S.C. 2736(c); Sec. 126(d), 20 U.S.C. 2736(d))

§ 116.94 Excess costs.

(a) *Basic standard.* Except for the exemptions in 45 CFR 116a.118, an agency that receives Title I assistance shall use Title I funds only for the excess costs of a Title I project.

(b) *Meaning of "excess costs".* As used in this section, "excess costs" means average per pupil costs directly attributable to a Title I project over and above the agency's average per pupil expenditure, by grade level or levels, for all pupils in the grades included in the agency's Title I project.

(c) *Presumption of compliance.* Any agency is presumed to be in compliance with the basic standard in paragraph (a) of this section if the agency maintains records demonstrating that instructional services provided by the agency with Title I funds do not constitute more than 20 percent of the time—computed on a per day, per week, per month, or per year basis—that a participating child would, in the absence of Title I funds, spend receiving instructional services from a particular teacher paid with non-Title I funds.

(d) *Demonstration of actual compliance.* If an agency fails to meet the standards for a presumption of compliance under paragraph (c) of this section, the agency shall—

(1) Maintain records demonstrating that the average per pupil costs directly attributable to its Title I project exceed the agency's average per pupil expenditure, by grade level or levels, for all pupils in the grades included in the agency's Title I project; or

(2)(i) Maintain records demonstrating that the agency has contributed to the Title I project either—

(A) The full-time equivalent number of non-Title I funded staff that—in the absence of the Title I service—would have been used to provide the non-Title I funded instructional service that is replaced with the Title I funded service; or

(B) The amount of non-Title I funds required to provide the number of non-Title I funded staff referred to in paragraph (d)(2)(i)(A) of this section.

(ii) For purposes of paragraph (d)(2)(i)(A) of this section, the agency may disregard a fraction of a full-time equivalent staff member. For example, if the full-time equivalent number of staff members is 3.6, the agency is only required to provide the equivalent of three non-federally funded staff persons.

(Sec. 126(b), U.S.C. 2736(b); Sec. 131, 20 U.S.C. 2751)

§§ 116.95–116.99 [Reserved]

Subpart F—State and Local Administrative Responsibilities

General

§ 116.100 Applicability of the regulations in Subpart F.

(a) The regulations in this subpart interpret—

(1) Part C (State administration of projects) of Title I; and

(2) Part A (Administration of educational programs and duties of the SEA) of Title V.

(b) In any fiscal year in which the conditions in paragraph (c)(2) of this section are not met, Part C of Title I applies.

(c)(1) In any fiscal year in which the conditions in paragraph (c)(2) of this section are met, Part A of Title V applies, together with sections 162 (State applications), 171 (State MEPs), 172 (Reporting requirements), 173 (Record-keeping, fiscal control, and fund accounting), and 174 (Prohibition of consideration of Federal aid in determining State aid) of Title I.

(2) The provisions in paragraph (a)(1) of this section apply for any fiscal year in which the funds appropriated under section 510 (Authorization of payments) of Title V are—

(i) Sufficient to pay the full amount each State is eligible to receive for State administration under section 510(a) (Authorization of payments) of Title V; and

(ii) Included in an act making appropriations for the fiscal year prior to the fiscal year in which those funds will be obligated.

(Sec. 161, 20 U.S.C. 2801; Sec. 510 of Title V, 20 U.S.C. 3150)

§ 116.101 Payments for State administration.

(a) Except when the conditions in § 116.100(c)(2) are met, the Secretary pays each State an amount equal to the amount spent by it for the performance of its duties under Title I, provided that the amount paid by the Secretary for any fiscal year does not exceed the greater of—

(1) 1.5 percent of the amount of Title I funds allocated to the State for that year; or

(2)(i) $225,000; or

(ii) $50,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(b)(1) Paragraph (b)(2) of this section applies if, under paragraph (a) of this

section, a State receives an amount in excess of the greater of—

(i) One percent of the amount of Title I funds available to the State; or

(ii)(A) $150,000; or

(B) $25,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(2) If a State receives an amount in excess of the amount specified in paragraph (b)(1) of this section, the State shall use that excess—

(i) Exclusively for monitoring, audit resolution, enforcement, or similar compliance activities; and

(ii) To supplement, not supplant State and local funds already being used for compliance activities.

(c)(1) If the conditions in § 116.100(c)(2) are met, the Secretary pays each State an amount equal to the amount spent by the State for the performance of its duties under Title I and Title IV.

(2) However, the Secretary does not pay for any fiscal year more than the greater of—

(i) 1.75 percent of the amount of Title I and Title IV funds allocated to the State for that year; or

(ii)(A) $550,000; or

(B) $87,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(3) In any case, however, the Secretary's payment is not less than the amount each State received for administration of Title I and Title IV projects for fiscal year 1978.

(d) If the conditions in § 116.100(c)(2) are met, the Secretary may, in addition to the amount authorized under paragraph (c) of this section, pay each State an amount not to exceed 25 percent of the amount authorized for that State under paragraph (c) of this section if the SEA —

(1) Uses these funds solely for monitoring, audit resolution, enforcement, or similar compliance activities;

(2) Applies to receive these funds and specifically describes in its application the intended uses of the funds; and

(3) Uses these funds to supplement, not supplant State and local funds already being used for compliance activities.

(Sec. 194, 20 U.S.C. 2844; Sec. 510 of Title V, 20 U.S.C. 3150)

§ 116.102 Payments by SEAs.

Except for payments for State administration described in § 116.101, an SEA shall make payments from Title I funds only for projects that it has approved under § 116.110.

(Sec. 164(b), 20 U.S.C. 2811(b))

§§ 116.103–116.109 [Reserved]

Application Approval

§ 116.110 SEA approval of applications from LEAs and State agencies.

(a) *Standards for approval.* An SEA shall approve the Title I application of an LEA or State agency if the SEA determines, after considering the factors in paragraph (b) of this section, that the agency—

(1) Will use the Title I funds received under the application in compliance with the requirements of—

(i) The Title I statute;

(ii) The Title I regulations;

(iii) GEPA, including the assurances in section 436;

(iv) EDGAR;

(v) Applicable State rules, regulations, procedures, guidelines, and criteria adopted in compliance with § 116.120; and

(2) Is not out of compliance with—

(i) A determination by the SEA or the Secretary that the agency repay misspent Title I funds; or

(ii) A compliance agreement under §§ 116.210–116.214 or §§ 116.270–116.275.

(b) *Factors to be considered.* An SEA may approve an application under paragraph (a) of this section only after the SEA has considered—

(1) The results of Federal and State audits of the LEA or State agency submitting the application;

(2) The results of Federal and State monitoring reports of the LEA or State agency submitting the application;

(3) Complaints made by parents or other persons concerning the agency's compliance with Title I requirements; and

(4) Evaluations.

(Sec. 164(a), 20 U.S.C. 2811; Sec. 503(a) of Title V, 20 U.S.C. 3143(a))

§ 116.111 Opportunity for a hearing on application disapproval.

(a) An SEA shall provide reasonable notice and opportunity for a hearing to any LEA or State agency whose application for Title I funds under 45 CFR Parts 116a, 116b, or 116c has been disapproved, in whole or in part, by the SEA.

(b) An LEA or State agency that is aggrieved by the SEA's disapproval of its application may, within 30 days of the disapproval, request a hearing.

(c) Within 30 days after it receives a request for a hearing from an LEA or State agency, the SEA shall hold the hearing, on the record, to review its disapproval of the agency's application.

(d) Within 10 days after the hearing, the SEA shall issue a written ruling that includes—

(1) The reasons for the SEA's ruling; and

(2) Notice of the LEA's or State agency's right to appeal to the Secretary under § 116.112.

(Sec. 164(c), 20 U.S.C. 2811(c); Sec. 503(c) of Title V, 20 U.S.C. 3143(c); Sec. 425 of GEPA, 20 U.S.C. 1231b–2)

§ 116.112 Appeal to the Secretary.

An LEA or State agency that is aggrieved by the final action of an SEA under § 116.111 may appeal the SEA's action to the Secretary within 20 days after the agency receives notice of the SEA's final action.

(Sec. 164(c), 20 U.S.C. 2811(c); Sec. 503(c) of Title V, 20 U.S.C. 3143(c); Sec. 425(b) of GEPA, 20 U.S.C. 1231b–2(b))

§ 116.113 Amendments to the application.

(a) *Annual updating of information in a Title I application.* An LEA or State agency shall annually update its three-year Title I project application by submitting to its SEA—

(1) Data showing that the LEA or State agency has maintained its fiscal effort as required by § 116.91;

(2) A statement of the amount of Title I funds carried over from the preceding fiscal year, and the amount requested from the agency's current Title I application; and

(3) A budget for the expenditure of Title I funds.

(b) *Other amendments to an application.* An LEA or State agency shall submit to its SEA amendments to its Title I application and secure the SEA's approval for any significant changes (particularly changes resulting from Federal or State audits and monitoring) in activities to be conducted under the agency's application, including changes in—

(1) Services, construction, or purchases of equipment;

(2) Criteria for the selection of children to receive a Title I service;

(3) The number of public and private school children, identified by subject area and grade level, who will participate in the Title I project;

(4) The number and type of staff to be employed;

(5) The amounts of Title I funds to be spent for participating public school children and participating private school children;

(6) The agency's list of school attendance areas or schools designated for Title I projects; and

(7) The grade level or levels of children who will receive a previously approved service.

(Sec. 121–134, 20 U.S.C. 2731–2754)

§§ 116.114–116.119 [Reserved]

State Rulemaking

§ 116.120 Authority for State rulemaking.

Except as provided in § 116.121, an SEA may adopt reasonable rules, regulations, procedures, guidelines, criteria, or other requirements that apply to Title I projects.

(Sec. 165, 20 U.S.C. 2812; Sec. 504 of Title V, 20 U.S.C. 3144)

§ 116.121 Limitations on State rulemaking authority.

(a) All rules, regulations, procedures, guidelines, criteria, or other requirements that an SEA adopts under § 116.120 must conform to all applicable Federal laws, including all requirements in the Title I statute and regulations; and

(b) The SEA may not, under the authority in § 116.120, prohibit any practice that is authorized under Title I.

(Sec. 165, 20 U.S.C. 2812; Sec. 504 of Title V, 20 U.S.C. 3144)

§ 116.122 Example of State rulemaking.

(a) An SEA may adopt reasonable rules concerning the size, scope, and quality of Title I projects.

(b) For example, the SEA may adopt reasonable rules concerning—

(1) The pupil-to-staff ratio to ensure that Title I services are sufficiently concentrated;

(2) The number of hours per day that a child may be removed from a regular class to receive a Title I service; or

(3) The number or categories of curriculum areas that may be included in a Title I project.

(c) An SEA may not, however, adopt rules that—

(1) Prescribe the grade levels that must be included in a Title I project; or

(2) Prohibit an agency from including a particular curriculum area in its Title I project.

(Sec. 165, 20 U.S.C. 2812; Sec. 504 of Title V, 20 U.S.C. 3144)

§§ 116.123–116.129 [Reserved]

Evaluation

§ 116.130 Evaluation procedures.

(a) To evaluate the effectiveness of a Title I project, an agency that receives Title I assistance shall adopt and use effective procedures that meet the requirements in 45 CFR 116a.170–116a.177, and in 45 CFR Parts 116b, 116c, or 116d, as applicable.

(b) *Required evaluations.* The agency that receives Title I assistance shall, at least once every three years, conduct an evaluation or series of evaluations that—

(1) Addresses the purposes of the Title I project;

(2) Analyzes the degree to which the Title I project has achieved its goals, including the requirements in section 130 (Participation of children enrolled in private schools) of Title I; and

(3) Includes objective measurements of educational achievement in basic skills over at least a twelve-month period in order to determine whether the effects of programs conducted during the regular school year have been sustained over the summer.

(c) *Use of evaluation results.* The agency that receives Title I assistance shall use the results of its evaluations of its Title I project in planning for and improving Title I projects to be carried out in the following years.

(Sec. 124(g), 20 U.S.C. 2734(g))

§§ 16.131–116.139 [Reserved]

Recordkeeping

§ 116.140 Recordkeeping requirements.

(a) *General standards for SEAs.* An SEA that receives Title I assistance shall keep—

(1) Records that show—

(i) The amount and disposition of all Title I funds;

(ii) The total cost of each Title I project; and

(iii) The share of the cost provided from non-Title I sources; and

(2) Other records that are needed to facilitate an effective audit of each Title I project.

(b) *General standards for agencies operating a Title I project.* An agency that receives Title I assistance shall keep all records that the SEA requires. These must include—

(1) Records of Title I funds that show—

(i) The amount of Title I funds received;

(ii) How the agency uses the funds;

(iii) The total cost of the project; and

(iv) The share of that cost provided from other sources;

(2) Other records that are needed to facilitate an effective audit of the Title I project;

(3) Records that show the agency's compliance with Title I requirements; and

(4) Records of significant project experiences and results.

(c) *Exception for certain projects.* The SEA need not require an LEA to account separately for Title I funds if the LEA—

(1) Conducts a single compensatory education project that—

(i) Meets all Title I requirements; and

(ii) Is paid for out of Title I funds, as well as out of State and local funds; and

(2) Excludes, under 45 CFR 116a.118, State and local expenditures for that compensatory education project in determining compliance with the excess costs and comparability requirements.

(d) *Retention of records.* All records required under this section must be retained—

(1) For five years after the completion of the Title I project;

(2) Until any pending audits concerning the Title I project have been completed; and

(3) Until all findings and recommendations arising out of any audits concerning the Title I project have been finally resolved.

(Sec. 127(a), 20 U.S.C. 2737(a); Sec. 173, 20 U.S.C. 2823)

§ 116.141 Access to information.

(a) *Access provided by the SEA.* Except as provided in paragraph (d) of this section, an SEA shall provide any person with access to documents related to its Title I project if that person has specifically identified those documents in a written request.

(b) *Access provided by LEAs and State agencies.* Except as provided in paragraph (d) of this section, an LEA or State agency that applies for or receives Title I funds shall provide parents, teachers, or other persons with access to its Title I project aplication and all related documents.

(c) *Definition of access.* As used in this section, "access" means—

(1) Inspection of the documents at a reasonable time and place;

(2) Reproduction, on request, of the documents free of charge or at reasonable costs; or

(3) Provision of the documents for their reproduction by the person who requests them.

(d) *Limitations on access.* An agency may not provide access to documents or records that—

(1) Relate to the performance of individually named children and teachers; or

(2) The agency is prohibited from releasing under any applicable laws.

(Sec. 127(c), 20 U.S.C. 2737(c); Sec. 173, 20 U.S.C. 2823)

§ 116.142 Access by State and Federal auditors.

An agency that receives Title I assistance shall make all records, documents, and personnel that relate in any way to a Title I project available to State and Federal auditors at the request of those auditors.

(Sec. 127, 20 U.S.C. 2737; Sec. 173, 20 U.S.C. 2823)

§§ 116.143–116.149 [Reserved]

State Monitoring

§ 116.150 Obligation to adopt standards for monitoring.

An SEA shall adopt standards for monitoring the effectiveness of the Title I projects operated by LEAs and State agencies. These standards must meet the standards in § 116.151 and be consistent with the MEP that the SEA submitted under § 116.21.

(Sec. 167, 20 U.S.C. 2814; Sec. 171, 20 U.S.C. 2821; Sec. 506 of Title V, 20 U.S.C. 3146)

§ 116.151 Minimum standards for monitoring.

(a) *Scope of monitoring.* In monitoring the effectiveness of Title I projects in its State, an SEA shall—

(1) Determines whether the Title I projects comply with applicable Title I requirements;

(2) Determine whether the Title I projects are being implemented in accordance with approved project applications; and

(3) Evaluate the quality and effectiveness of the Title I services being provided.

(b) *Frequency of on-site visits.* Representatives of the SEA shall—

(1) Visit, at least once every three years, each LEA and State agency that operates a Title I project; and

(2) Visit, at least once every two years, those LEAs and State agencies that receive the largest amounts of Title I funds or have a history of noncompliance with applicable Title I requirements.

(c) *Issuing monitoring reports.* Within 90 days of completing each visit that it conducts under paragraph (b) of this section, the SEA shall issue a written monitoring report to the agency that was visited. The SEA shall include in the report its findings and recommendations concerning—

(1) The agency's compliance with applicable Title I requirements;

(2) The quality and effectiveness of the Title I project; and

(3) The need for corrective action, if any.

(d) *Responding to monitoring reports.* Within 60 days of receiving an SEA monitoring report that recommends improvements or corrective action, the monitored agency shall submit a written response to the SEA. The agency shall include in its response—

(1) A description of all steps that it has taken, or will take, in response to the SEA's recommendation for improvements or corrective action; and

(2) If appropriate, a statement of the agency's reasons for not making the improvements or taking all or a part of the corrective action that was recommended by the SEA.

(e) *Follow-up on recommendations for corrective action.*

(1) The SEA shall review each response submitted under paragraph (d) of this section to determine whether follow-up action is appropriate.

(2) Follow-up action may include one or more of the following compliance procedures:

(i) An audit under §§ 116.190–116.193.

(ii) A withholding action under §§ 116.200–116.201.

(iii) A compliance agreement under §§ 116.210–116.214.

(f) *Making monitoring reports available.* The SEA shall—

(1) Send to the following a copy of the monitoring report, any response by the LEA or State agency, and a statement of any follow-up action that the SEA plans to take:

(i) Any Title I advisory councils that have been established for the agency that was monitored.

(ii) State and local auditors; and

(2) Provide access, under § 116.141, to the monitoring report, any response by the LEA or State agency, and a statement of any follow-up action that the SEA plans to take.

(Sec. 167, 20 U.S.C. 2814; Sec. 506 of Title V, 20 U.S.C. 3146)

§§ 116.152–116.159 [Reserved]

Reporting

§ 116.160 Reporting to the Secretary.

An SEA shall submit to the Secretary—

(a) A written report evaluating the effectiveness of its Title I projects in meeting the special educational needs of participating children. The SEA shall submit this report according to the following schedule:

(1) For projects covered by 45 CFR Part 116a, this report is due on February 1, 1981, and February 1 of every second year thereafter.

(2) For projects covered by 45 CFR Parts 116b, 116c, or 116d, this report is due on February 1 of each year;

(b) Any reports the Secretary may require—at such times as the Secretary may require—to determine the amount of funds that the SEA is eligible to receive for any fiscal year; and

(c) All reports specifically required in 45 CFR Parts 116a, 116b, 116c, and 116d, as applicable.

(Sec. 172, 20 U.S.C. 2822)

§ 116.161 Reporting to the SEA.

An LEA or State agency that receives Title I assistance shall submit to the SEA—

(a) An annual report that contains information necessary to enable the SEA to perform its Title I duties; and

(b) Any other reports that the SEA may require to carry out its Title I responsibilities, including information relating to the educational achievement of students participating in Title I projects.

(Sec. 127(b), 20 U.S.C. 2737(b))

§§ 116.162–116.169 [Reserved]

Technical Assistance and Dissemination of Information

§ 116.170 Technical assistance provided by the SEA.

(a) An SEA shall develop and implement a comprehensive program to provide technical assistance to LEAs and State agencies concerning the use of Title I funds.

(b) The program required by paragraph (a) of this section must include—

(1) Technical assistance for—

(i) Preparation of applications;

(ii) Planning, development, implementation, and evaluation of programs; and

(iii) Management of projects; and

(2) Other forms of technical assistance needed by LEAs and State agencies.

(Sec. 166, 20 U.S.C. 2813; Sec. 505 of Title V, 20 U.S.C. 3145)

§ 116.171 Dissemination of information to LEAs and State agencies.

An SEA shall adopt effective procedures for disseminating to LEAs and State agencies—

(a) Significant information derived from educational research;

(b) Information about successful compensatory education projects;

(c) Information about any State policies concerning the use of Title I funds to provide noninstructional services;

(d) Information about other federally-funded and State-funded programs that may provide needed health, social, and nutrition services to eligible Title I children; and

(e) Any other information that will assist LEAs and State agencies in planning, developing, implementing, and evaluating Title I projects.

(Sec. 166, 20 U.S.C. 2813; Sec. 505 of Title V, 20 U.S.C. 3145)

§ 116.172 Dissemination of information to teachers and administrators.

(a) An agency that receives Title I assistance shall—

(1) Adopt effective procedures for acquiring and disseminating significant information concerning educational

practices to teachers and administrators; and

(2) Develop methods for incorporating promising educational practices into its Title I project.

(b) Possible sources of the information referred to in paragraph (a) of this section may include, but are not limited to—

(1) Educational research;

(2) Demonstration projects;

(3) Other programs; and

(4) Evaluations of Title I projects.

(Sec. 124(h), 20 U.S.C. 2734(h))

§§ 116.173–116.179 [Reserved]

Complaint Review and Resolution

§ 116.180 Contents of a complaint.

For purposes of this part, a complaint is a signed statement that includes—

(a) An allegation that an agency has violated a Title I requirement that is found in the Title I statute, Title I regulations, Title I interpretive rules, GEPA, or EDGAR;

(b) Information that supports the allegation, which may include relevant State and local laws, regulations, guidelines, and correspondence; and

(c) A specific request for relief.

(Sec. 128, 20 U.S.C. 2738; Sec. 168, 20 U.S.C. 2815; Sec. 507 of Title V, 20 U.S.C. 3147)

§ 116.181 Who may file a complaint.

Any parent, teacher, Title I advisory council, or other concerned individual or organization may file a complaint.

(Sec. 128, 20 U.S.C. 2738)

§ 116.182 Where to file a complaint.

Unless a complaint meets the standards for direct complaints in § 116.186(a)(2) or § 116.242(a), the complaint must comply with the following procedures:

(a) If the complaint relates to a Title I project operated by an LEA, the complaint must be filed, according to the procedures in § 116.183, with that LEA.

(b) If the complaint relates to a Title I project operated by a State agency for the benefit of handicapped children or neglected or delinquent children, the complaint must be filed, according to the procedures in § 116.183, with the State agency that receives Title I funds to operate that Title I project.

(c) If the complaint relates to a Title I project for the benefit of migratory children of migratory agricultural workers or fishers, or the SEA's administration of the Title I project, the complaint must be filed, according to the procedures in § 116.186, with the SEA that receives Title I funds to operate that Title I project.

(Sec. 128, 20 U.S.C. 2738)

§ 116.183 Required procedures for resolution of complaints that are filed with LEAs or State agencies.

(a) An LEA or State agency that receives Title I assistance shall develop and implement written procedures for resolving complaints.

(b) The procedures referred to in paragraph (a) of this section must provide—

(1) A specific time limit as provided by § 116.184 for resolving complaints;

(2) An opportunity for the complainant or the complainant's representative, or both, to present relevant evidence, including an opportunity to question the parties involved;

(3) The right to appeal the final resolution of the LEA or State agency to the SEA under § 116.185;

(4) For the dissemination of information about these procedures to interested persons, including all of the agency's Title I advisory councils; and

(5) For an on-site investigation if the SEA considers the investigation necessary.

(Sec. 128, 20 U.S.C. 2738)

§ 116.184 Time limit for resolution of complaints that are filed with LEAs or State agencies.

(a) An LEA or State agency that receives Title I assistance shall resolve each complaint that it receives under § 116.183 within 30 days after it receives the complaint. However, on request of the LEA or State agency, the SEA may provide additional time for the resolution of a complaint because of exceptional circumstances.

(b) Examples of factors that the SEA may consider in determining the existence of exceptional circumstances include—

(1) The need for an investigation or audit to determine whether the allegation in the complaint is accurate; and

(2) The fact that complex issues are raised by the complaint.

(Sec. 128, 20 U.S.C. 2738)

§ 116.185 Appeals from resolutions by LEAS or State agencies.

(a) *Who may appeal.* Any person, agency, or organization that has filed a complaint and is dissatisfied with the resolution of the complaint by an LEA or State agency may appeal that resolution to the SEA.

(b) *When to file an appeal.* An appeal under this section must be postmarked within 30 days after the complainant receives a copy of the resolution of the complaint.

(Sec. 128, 20 U.S.C. 2738)

§ 116.186 Required procedures for resolution of appeals and complaints that are filed with SEAs.

(a) An SEA shall develop and implement written procedures for—

(1) Reviewing appeals for resolutions that have been made by LEAs or State agencies under § 116.183; and

(2) Resolving complaints filed directly with the SEA, including developing standards for what kind of direct complaints are acceptable.

(b) All procedures developed under paragraph (a) of this section must provide—

(1) A specific time limit, as provided by § 116.187, for resolving appeals or complaints;

(2) The right to appeal the final resolution of the SEA to the Assistant Secretary within 30 days after receiving the SEA's written decision; and

(3) For the dissemination of information, free of charge, about those procedures to interested persons, including all Title I advisory councils of the appropriate LEA or State agency.

(c) In addition to meeting the requirements in paragraph (b) of this section, the complaint resolution procedures developed under paragraph (a)(2) of this section must provide—

(1) That if a complaint filed with the SEA relates to a Title I project operated by an LEA or State agency, the SEA may either resolve the complaint or refer it to the appropriate LEA or State agency; and

(2) An opportunity for the complainant or the complainant's representative, or both, and the agency that is operating the Title I project to present relevant evidence, including the opportunity to question parties and any of their witnesses.

(Sec. 168, 20 U.S.C. 2815; Sec. 507 of Title V, 20 U.S.C. 3147)

§ 116.187 Time limit for resolution of appeals and complaints that are filed with SEAs.

(a) Except as provided in paragraph (b) of this section, an SEA shall, within 60 days of receiving an appeal or complaint under § 116.186(a)—

(1) Resolve the appeal or complaint; or

(2) Refer the complaint to the appropriate LEA or State agency for resolution. In that case the LEA or State agency shall follow the time limit established under § 116.184.

(b)(1) The SEA may determine that the existence of exceptional circumstances justifies the SEA's taking additional time to resolve the complaint or appeal.

(2) Examples of factors that the SEA may consider in determining the existence of exceptional circumstances include—

(i) The need for an investigation or audit to determine whether the allegation in the complaint is accurate; and

(ii) The fact that complex issues are raised by the complaint.

(Sec. 168, 20 U.S.C. 2815; Sec. 507 of Title V, 20 U.S.C. 3147)

§ 116.188 Contents of the final resolution by an SEA.

An SEA shall include in its final resolution of an appeal or complaint under § 116.186(a)—

(a) A summary of the facts on which the appeal or complaint is based;

(b) A statement of the Title I requirements that the appeal or complaint alleges to have been violated;

(c) The SEA's findings of fact and a summary of the evidence that the SEA considered in making these findings;

(d) The SEA's conclusions regarding the merits of each allegation in the complaint, and a summary of its reasons for each conclusion;

(e) The SEA's directive for any corrective action that the LEA or State agency must take and when that action must be taken; and

(f) Notice of each dissatisfied party's right to appeal the SEA's final resolution to the Assistant Secretary under § 116.243.

(Sec. 168, 20 U.S.C. 2815; Sec. 507 of Title V, 20 U.S.C. 3147)

Note.—Additional procedures for complaint reviews and resolutions are contained in §§116.240–116.248 of Subpart G (Federal Administrative Responsibilities) of this part.

§ 116.189 [Reserved]

State Audits, Resolution, and Repayment

§ 116.190 State audits.

(a) A State shall provide for audits of each agency in that State that receives Title I assistance. The purpose of the audits is to determine—

(1) The fiscal integrity of the agency's financial transactions and reports that relate to the agency's use of Title I funds; and

(2) Compliance with Title I requirements, including, if applicable, a review of—

(i) The selection of schools and school attendance areas for Title I projects;

(ii) The selection of children to receive Title I services;

(iii) Conformity with the approved project application;

(iv) The use of Title I funds to supplement, not supplant non-Federal funds that would have otherwise been available;

(v) The use of Title I funds for services to children for whom the project was designed and not for general aid; and

(vi) The equitable provision of Title I services for children attending private schools.

(b) *Frequency of audits.* (1) Except as provided in paragraph (b)(2) of this section, the SEA shall schedule, at least once every three years, an audit of each agency that receives Title I assistance. However, the Secretary may determine, on the basis of one or more of the following factors, that an agency or agencies may be audited less frequently:

(i) A shortage of Title I funds available for State administration of the Title I program.

(ii) The existence of large, complex Title I projects.

(iii) The geographic isolation of the agencies to be audited.

(iv) A large number of agencies to be audited.

(2) If the conditions of section 510(b) (Authorization of payments) of Title V are met, the SEA shall schedule an annual audit of each agency that receives Title I assistance. However, the Secretary may determine, on the basis of the factors in paragraph (b)(1) of this section, that any agency or agencies may be audited once every two years.

(c) *Independence of auditors.* The audits required by this section must be performed by auditors who are—

(1) Employed by the State but are independent of the organizational unit that administers Title I in that State; or

(2) Employed by a private audit firm under State supervision.

(Sec. 170(a), 20 U.S.C. 2817(a); Sec. 509(a) of Title V, 20 U.S.C. 3149(a); H. Rept. 1137, 95th Cong., 2d Sess. 62 (1978); S. Rept. 856, 95th Cong., 2d Sess. 46–47 (1978))

§ 116.191 Audit resolution.

(a) An SEA shall develop and implement written procedures for resolving all findings and recommendations resulting from the audits conducted under § 116.190.

(b) The procedures referred to in paragraph (a) of this section must provide that—

(1) Within 30 days of receiving a final audit report, the SEA shall send a copy of the report to the agency that was audited;

(2) Within 60 days of receiving a copy of the final audit report, the agency that was audited shall send a written response to the SEA concerning any findings of violations or recommendations for corrective action;

(3) Within 60 days of receiving a written response under paragraph (b)(2) of this section, the SEA shall—

(i) Send the agency that was audited its final determination concerning the findings and recommendations in the final audit report; and

(ii) Notify the agency that was audited of its opportunity, within 30 days of receiving the final determination, to appeal an adverse final determination to the SEA for further review under the procedures required by §116.192.

(Sec 170(b), 20 U.S.C. 2817(b); Sec 509(b) of Title V, 20 U.S.C. 3149(b))

§ 116.192 Audit appeals.

(a) An SEA shall develop and implement procedures for receiving and hearing appeals from final audit determinations that the SEA makes under § 116.191.

(b) The procedures referred to in paragraph (a) of this section must include procedures for—

(1) Informing the audited agency whether its appeal from the SEA's final determination meets reasonable filing requirements imposed by the SEA and, therefore, is acepted by the SEA for further review;

(2) Conducting hearings on the appeal;

(3) Receiving evidence and maintaining a complete record of the evidence and arguments that are presented during the appeal proceedings;

(4) Recording the SEA's final resolution of the appeal and the reason for that resolution;

(5) Notifying the agency that was audited of the SEA's final action on the appeal and any corrective action that the audited agency must take; and

(6) Notifying each agency that is ordered—as part of the SEA's final resolution of an audit appeal—to repay misspent Title I funds of its right, under section 425(b) of GEPA (relating to appeals of final SEA decisions), to appeal that order to the Secretary under §116.193.

(Sec 170(b), 20 U.S.C. 2817(b); Sec 509(b) of Title V, 20 U.S.C. 3149(b))

§ 116.193 Appeal to the Secretary.

An agency that is aggrieved by the final action of an SEA under §116.192 may appeal the SEA's action to the Secretary within 20 days after the agency receives notice of the SEA's final action.

(Sec 170(d), 20 U.S.C. 2817(d); Sec 509(d) of Title V, 20 U.S.C. 3149(d); Sec. 425(b) of GEPA, 20 U.S.C. 1231b–2(b))

§ 116.194 Repayment of misspent title I funds.

(a) An LEA or State agency that is found under §§116.191–116.193 to have misspent Title I funds shall repay those funds to—

(1) The SEA, if the Title I funds are still available for obligation under the terms of section 412(b) of GEPA (relating to the availability of appropriations); or

(2) The Department, if the Title I funds are no longer available for obligation under the terms of section 412(b) of GEPA.

(b) The LEA or State agency shall repay the misspent funds from—

(1) Non-Federal sources; or

(2) Federal funds for which the Federal Government does not require accountability.

(c) The LEA or State agency shall repay the misspent funds in—

(1) A single payment; of

(2) Installments over a period not more than three years from the date on which—

(i) The SEA issues its final resolution under § 116.192; or

(ii) The Secretary issues the final resolution of an appeal, if the LEA or State agency files an appeal under § 116.193.

(d) The SEA shall promptly notify the Secretary of any LEA's or State agency's refusal to repay the misspent funds.

(Sec 170(b), 20 U.S.C. 2817(b); Sec 509(b) of Title V, 20 U.S.C. 3149(b); Sec. 412(b) of GEPA, 20 U.S.C. 1225(b))

§ 116.195 Use of misspent funds that are repaid to SEAs.

(a) If the Title I funds that an SEA recovers under § 116.194 are still available for obligation under the terms of section 412(b) of GEPA (relating to the availability of appropriations), the SEA shall—

(1) If the agency repaying is an LEA—

(i) Reallocate those funds to eligible LEAs—other than the agency that was found to have misspent the funds—under the procedures in 45 CFR 116a.38; or

(ii) Return the funds for proper use to the LEA from which they were recovered; or

(2) If the agency repaying is a State agency—

(i) Return the funds for proper use to the agency from which they were recovered; or

(ii) Return the funds to the Department.

(b) If the Title I funds that an SEA recovers under § 116.194 are no longer available for obligation under the terms of section 412(b) of GEPA, the SEA shall return those funds to the Department.

(Sec 170(b), 20 U.S.C. 2817(b); Sec 193(b), 20 U.S.C. 2843(b); Sec. 509(b) of Title V, 20 U.S.C. 3149(b); Sec 412(b) of GEPA, 20 U.S.C. 1225(b))

§ 116.196 Collection action by the Secretary.

(a) The Secretary initiates an action to compel repayment of funds that are found under §§ 116.191–116.193 to have been misspent if—

(1) The LEA or State agency refuses to repay misspent Title I funds under the procedures in §116.194;

(2) The SEA has taken every reasonable action to compel repayment; and

(3) The SEA notifies the Secretary of the agency's refusal to repay.

(b) Any funds that the Secretary recovers under this section will, at the Secretary's option—

(1) Revert to the United States Treasury;

(2) Be returned to an SEA for distribution under §116.195; or

(3) Be paid back, if appropriate, under §116.254.

(Sec. 170(e), 20 U.S.C. 2817(e); Sec. 509(e) of Title V, 20 U.S.C. 3149(e))

§§ 116.197–116.199 [Reserved]

State Withholding of Payments

§ 116.200 SEA withholding of Title I payments.

(a) *General standard.* If an SEA determines that an LEA or State agency is not in substantial compliance with the requirements in this part or in 45 CFR Parts 116a, 116b, or 116c, as applicable, the SEA shall—

(1) Withhold further Title I payments, in whole or in part, under the procedures outlined in paragraph (b) of this section; or

(2) Enter into a compliance agreement under §§ 116.210–116.214.

(b) *Procedures for withholding payment.* (1) Before initiating a proceeding to withhold Title I payments to an LEA or State agency, the SEA shall determine, on a case-by-case basis, that the agency is not in substantial compliance with the applicable Title I requirements.

(2) Before withholding funds, the SEA shall provide the LEA or State agency with—

(i) Reasonable notice of the reasons why the SEA believes that a withholding is appropriate; and

(ii) An opportunity for a hearing before an impartial decision maker who did not participate in the SEA's decision to initiate the withholding action.

(3) If the impartial decision maker finds that the LEA or State agency is not in substantial compliance with the requirements in this part or in 45 CFR Parts 116a, 116b, or 116c, the SEA shall—

(i) Withhold all or merely a part of the LEA's or State agency's Title I payments. In deciding what amount to withhold, the SEA shall consider the following factors:

(A) The seriousness of the noncompliance.

(B) The amount of Title I funds involved.

(C) The effect of withholding on participating children;

(ii) Notify the agency that further Title I payments, in whole or in part, will be withheld; and

(iii) Specify a date on which the withheld funds will be reallocated under 45 CFR 116a.38, unless the SEA determines that the agency is in substantial compliance.

(4) Unless the SEA enters into a compliance agreement with the LEA or State agency under §§ 116.210–116.214, the SEA shall continue to withhold Title I payments until it determines that the agency is in substantial compliance.

(c) *Suspension pending completion of withholding proceedings.* (1) If an SEA has reason to believe that an LEA or State agency is not in substantial compliance with the requirements in this part or in 45 CFR Parts 116a, 116b, or 116c, the SEA may suspend Title I payments—in whole or in part—to that agency pending completion of a withholding proceeding.

(2) In deciding whether to take suspension action, the SEA shall consider factors such as—

(i) The degree of certainty that the agency is not in substantial compliance;

(ii) The magnitude of the noncompliance;

(iii) The need to take suspension action to prevent the misuse of Title I funds; or

(iv) The harm that may result to Title I projects as a result of the suspension.

(d) *Use of withheld funds.* An SEA that withholds funds under this section shall—

(1) Pay the withheld funds to the agency from which they were withheld if that agency comes into substantial compliance within the period of time specified by the SEA; or

(2) Treat the withheld funds as excess funds for reallocation under the procedures in 45 CFR 116a.38, if the agency from which they were withheld does not come into substantial compliance within the period of time specified by the SEA.

(Sec. 169(a), 20 U.S.C. 2816(a); Sec. 508(a) of Title V, 20 U.S.C. 3148(a); Sec. 434(b) of GEPA, 20 U.S.C. 1232c(b))

§ 116.201 Notice to the public of SEA withholding.

If an SEA notifies an LEA or State agency that the SEA is withholding

payments under §116.200, the SEA shall take appropriate action to inform—

(a) The district advisory council of the LEA against which the action was taken; and

(b) The general public.

(Sec. 169(b), 20 U.S.C. 2816(b); Sec. 508(b) of Title V, 20 U.S.C. 3148(b))

§ 116.202 Appeal to the Secretary.

An LEA or State agency that is aggrieved by the final action of an SEA under §116.200 may appeal the SEA's action to the Secretary within 20 days after the agency receives notice of the SEA's final action.

(Sec. 169(d), 20 U.S.C. 2816(d); Sec. 508(d) of Title V, 20 U.S.C. 3148(d); Sec. 425(b) of GEPA, 20 U.S.C. 1231b-2(b))

§§ 116.203-116.209 [Reserved]

State Compliance Agreements

§ 116.210 Use of a State compliance agreement.

(a) An SEA may enter into a compliance agreement with an LEA or State agency instead of initiating or continuing a withholding action under §116.200.

(b) The SEA may enter into the compliance agreement—

(1) Before taking any action to begin a withholding action under §116.200; or

(2) At any stage of a withholding action under §116.200, including—

(i) Before providing the LEA or State agency with an opportunity for the hearing required under §116.200(b);

(ii) During the hearing provided under §116.200(b);

(iii) After a finding under §116.200(b)(3) that the LEA or State agency is not in substantial compliance with the requirements of this part or of 45 CFR Parts 116a, 116b, or 116c; or

(iv) During the course of a withholding of Title I funds by the SEA.

(c) A compliance agreement entered into under this section—

(1) Applies only to current or future violations;

(2) Relieves the LEA or State agency that enters into the agreement of any liability for repayment of funds that are spent—

(i) In violation of a requirement that is covered by the agreement; and

(ii) During the period of time that is covered by the agreement; and

(3) May be used to specify—

(i) The amount of funds that has been misspent by an LEA or State agency; and

(ii) A schedule for repaying those misspent funds under §116.194;

(d) However, a compliance agreement entered into under this section may not be used to reduce or forgive liability for repaying funds that were misspent prior to the date on which the agreement was entered into, including funds that were spent in violation of the maintenance of effort requirements in §116.91.

(Sec. 169(c), 20 U.S.C. 2816(c); Sec. 508(c) of Title V, 20 U.S.C. 3148(c))

§ 116.211 Contents of a State compliance agreement.

A compliance agreement entered into under §116.210 must—

(a) Be a written agreement signed by authorized representatives of the SEA and authorized representatives of the LEA or State agency;

(b) Include a statement of each applicable requirement that the LEA or State agency is violating;

(c) Describe the activity that is in violation of each applicable requirement

(d) Describe the steps that the LEA or State agency agrees to take in order to come into full compliance with each applicable requirement;

(e) Address all matters that formed the basis for the initiation of a withholding action under § 116.200, if the SEA has begun a withholding action under that section;

(f) Consist of a single agreement or a series of agreements that, taken together, will result in full compliance by the LEA or State agency; and

(g) Specify a time period of not more than 60 days during which the LEA or State agency shall take steps that will result in full compliance.

(Sec. 169(c), 20 U.S.C. 2816(c); Sec. 508(c) of Title V, 20 U.S.C. 3148(c))

§ 116.212 Duration of a State compliance agreement.

(a) Except as provided in paragraph (b) of this section, a compliance agreement entered into under § 116.210 remains in effect for the period of time that is specified in the agreement. In any case, however, that time may not exceed 60 days after the agreement is entered into.

(b) If the LEA or State agency that has entered into a compliance agreement under § 116.210 fails to comply with the terms of that agreement, the agreement expires immediately.

(Sec. 169(c), 20 U.S.C. 2816(c); Sec. 508(c) of Title V, 20 U.S.C. 3148(c))

§ 116.213 Effect of expiration of a State compliance agreement.

(a) If a compliance agreement has expired under § 116.212(b), an SEA may not enter into another compliance agreement with the same LEA or State agency for any violations that were addressed in the first compliance agreement.

(b) If a compliance agreement has expired under § 116.212(b), the withholding procedures in § 116.200 apply. However, in taking any withholding action under § 116.200, the SEA shall take into account any partial compliance that was achieved by the LEA or State agency under the compliance agreement.

(Sec. 169(c), 20 U.S.C. 2816(c); Sec. 508(c) of Title V, 20 U.S.C. 3148(c))

§ 116.214 Notice of a State compliance agreement.

Within 15 days of entering into a compliance agreement under § 116.210, the SEA shall send a copy of the compliance agreement to—

(a) The Assistant Secretary;

(b) The district advisory council of the agency that entered into the compliance agreement with the SEA, if that agency has a district advisory council; and

(c) Each person, agency, or organization that filed a complaint with the LEA, State agency, or SEA concerning a violation covered by the compliance agreement.

(Sec. 169(c), 20 U.S.C. 2816(c); Sec. 508(c) of Title V, 20 U.S.C. 3148(c))

§§ 116.215-116.219 [Reserved]

Subpart G—Federal Administrative Responsibilities

Application Approval

§ 116.220 Approval of State applications.

(a) The Secretary approves the payment of Title I funds by an SEA to LEAs and State agencies if the Secretary has made specific findings, in writing, that—

(1) The application that the SEA has submitted under § 116.20 complies with—

(i) The requirements in § 116.20;

(ii) The Title I statute and regulations;

(iii) All applicable requirements in GEPA; and

(iv) All applicable requirements in EDGAR;

(2) The SEA will comply with the assurances in its application and those submitted by the SEA under section 435(b) of GEPA (containing specific assurances required in the SEA's application); and

(3) The SEA's monitoring and enforcement plan meets the requirements in § 116.21.

(b) *Approval of SEA annual program plans for programs serving migratory children.* The Secretary approves the payment of Title I funds to an SEA for a project for migratory children of migratory agricultural workers or fishers only if the Secretary has, under the

procedures in 45 CFR 116d.14, approved the SEA's annual program plan.

(Sec. 142, 20 U.S.C. 2762; Sec. 182, 20 U.S.C. 2832)

§ 116.221 Opportunity for a hearing on disapproval of a State application.

(a) If the Secretary determines that an SEA's application does not comply with the requirements in § 116.220(a), the Secretary—

(1) Notifies the SEA, in writing, of the facts on which the Secretary bases that determination; and

(2) Provides the SEA with the opportunity for a hearing to be held at least 30 days after the SEA receives notice.

(b) A hearing conducted under paragraph (a) of this section is held before the Education Appeal Board in accordance with—

(1) The requirements in section 451(e) of GEPA (relating to the Board's proceedings); and

(2) The Board's procedures in 45 CFR Part 100d.

(c) The Education Appeal Board issues an initial decision that the Board Chairperson—

(1) Submits to the Secretary; and

(2) Sends to each party by certified mail with a return receipt requested.

(d) The decision by the Education Appeal Board becomes final unless, within 60 days after the SEA receives written notice of the decision—

(1) The Secretary, for good cause shown, modifies or sets aside the decision, in whole or in part. In that case, the modified decision becomes final 60 days after the Secretary's action; or

(2) The SEA files a petition for judicial review under section 455 of GEPA (Judicial review provision).

(Sec. 182(b), 20 U.S.C. 2832(b))

§§ 116.222–116.229 [Reserved]

Evaluation

§ 116.230 Secretary's evaluation procedures.

Under section 183 of Title I (Program evaluation), the Secretary—

(a) Provides for independent evaluations of Title I projects;

(b) Develops evaluation standards and a schedule for conducting evaluations;

(c) Consults with LEAs and State agencies concerning jointly sponsored objective evaluation programs;

(d) Provides SEAs with models for the evaluation of Title I projects for use by LEAs and State agencies;

(e) Reports to the Congress concerning the results of evaluations of Title I projects; and

(f) Develops a system for—

(1) Gathering and disseminating the results of evaluations of Title I projects;

(2) Identifying exemplary Title I projects and particularly effective elements of Title I projects; and

(3) Disseminating information concerning the exemplary Title I projects and particularly effective elements of Title I projects to—

(i) LEAs and State agencies responsible for designing and operating Title I projects;

(ii) The education professsion; and

(iii) The general public.

(Sec. 183, 20 U.S.C. 2833)

§§ 116.231–116.239 [Reserved]

Complaint Review and Resolution

§ 116.240 Contents of a complaint.

The required contents of a complaint are described in § 116.180.

(Sec. 128, 20 U.S.C. 2738; Sec. 168, 20 U.S.C. 2813; Sec. 507 of Title V, 20 U.S.C. 3147)

§ 116.241 Procedures for receiving direct complaints.

A direct complaint is a complaint that—

(a) Has not been resolved by an LEA, State agency, or SEA under the procedures in §§ 116.180–116.188; and

(b) Is filed with the Assistant Secretary for Elementary and Secondary Education.

(Sec. 184, 20 U.S.C. 2834)

§ 116.242 Procedures for handling direct complaints.

(a) *Standards for resolving direct complaints.* The Assistant Secretary designates an official of the Department to take action under paragraph (b) of this section to resolve a direct complaint. The designated official takes this action only if—

(1) The information contained in the direct complaint shows that—

(i) Delayed resolution of the direct complaint will result in serious and immediate harm to the complainant; and

(ii) The complainant will probably succeed on the merits of the complaint;

(2) The direct complaint has previously been filed with an LEA, State agency, or SEA and that agency has failed to resolve the complaint within the time specified in § 116.184 or § 116.187; or

(3) The designated official determines that Federal resolution of the complaint is appropriate for any other reason.

(b) *Procedures for resolving direct complaints.* If the designated official determines that the direct complaint meets the standards in paragraph (a) of this section, the designated official resolves the complaint under the procedures in § 116.245.

(c) *Referral to an SEA.* If the designated official determines that the direct complaint does not meet the standards in paragraph (a) of this section, and the complaint has not already been filed with an LEA, State agency, or SEA, the designated official refers the direct complaint to the appropriate SEA for resolution under the procedures in §§ 116.186–116.188.

(d) *Deferral pending resolution by another agency.* (1) If the designated official determines that the direct complaint does not meet the standards in paragraph (a) of this section, and if the complaint has been filed with and is pending before an LEA, State agency, or SEA, the designated official defers taking any action on the direct complaint pending resolution of the complaint by the LEA, State agency, or SEA.

(2) However, if the LEA, State agency, or SEA fails to resolve the complaint within the time specified in § 116.184 or § 116.187, the complainant may file with the designated official an amended direct complaint that specifically shows that failure.

(Sec. 184, 20 U.S.C. 2834)

§ 116.243 Appeals from final resolutions by SEAs.

(a) *Who may appeal.* Any person, agency, or organization that has filed an appeal or complaint with an SEA and is dissatisfied with the SEA's final resolution of that appeal or complaint under § 116.188 may appeal the SEA's final resolution to the Assistant Secretary for review.

(b) *When to file an appeal.* An appeal under this section must be postmarked within 30 days after the party that files the appeal receives a copy of the SEA's final resolution.

(c) *Where to file an appeal.* The appeal must be—

(1) Designated "Title I Appeal"; and

(2) Sent to the Assistant Secretary for Elementary and Secondary Education.

(d) *Contents of an appeal.* The appeal must—

(1) Be written and signed;

(2) Include a copy of the complaint, the resolution of the complaint, the appeal to the SEA, the SEA's final resolution, and any other documents that the appellant relies on in the appeal;

(3) Identify those parts of the SEA's final resolution with which the party that files the appeal disagrees and indicate why that party disagrees; and

(4) Indicate what relief the party that files the appeal is seeking from the Assistant Secretary.

(Sec. 168, 20 U.S.C. 2815; Sec. 184, 20 U.S.C. 2834; Sec. 507 of Title V, 20 U.S.C. 3147)

§ 116.244 Preliminary review of appeals.

(a) *Review of appeals.* The Assistant Secretary designates an official of the Department to review an appeal filed under § 116.243 to determine whether the appeal meets the requirements in that section.

(b) *Dismissal of appeals.* (1) If the designated official determines that the appeal does not meet the requirements in § 116.243, the designated official notifies the appellant, the SEA, and any other agency or organization defending the appeal that the appeal is dismissed.

(2) Each notice of dismissal includes reasons why the designated official determined that the appeal did not meet the requirements of § 116.243.

(3) Dismissal does not preclude other efforts to investigate or resolve the concerns raised by the appeal.

(c) *Acceptance of appeals.* If the designated official determines that the appeal meets the requirements of § 116.243, the designated official—

(1) Notifies the appellant, the SEA, and any other agency or organization defending the appeal that the appeal has been accepted for review; and

(2) Resolves the appeal under the procedures in § 116.245.

(Sec. 184, 20 U.S.C. 2834)

§ 116.245 The designated official's procedures for resolving direct complaints and appeals.

(a) *Gathering of information by the designated official.* If a direct complaint is accepted for review under § 116.242 or if an appeal is accepted for review under § 116.244, the designated official—

(1) Notifies the complainant or the appellant, the SEA, and any other agency or organization defending the complaint or appeal that each has 20 days from the date on which the notice is postmarked to submit any relevant written evidence or argument;

(2) Provides an opportunity for the complainant or the complainant's representative, or both, to present relevant oral evidence, including an opportunity to question the parties and their witnesses, if the designated official determines that this presentation is appropriate; and

(3) Conducts whatever research and investigations that the designated official considers to be appropriate. These may include an on-site investigation.

(b) *Resolution by the designated official.*—(1) *Time period for resolution.* The designated official issues a written resolution of each complaint or appeal within 60 days of receiving the complaint or appeal, unless there are exceptionsl circumstances that justify additional time. Examples of the types of factors that the designated official may consider in determining the existence of exceptional circumstances include—

(i) The need to conduct a major on-site investigation;

(ii) The need to conduct a comprehensive audit; or

(iii) The complexity of the issues raised by the complaint or appeal.

(2) *Contents of the resolution.* Each resolution that the designated offical issues under this section includes—

(i) A statement of the resolution and the reasons for that resolution; and

(ii) Notice of the right of the complainant or appellant, the SEA, or any other agency or organization defending the complaint or appeal to appeal that resolution for review by the Assistant Secretary under § 116.246.

(3) *Notice of the resolution.* Within 10 days of issuing a resolution to the complainant or appellant, the designated official sends a copy of the resolution to the complainant's or appellant's representative and, if appropriate, the LEA, the State agency, the SEA, the district advisory council, and project area and project school advisory council.

(Sec. 184, 20 U.S.C. 2834)

§ 116.246 Administrative appeals from the designated official's resolution.

(a) *Who may file an administrative appeal.* Any complainant or appellant, or other party to a complaint or an appeal, who is dissatisfied with the designated official's resolution of that complaint or appeal under § 116.245 may file an administrative appeal with the Assistant Secretary.

(b) *When to file an adminstrative appeal.* The administrative appeal must be postmarked within 30 days after the party that files the appeal receives a copy of the designated official's resolution.

(c) *Where to file an administrative appeal.* The administrative appeal must be—

(1) Designated "Title I Administrative appeal"; and

(2) Sent to the Assistant Secretary for Elementary and Secondary Education.

(d) *Contents of an administrative appeal.* The administrative appeal must—

(1) be written and signed;

(2) Identify those parts of the designated official's resolution with which the party that files the appeal disagrees and indicate why that party disagrees; and

(3) Indicate what relief the party who files the appeal is seeking from the Assistant Secretary.

(Sec. 184, 20 U.S.C. 2834)

§ 116.247 Preliminary review of administrative appeals.

(a) *Review of administrative appeals.* The Assistant Secretary reviews an administrative appeal filed under § 116.246 to determine whether the appeal meets the requirements in that section.

(b) *Dismissal of administrative appeals.* (1) If the Assistant Secretary determines that the administrative appeal does not meet the requirements of § 116.246, the Assistant Secretary notifies the appellant, the SEA, and any other agency or organization defending the appeal that the administrative appeal is dismissed.

(2) Each notice of dismissal includes reasons why the Assistant Secretary determined that the administrative appeal did not meet the requirements of § 116.246.

(3) Dismissal does not preclude other efforts to investigate or resolve the concerns raised by the appeal.

(c) *Acceptance of administrative appeals.* If the Assistant Secretary determines that the administrative appeal meets the requirements of § 116.246, the Assistant Secretary—

(1) Notifies the appellant, the SEA, and any other agency or organization defending the appeal that the administrative appeal has been accepted for review; and

(2) Resolves the administrative appeal under the procedures in § 116.248.

(Sec. 184, 20 U.S.C. 2834)

§ 116.248 The Assistant Secretary's procedures for resolving administrative appeals.

(a) *Procedures for considering the administrative appeal.* If an administrative appeal is accepted for review under § 116.247, the Assistant Secretary—

(1) Notifies the appellant, the SEA, and any other agency or organization defending the appeal that the appeal is accepted; and

(2) May provide the opportunity for additional arguments concerning the administrative appeal.

(b) *Resolution by the Assistant Secretary*—(1) *Time period for resolution.* Within 60 days, the Assistant Secretary—

(i) Issues a written resolution of an administrative appeal; or

(ii) Remands the administrative appeal to the designated official if exceptional circumstances exist. These may include—

(A) The need to conduct a major on-site investigation;

(B) The need to conduct a comprehensive audit; or

(C) The need to gather additional information.

(2) *Contents of the resolution.* The resolution that the Assistant Secretary issues under this section includes a statement of the resolution and the reasons for the resolution.

(3) *Notice of the resolution.* Within 10 days of issuing a resolution to the appellant, the Assistant Secretary sends a copy of the resolution to the appellant's representative and, if appropriate, the LEA, the State agency, the SEA, the district advisory council, and project area and project school advisory councils.

(Sec. 184, 20 U.S.C. 2834)

§ 116.249 [Reserved]

Audits and Audit Resolution

§ 116.250 Audits by the Secretary.

The Secretary provides for audits of grants or subgrants made under Title I to determine, at a minimum—

(a) The fiscal integrity of the audited agency's financial transactions and reports; and

(b) The audited agency's compliance with applicable statutes, regulations, and terms and conditions of the grant or subgrant.

(Sec. 185(a), 20 U.S.C. 2835(a))

§ 116.251 Audit resolution procedures.

The Secretary's procedures for resolving findings and recommendations that result from audits conducted under § 116.250 provide for—

(a) Submission of a draft audit report by the auditors to the audited agency;

(b) Opportunity for the audited agency to comment to the auditors on the findings and recommendations in the draft audit report;

(c) Submission of the final audit report by the auditors to the audited agency;

(d) Opportunity for the audited agency to submit a response to the Assistant Secretary regarding the findings and recommendations in the final audit report;

(e) Issuance of final audit determinations by the Assistant Secretary to the audited agency in a final determination letter that—

(1) Identifies the improper expenditures;

(2) Indicates the reasons for the final audit determination in sufficient detail—for example, by referring to the relevant parts of a separate document such as the audit report—to allow the audited agency to respond;

(3) Advises the audited agency that it shall—

(i) Repay the misspent funds to the Department; or

(ii) Within 30 calendar days of receiving the final determination letter, file an appeal for review by the Education Appeal Board under the procedures in 45 CFR Part 100d; and

(4) Is sent by certified mail with a return receipt requested; and

(f) Review by the Secretary of the Education Appeal Board's initial decision.

(Sec. 185(b), 20 U.S.C. 2835(b))

§ 116.252 Judicial review of audit resolutions.

If a State is dissatisfied with the Secretary's final action under § 116.251, the State may, within 60 days of receiving notice of that action, file a petition for review with the United States court of appeals for the circuit in which the State is located.

(Sec. 195, 20 U.S.C. 2851)

Note.—The repayment provisions in §§ 116.253–116.254 of this part are being published as proposed amendments to EDGAR. Thus, while they are included here as a convenience, they will not be included in the final version of these Title I regulations.

§ 116.253 Repayment of misspent funds.

(a) *Required repayment.* An agency that is found under §§ 116.250–116.252 to have misspent Title I funds shall repay those funds to the Department.

(b) *Funds used for repayment.* The agency shall repay the misspent funds from—

(1) Non-Federal sources; or

(2) Federal funds for which the Federal Government does not require accountability.

(c) *Collection methods.* The Secretary uses one of the following collection methods to effect repayment:

(1) Direct voluntary payment by the State in—

(i) A single payment; or

(ii) Installments over a period of not more than three years from the date on which—

(A) The Assistant Secretary takes final action under § 116.251(e);

(B) The Secretary affirms the initial decision of the Education Appeal Board under 45 CFR Part 100d if the State files an appeal for review by the Board; or

(C) A Federal court issues a decision upholding the final decision of the Secretary.

(2) Voluntary offset of funds if the agency enters into a written agreement with the Secretary—

(i) To have the amount of Title I funds paid under a current grant reduced by the amount of the debt; and

(ii) To replace the offset funds with funds identified in paragraph (b) of this section.

(3) Involuntary offset of funds if the Secretary—

(i) Removes the agency from its letter of credit or from a payment system under the Departmental Federal Assistance Financing System;

(ii) Places the agency on a direct advance payment system or on a direct reimbursement payment system;

(iii) Reduces, by the amount of the debt, the payment of funds to which the agency is otherwise entitled; and

(iv) Requires the agency that has been placed on a direct advance payment system to replace the offset funds with funds identified in paragraph (b) of this section.

(Sec. 185(b), 20 U.S.C. 2835(b))

§ 116.254 Repayment to the agency of recovered Title I funds.

(a) If an agency has voluntarily repaid misspent Title I funds to the Department under §§ 116.194–116.196 or § 116.253, the Secretary may—

(1) Consider those funds to be additional funds available for the Title I program; and

(2) Pay back to that agency an amount that does not exceed 75 percent of the funds recovered if the Secretary determines that—

(i) The practices of the agency that resulted in the final audit determination have been corrected, and the agency is in compliance with the Title I requirements in all other respects;

(ii) The agency has submitted to the Secretary a plan that—(A) Complies with Title I requirements for the use of the repaid funds; and

(B) To the extent possible, benefits the participating Title I children that were affected by the agency's failure to comply; and

(iii) The use of the repaid funds would serve to achieve the purposes of Title I.

(b) Any repayments by the Secretary under this section are subject to other conditions that the Secretary considers necessary to accomplish Title I purposes, including—

(1) Submission of periodic reports by the agency on its use of funds paid back under this section; and

(2) Consultation by the agency with parents or representatives of the Title I children that will benefit from the payments.

(c) Notwithstanding any other provisions of law, the Secretary may authorize the Title I funds paid back under this section to remain available for spending, subject to any conditions that the Secretary considers

appropriate, for up to three fiscal years following the fiscal year in which—

(1) The Assistant Secretary makes the final audit determination; or

(2) If an appeal is filed under § 116.251, the Secretary makes the final agency decision.

(d) At least 30 days before paying back the Title I funds under this section, the Secretary publishes in the Federal Register a notice of intent to pay back the Title I funds and the conditions under which the payment will be made. For at least 30 days after publication of this notice, any interested persons may submit comments to the Secretary regarding the proposed repayment.

(Sec. 456 of GEPA, 20 U.S.C. 1234e)

§§ 116.255–116.259 [Reserved]

Withholding of Payments

§ 116.260 Withholding of Title I payments.

(a) *General standard.* If the Secretary determines that an SEA is not in substantial compliance with the assurances it made in its application for Title I funds, the Secretary—

(1) Withholds further Title I payments, in whole or in part, under the procedures outlined in paragraph (b) of this section; or

(2) Enters into a compliance agreement with the SEA under §§ 116.270–116.273.

(b) *Secretary's procedures for withholding payments.* (1) Before initiating a proceeding to withhold Title I payments to an SEA, the Secretary determines, on a case-by-case basis, that the SEA is not in substantial compliance with the applicable Title I requirements.

(2) Before withholding Title I funds, the Secretary provides the SEA with—

(i) Written notice of the Secretary's intent to withhold funds. The written notice—

(A) States the facts indicating that the SEA is not in substantial compliance with the assurances in its application;

(B) Cites the Title I requirements that are the basis for the alleged failure to comply;

(C) Notifies the SEA of the opportunity for a hearing on the record; and

(D) Is sent by certified mail with a return receipt requested; and

(ii) The opportunity for a hearing on the record.

(3)(i) Following the hearing referred to in paragraph (b)(2)(ii) of this section, the hearing officer issues a decision that the hearing officer—

(A) Submits to the Secretary; and

(B) Sends to each party by certified mail with a return receipt requested;

(ii) Unless the Secretary, for good cause shown, modifies or sets aside that decision, in whole or in part, within 60 days after the SEA receives written notice of the decision, it becomes the final decision of the Department.

(iii) If the Secretary modifies or sets aside the hearing officer's decision, the decision, as modified or set aside, becomes the final decision of the Department 60 days after the Secretary's action.

(4) If, under the procedures in this section or § 116.262, the SEA is not found to be in substantial compliance with the assurances in its application, the Secretary notifies the SEA that—

(i) Further Title I payments will not be made to the State;

(ii) The SEA shall limit Title I payments to those LEAs and State agencies that were not involved in the failure to comply; or

(iii) The SEA shall reduce Title I payments to particular LEAs or State agencies contributing to the SEA's noncompliance. In that case, the partial payments are subject to additional conditions that the Secretary considers appropriate in light of the noncompliance.

(5) If the Secretary does not enter into a compliance agreement with the SEA under §§ 116.270–116.273, the Secretary continues to withhold Title I payments until the Secretary determines that the SEA is in substantial compliance.

(Sec. 186(a), 20 U.S.C. 2836(a))

§ 116.261 Suspension of Title I payments pending completion of withholding proceedings.

(a) The Secretary may suspend Title I payments to an SEA pending completion of a withholding action under § 116.260(b) if—

(1) The SEA is in substantial and continuing noncompliance with the assurances it made in its application for Title I funds; and

(2) The Secretary follows the procedures in paragraph (b) of this section;

(b) Before suspending Title I payments to an SEA, the Secretary provides the SEA with—

(1) Written notice of the intent to suspend payments during the course of the withholding proceedings. The notice—

(i) Indicates the reasons for the suspension;

(ii) Notifies the SEA that the suspension will be effective 10 days after the SEA receives the written notice, unless within those 10 days the SEA submits a written request to the Secretary for an opportunity to show cause why the suspension action should not be taken; and

(iii) Is sent by certified mail with a return receipt requested; and

(2) An opportunity to appear at a hearing to show cause why the proposed suspension action should not be taken, including an opportunity to present arguments concerning—

(i) The lack of necessity for the suspension of payments;

(ii) Possible factual errors in the Secretary's written notice of intent to withhold funds under § 116.260(b);

(iii) The nature of the violation charged in the written notice of intent to withhold; and

(iv) Hardship that may result from the proposed suspension.

(Sec. 186(a), 20 U.S.C. 2836(a); 45 CFR Part 100d)

§ 116.262 Judicial review of withholding actions.

If an SEA is dissatisfied with the Secretary's final action under § 116.260(b), the SEA may, within 60 days after receiving notice of that action, file a petition for review with the the United States court of appeals for the circuit in which the State is located.

(Sec. 195, 20 U.S.C. 2851)

§ 116.263 Notice to the public of the Secretary's withholding.

If the Secretary notifies an SEA that the Secretary is withholding Title I payments under § 116.260, the Secretary takes appropriate action to inform the public within that State of the withholding.

(Sec. 186(b), 20 U.S.C. 2836(b))

§§ 116.264–116.269 [Reserved]

Federal Compliance Agreements

§ 116.270 Use of a Federal compliance agreement.

(a) The Secretary may enter into a compliance agreement with an SEA instead of initiating or continuing a withholding action under § 116.260.

(b) The Secretary may enter into a compliance agreement—

(1) Before taking any action to begin a withholding action under § 116.260; or

(2) At any stage during a withholding action under § 116.260, including—

(i) Before providing the SEA with an opportunity for the hearing on the record that is required under § 116.260;

(ii) During the hearing on the record provided under § 116.260;

(iii) After a decision by the hearing officer or the Secretary under § 116.260 that the SEA is in substantial noncompliance with the assurances in its Title I application; or

(iv) During the course of a withholding of Title I funds by the Secretary.

(c) A compliance agreement entered into under this section—

(1) Applies only to current or future noncompliance;

(2) Relieves the SEA that enters into the agreement of any liability for repayment of funds that are spent by the SEA—

(i) In violation of a Title I requirement that is covered by the agreement; and

(ii) During the period of time that is covered by the agreement; and

(3) May be used to specify—

(i) The amount of funds that has been misspent by the SEA; and

(ii) A schedule for repaying those misspent funds under § 116.253;

(d) However, a compliance agreement entered into under this section may not be used to reduce or forgive liability for repaying funds that were misspent before the date on which the compliance agreement was entered into, including funds that were spent in violation of the maintenance of effort requirement in § 116.91.

(Sec. 186(c), 20 U.S.C. 2836(c))

§ 116.271 Contents of a Federal compliance agreement.

A compliance agreement that is entered into under § 116.270 must—

(a) Be a written agreement signed by an authorized representative of the SEA;

(b) Include a statement of each requirement that the SEA—and, if applicable, the LEA or State agency—is violating;

(c) Describe the activity that is in violation of each requirement:

(d) Describe the steps that the SEA—and, if applicable, the LEA or State agency—agrees to take in order to come into full compliance with each requirement;

(e) Address all matters that formed the basis for the initiation of a withholding action under § 116.260, if the Secretary has begun a withholding action under that section;

(f) Consist of a single agreement or a series of agreements that, taken together, will result in full compliance by the SEA; and

(g) Specify a time period, determined by the Secretary under § 116.272, during which the SEA—and, if applicable the LEA or State agency—shall take steps that result in full compliance.

(Sec. 186(c), 20 U.S.C. 2836(c))

§ 116.272 Time period for coming into compliance under a Federal compliance agreement.

(a) Except as provided in paragraphs (b) through (d) of this section, each compliance agreement entered into under § 116.270 must require steps that result in immediate full compliance with all Title I requirements. For purposes of this section, "immediate" means within 60 days after entering into the agreement.

(b) If as SEA that desires to enter into a compliance agreement under § 116.270 submits a written allegation that immediate full compliance is not feasible, the Secretary holds a hearing within 30 days of receiving the SEA's allegation concerning the feasibility of immediate full compliance and the time required to achieve full compliance.

(c) At each hearing conducted under paragraph (b) of this section—

(1) The SEA has the burden of showing—

(i) That it is not feasible for the SEA to come into full compliance with all Title I requirements until a future date; and

(ii) The period of time that the SEA requires to achieve full compliance.

(2) Parents, their representatives, and other interested persons or organizations have an opportunity to participate.

(d) After a hearing has been conducted under paragraph (c) of this section, the Secretary may enter into a compliance agreement under § 116.270 that specifies a period of more than 60 days for the SEA to achieve full compliance with all Title I requirements if—

(1) Before entering into a compliance agreement that specifies a period of more than 60 days for the SEA's coming into compliance, the Secretary makes written findings that it is not genuinely feasible for the SEA to come into immediate compliance with all Title I requirements; and

(2) The compliance agreement specifies, for coming into full compliance, a period of time that the Secretary has determined to be reasonable.

(Sec. 186(c), 20 U.S.C. 2836(c))

§ 116.273 Duration of a Federal compliance agreement.

(a) Except as provided in paragraph (b) of this section, a compliance agreement entered into under § 116.270 remains in effect for the time period determined under § 116.272 and specified in the agreement for the SEA to come into full compliance.

(b) If the SEA that has entered into a compliance agreement under § 116.270 fails to comply with the terms of that agreement, the agreement expires immediately.

(Sec. 186(c), 20 U.S.C. 2836(c))

§ 116.274 Effect of expiration of a Federal compliance agreement.

(a) If a compliance agreement has expired under § 116.273, an SEA may not enter into another compliance agreement with the Secretary for any violations that were covered in the first compliance agreement.

(b) If a compliance agreement has expired under § 116.273(b), the withholding procedures in § 116.260 apply. However, in taking any withholding action under § 116.260, the Secretary takes into account any partial compliance that was achieved by the SEA under the compliance agreement.

(Sec. 186(c), 20 U.S.C. 2836(c))

§ 116.275 Notice of a Federal compliance agreement.

(a) Within 15 days of entering into a compliance agreement under § 116.270, the Secretary sends a copy of the agreement to each organization or person that has filed a complaint with the Department concerning any noncompliance covered by that agreement.

(b) A compliance agreement that is entered into under § 116.270 is subject to disclosure under 5 U.S.C. 552.

(Sec. 186(c)(3), 20 U.S.C. 2836(c)(3))

§§ 116.276–116.279 [Reserved]

Cease and Desist Proceedings

§ 116.280 Procedures for issuing cease and desist orders.

(a) If the Secretary has reason to believe that a State or LEA is not in substantial compliance with any applicable Title I requirements, the Secretary may issue a complaint that—

(1) States the facts indicating that the State or LEA is not in substantial compliance;

(2) Cites the requirements that are the basis for the alleged noncompliance; and

(3) Contains a notice of a hearing to be held before the Education Appeal Board at least 30 days after the agency receives the complaint.

(b) Each State or LEA that receives a complaint under paragraph (a) of this section has the right to appear before a Panel of the Education Appeal Board on the specified date to show cause why the Board should not, under the procedures in 45 CFR Part 100d, issue an order that requires the State or LEA to cease and desist from the violation charged in the complaint.

(c) If, after the hearing referred to in paragraph (b) of this section, the Panel of the Education Appeal Board decides that the State or LEA has violated a legal requirement stated in the complaint, the Panel—

(1) Makes a written report stating its findings of fact; and

(2) Issues a cease and desist order.

(d) The report and order of the Education Appeal Board are final 60 days after the State or LEA receives copies of them unless the State or LEA files a petition for judicial review under § 116.281.

(Sec. 454 of GEPA, 20 U.S.C. 1234c)

§ 116.281 Judicial review of cease and desist orders.

If a State or LEA is dissatisfied with the Education Appeal Board's final report and order under § 116.280, the State or LEA may, within 60 days after receiving copies of them, file a petition for review with the United States court of appeals for the circuit in which the State or LEA is located.

(Sec. 455 of GEPA, 20 U.S.C. 1234d)

§ 116.282 Enforcement of cease and desist orders.

The Secretary may enforce the cease and desist order by—

(a) Withholding any portion of the Title I payments to the State or LEA against which the final order has been issued; or

(b) Certifying the facts to the Attorney General who initiates appropriate proceedings to enforce the order.

(Sec. 454(e) of GEPA, 20 U.S.C. 1234c(e))

§§ 116.283–116.289 [Reserved]

The Secretary proposes to amend Part 116a of the Code of Federal Regulations to read as follows:

PART 116a—FINANCIAL ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES FOR CHILDREN WITH SPECIAL EDUCATIONAL NEEDS

Subpart A—General

Sec.

116a.1 Purpose of Title I grants to LEAs.
116a.2 Applicability of the regulations in Part 116a.
116a.3 Applicability of other statutes and regulations.
116a.4 Definitions.
116a.5–116a.9 [Reserved]

Subpart B—Allocation of Title I Funds for Grants to Local Educational Agencies

Basic Grants

116a.10 Eligibility of LEAs for basic grants.
116a.11 Determination by the Secretary of basic grants.
116a.12 Allocation of county aggregate amounts by SEAs.
116a.13 Exceptions to county aggregate amounts.
116a.14 Distribution of an additional amount based on the survey of income and education.
116a.15–116a.19 [Reserved]

Special Incentive Grants

116a.20 Eligibility for special incentive grants.
116a.21 State entitlements.
116a.22 LEA entitlements.
116a.23 Method of making special incentive grants.
116a.24 Use of special incentive grant funds.

Concentration Grants

116a.30 States entitled to receive concentration grant funds.
116a.31 Amount of concentration grant funds that each State receives.
116a.32 Allocation of concentration grant funds to counties within a State in which at least one county meets the statutory eligibility criteria.
116a.33 Allocation of concentration grant funds to counties within a State in which no county meets the statutory eligibility criteria.
116a.34 Submission of allocation plans.
116a.35 Secretary's standards for approval of allocation plans.
116a.36 Method of awarding concentration grant funds.
116a.37 Use of concentration grant funds.

Reallocation

116a.38 Reallocation of Title I funds by SEAs.
116a.39 Reallocation of Title I funds by the Secretary.

Subpart C—Applying to the State for Title I Funds

116a.40 LEAs that may receive Title I assistance.
116a.41 Submission of Title I project applications to the SEA.
116a.42–116a.49 [Reserved]

Subpart D—Designating Schools and School Attendance Areas for Title I Projects

Indentifying Eligible Schools and School Attendance Areas

116a.50 Overview of the regulations in this subpart.
116a.51 Identifying eligible school attendance areas.
116a.52 Identifying eligible schools.
116a.53–116a.59 [Reserved]

Selecting Schools and School Attendance Areas for Title I Projects

116a.60 Overview of the process of selecting school attendance areas and schools for Title I projects.
116a.61 Selecting project areas by ranking the eligible school attendance areas according to their concentration of children from low-income families.
116a.62 Selecting project schools from among the schools that the LEA identified as eligible schools.
116a.63 Selecting a limited number of project areas and project schools through the use of alternative rankings of school attendance areas and eligible schools according to their concentration of children from low-income families and according to the incidence of educational deprivation.

Sec.

116a.64 Continuation of eligibility for certain school attendance areas or schools.
116a.65 Skipping higher-ranked school attendance areas and schools receiving services of the same nature and scope from non-Federal sources.
116a.66–116a.69 [Reserved]

Subpart E—Identifying and Selecting Children To Be Served

116a.70 General rules for identifying eligible children and selecting children to be served.
116a.71 Special rules for identifying and selecting children to be served.
116a.72 Use of Title I funds for a schoolwide project.
116a.73 Required plan for each school selected for a schoolwide project.
116a.74 Financial requirements for a schoolwide project.
116a.75 Serving children in local institutions for neglected or delinquent children.
116a.76–116a.79 [Reserved]

Subpart F—Participation of Children Enrolled in Private Schools

General Requirements

116a.80 Required opportunity for participation of private school children in Title I projects.
116a.81 Determining the eligibility of private school children.
116a.82 Prohibition concerning noninstructional duties.
116a.83–116a.93 [Reserved]

Bypass Provisions

116a.94 General standard for by-pass actions.
116a.95 Secretary's procedures for by-pass actions.
116a.96 Judicial review of by-pass actions.
116a.97 Effect of a by-pass action.
116a.98 Withholding funds pending final resolution of a by-pass action.
116a.99 Continuation of the by-pass until the LEA complies

Subpart G—Needs Assessment

116a.100 Purpose of the required needs assessment.
116a.101 Identification of general instructional areas and needs.
116a.102 Identification of educationally deprived children.
116a.103 Selection of children to participate in a project.
116a.104 Determination of the special educational needs of participating children.
116a.105 Establishment of educational objectives and instructional strategies.
116a.106–116a.109 [Reserved]

Subpart H—Fiscal Requirements

Maintenance of Effort

116a.110 Maintenance of effort requirement.

Excess Costs

116a.111 Excess costs requirement.

Comparability

116a.112 Basic standards for determining comparability of services.

Sec.
116a.113 Submission of comparability reports.
116a.114 Data to be included in a comparability report.
116a.115 The date on which the data included in the comparability report must be collected.
116a.116 Criteria for determining comparability of services.
116a.117 Grouping schools by corresponding grade levels.
116a.118 Exclusions from the excess costs and comparability requirements.
116a.119 Required annual assurance.
116a.120 Maintaining comparability.
116a.121 Comparability data must be for the same date.
116a.122 Retention of records concerning comparability.
116a.123 Actions to be taken by an SEA if an LEA violates the comparability requirements.
116a.124 Amount of funds that an SEA shall refund for a violation of the comparability requirement.
116a.125 SEA reports to the Secretary.
116a.126–116a.129 [Reserved]

Supplement, Not Supplant: General

116a.130 Introduction.
116a.131 Definitions.
116a.132 Assurance of equal opportunity.

Supplement, Not Supplant: Regular State and Local Funds and State and Local Funds for State Phase-In Programs

116a.133 Introduction.
116a.134 Equitable distribution: Regular funds and funds for State Phase-in programs.
116a.135 Provision of services required by law: Regular funds and funds for State phase-in programs.

Supplement, Not Supplant: Special State and Local Programs

116a.136 Introduction.
116a.137 Equitable distribution: Special State and local programs.
116a.138 Procedures for determining proportionate share.
116a.139 Provision of services required by law: General.
116a.140 Provision of services required by law: Handicapped children.
116a.141 Provision of services required by law: Children whose primary or home language is other than English.
116a.142 Provision of services required by law: Compensatory education or other services required by State or local law.
116a.143 Coordination.
116a.144–116a.149 [Reserved]

Subpart I—Parental Involvement

116a.150 Purpose of advisory councils.
116a.151 Advisory councils that an LEA shall establish.
116a.152 Composition of membership on district advisory councils.
116a.153 Models for electing district advisory councils.
116a.154 Procedures for electing district advisory councils.
116a.155 Required project area advisory councils and project school advisory councils.
116a.156 Membership of project area advisory councils and project school advisory councils.
116a.157 Procedures for electing project area advisory councils and project school advisory councils.
116a.158 An LEA may not impose additional restrictions on the rights of parents to elect advisory council members.
116a.159 Responsibilities of advisory councils.
116a.160 Information that an LEA shall provide to advisory councils.
116a.161 Training for members of advisory councils.
116a.162 Allowable expenditures for advisory councils.
116a.163–116a.169 [Reserved]

Subpart J—Evaluations by Local Educational Agencies

116a.170 General evaluation requirements.
116a.171 Standards for evaluation by an LEA.
116a.172 Use of models by an LEA.
116a.173 Model requirements.
116a.174 Alternative models.
116a.175 Frequency of LEA evaluations.
116a.176 Reports of evaluation results.
116a.177 Allowable costs for evaluation.
116a.178–116a.179 [Reserved]

Authority: Sec. 101–198 of the Elementary and Secondary Education Act of 1965, as amended by Pub. L 95–561 (20 U.S.C. 2701–2854), unless otherwise noted.

Subpart A—General

§ 116a.1 Purpose of Title I grants to LEAs.

Under Title I of the Elementary and Secondary Education Act of 1965, as amended, the Secretary provides financial assistance to local educational agencies (LEAs) for projects designed to meet the special educational needs of—

(a) Educationally deprived children in low-income areas; and

(b) Children in local institutions for neglected or delinquent children.

(Sec. 111, 20 U.S.C. 2711)

§ 116a.2 Applicability of the regulations in Part 116a.

The regulations in this part apply to projects for which the Secretary provides financial assistance to LEAs under Title I.

(Sec. 101–198, 20 U.S.C. 2701–2854)

§ 116a.3 Applicability of other statutes and regulations.

In Addition to the regulations in this part, the following statutes and regulations apply to projects for which the Secretary provides financial assistance to LEAs under Title I:

(a) The Title I statute in 20 U.S.C. 2701 *et seq.*

(b) The Title I regulations in 45 CFR Part 116 that apply to all programs authorized under Title I.

(c) The General Education Provisions Act (GEPA) in 20 U.S.C. 1221 *et seq.*

(d) The Education Division General Administrative Regulations (EDGAR) in—

(1) 45 CFR Part 100b (State-administered programs);

(2) 45 CFR Part 100c (General); and

(3) 45 CFR Part 100d (Education Appeal Board).

(Sec. 101–198, 20 U.S.C. 2701–2854; 20 U.S.C. 1221 *et seq.*; 45 CFR Parts 100b, 100c, 100d)

§ 116a.4 Definitions.

(a) The following terms that are used in this part are defined in 45 CFR Part 116:

Applicant
Application
Assistant Secretary
Average daily attendance
Average per pupil expenditure
Cease and desist
Children
Construction
County
Current expenditures
Department
Elementary school
Equipment
Fiscal Year
Free public education
Grant period
Local educational agency
Parent
Participating children
Preschool children
Project
Project period
Public
School facilities
Secondary school
Secretary
State
State agency
State educational agency
Suspension
Title I
Title IV
Title V
Withholding

(b) In addition to the definitions referred to in paragraph (a) of this section, the following definitions apply to this part:

"Educationally deprived children" means children whose educational attainment is below the level that is appropriate for children of their age.

"Eligible school" means a school in which a sufficiently high concentration of children from low-income families is enrolled so that, under the procedure in § 116a.52, the school is eligible for services supported with Title I funds.

"Eligible school attendance area" means a school attendance area in which a sufficiently high concentration of children from low-income families resides so that, under the procedures in § 116a.51, the school attendance area is eligible for services supported with Title I funds. However if a child's school

attendance area cannot be determined on a geographical basis, the child is considered to be in the school attendance area to which the child is assigned, or would be assigned if he were not attending a private school.

"Institution for delinquent children" means a public or private residential facility that is operated primarily for the care of at least 10 children who have been adjudicated delinquent or in need of supervision. The term also includes an adult correctional institution in which at least 10 children reside.

"Institution for neglected children" means a public or private residential facility—other than a foster home—that is operated primarily for the care of at least 10 children who have been committed to the institution—or voluntarily placed in the institution under applicable State law—because of the abandonment by, or neglect by, or death of, parents.

"Instructional staff"—

(a) Means staff members who provide instruction to children or who assist or supervise those staff members who provide instruction;

(b) Includes teachers, principals, consultants, supervisors of instruction, librarians, guidance, and psychological personnel; and

(c) Includes aides, clerical personnel, and other paraprofessionals who are employed to assist other instructional staff members providing instructional services.

"Participating school" means a "project school" as defined in this section.

"Project area" means a school attendance area in which a high concentration of children from low-income families reside, and that has been selected by an LEA, under the procedures in § 116a.61 and §§ 116a.63–116a.65, as an area from which children are to be selected to participate in a Title I project.

"Project school" means an eligible school that is selected by an LEA, under the procedures in §§ 116a.62–116a.65, as a school in which children are to be selected to participate in a Title I project and to receive services supported with Title I funds.

"School attendance area" means, in relation to a particular public school, the geographical area in which the children who are normally served by that school reside.

(Sec. 101–198, 20 U.S.C. 2701–2854; Sec. 408 of GEPA, 20 U.S.C. 1221e-3(a)(1))

§§ 116a.5–116a.9 [Reserved]

Subpart B—Allocation of Title I Funds for Grants to Local Educational Agencies

Basic Grants

§ 116a.10 Eligibility of LEAs for basic grants.

(a) Each LEA in a State—other than Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands—is eligible for a basic Title I grant for a fiscal year if—

(1) The Secretary determines, on the basis of satisfactory available data, that there are at least 10 children counted under section 111(c) (Children to be counted) of Title I in the school district of the LEA; or

(2) The Secretary does not have available satisfactory data on a school district basis, but the school district served by the LEA is located, in whole or in part, in a county in which the Secretary determines there are at least 10 children counted under section 111(c) of Title I.

(b) The Secretary allocates Title I funds appropriated under section 111(a)(1) (relating to authorized appropriations) of Title I among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands on the basis of their respective needs for Title I funds.

(Sec. 111(a), 20 U.S.C. 2711(a); Sec. 111(b), 20 U.S.C. 2711(b); Sec. 111(c), 20 U.S.C. 2711(c))

§ 116a.11 Determination by the Secretary of basic grants.

(a) If satisfactory census data are available from the Department of Commerce, the Secretary determines the amount of the basic Title I grant that each LEA in a State—other than Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands—is eligible to receive for a fiscal year under the method in sections 111(a)(2)(A) (relating to amounts when data are available) and 111(c) of Title I.

(b)(1) If satisfactory census data are not available from the Department of Commerce for LEAs, the Secretary determines the "county aggregate" amount of Title I basic grant funds that all LEAs in a county are eligible to receive under the method in sections 111(a)(2)(B) (relating to amounts when data are not available) and 111(c) of Title I.

(2) The "county aggregate" amount referred to in paragraph (b)(1) of this section includes an amount based on the number of children aged 5 through 17 who—under the criteria in section 111(c)(2)(B) (relating to determining numbers of children) of Title I—are living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, but who are not counted under Subpart 3 of Part B (Programs for neglected and delinquent children operated by State agencies) of Title I for purposes of a grant to a State agency.

(c) If the funds appropriated by Congress for any fiscal year are not sufficient to pay the full amount that all LEAs are eligible to receive under Title I basic grants, the Secretary ratably reduces, using the procedures in section 193 (Adjustments where necessitated by appropriation) of Title I, the amount available to each LEA or county.

(Sec. 111, 20 U.S.C. 2711; Sec. 193, 20 U.S.C. 2843)

§ 116a.12 Allocation of county aggregate amounts by SEAs.

Except as provided in § 116a.13, an SEA shall allocate the county aggregate amounts, determined by the Secretary under § 116a.11, by using the following procedures:

(a) *Allocations based on children in local institutions for neglected or delinquent children.* (1) Except as provided in paragraphs (a) (2) and (3) of this section, the SEA shall first allocate to a particular LEA that portion, if any, of the county aggregate amount that is based on the number of children, aged 5 through 17, in the LEA's district who resided in a local institution for neglected or delinquent children—and were not counted under Subpart 3 of Part B (Programs for neglected and delinquent children operated by State agencies) of Title I—

(i) For at least one day during the month of October of the preceding calendar year; and

(ii) For at least 30 consecutive days during the same preceding calendar year.

(2) If the SEA determines that the LEA is unable or unwilling to provide for the special educational needs of the children referred to in paragraph (a)(1) of this section, the SEA shall—

(i) Assign that portion of the LEA's grant to the SEA if the SEA assumes educational responsibility for those children; or

(ii) Assign that portion of the LEA's grant to another State or local public agency if that agency agrees to assume educational responsibility for those children.

(iii) If a local institution for neglected or delinquent children closes and the children are transferred to an institution in the school district of another LEA, the

SEA shall adjust the allocations of the two LEAs to reflect that transfer.

(b) *Allocations based on the distribution of children from low-income families*—(1) *General rule.* After following the procedures in paragaph (a) of this section, the SEA shall allocate the remaining county aggregate amount to LEAs in the county on the basis of the best available data on the number of children from low-income families in the school districts of those LEAs.

(2) *Special circumstances.* The SEA shall adjust the allocations that it makes under paragaph (b)(1) of this section to reflect the following special circumstances:

(i) *LEAs in more than one county.* If a school district of an LEA overlaps a county boundary, the SEA shall make, on a proportionate basis, a separate allocation to that LEA from the county aggregate amount for each county in which that district is located.

(ii) *LEAs serving children from another LEA.* If an LEA serves children from the school district of another LEA or serves different children within the same geographical area as another LEA, the SEA may adjust the allocations of those LEAs to reflect the number of children from low-income families for whom each LEA is providing a free public education.

(ii) *Changes in LEAs.* If an LEA's school district is merged or consolidated, or a portion of the district is transferred to another LEA, the SEA shall—

(A) Adjust the allocations of those LEAs to reflect the number of children from low-income families for whom each surviving LEA is providing a free public education; or

(B) Permit an LEA that submitted a previously approved project application to carry out the approved project by itself or in cooperation with another LEA, during the period covered by that application.

(iv) *Minimum allocation.* The SEA is to required to allocate to an LEA a basic grant of Title I funds generated by fewer than 10 children.

(Sec. 111, 20 U.S.C. 2711)

§ 116a.13 Exceptions to county aggregate amounts.

(a) If a large number of LEAs overlap county boundaries, the SEA may apply to the Secretary for authority in any fiscal year to make, directly to LEAs without regard to the county aggregate amounts, the basic grant allocations under § 116a.12 and the special incentive grant allocations under §§ 116a.20–116a.24.

(b) If the Secretary approves the SEA's request under paragraph (a) of this section, the SEA shall provide assurances that it will—

(1) Make these allocations using the same factors as the Secretary uses in determining the amount of grants under section 111(a) (Grants—amount and eligibility) of Title I; and

(2) Establish procedures through which LEAs dissatisfied with the determinations made by the SEA may appeal directly to the Secretary for a final determination.

(Sec. 111(a)(3)(C), 20 U.S.C. 2711(a)(3)(C))

§ 116a.141 Distribution of an additional amount based on the survey of income and education.

(a) If the amount appropriated for basic grants for any other fiscal year exceeds the amount appropriated for basic grants in fiscal year 1979, the Secretary—under section 111(a)(3)(D) (relating to allocating amounts over the fiscal year 1979—allocates one-half of the excess amount to SEAs on the basis of data from the 1975 survey of income and education conducted by the Bureau of the Census.

(b) An SEA shall allocate to LEAs within the State any additional amounts available under paragraph (a) of this section in exact proportion to the amounts allocated to the LEAs for Title I basic grants.

(Sec. 111(a)(3)(D), 20 U.S.C. 2711(a)(3)(D))

§§ 116a.15–116a.19 [Reserved]

Special Incentive Grants

§ 116a20 Eligibility for special incentive grants.

(a) An LEA that is eligible to receive a payment under section 111 (relating to basic grants) of Title I for any fiscal year shall be entitled to an additional grant under section 116 (relating to special incentive grants) of Title I, if the LEA is located in a State that has in effect for that fiscal year a State program meeting the following requirements;

(1) The program is similar to Title I in the following characteristics:

(i) It provides financial assistance to meet the special educational needs of educationally deprived children.

(ii) All participating children are educationally deprived.

(iii) The SEA bases the program on performance objectives related to educational achievement and evaluates the program in a manner consistent with those performance objectives.

(iv) The program provides supplementary services designed to meet the special educational needs of participating children.

(v) The LEA keeps whatever records are necessary to ensure that the requirements in paragraphs (a)(1)(i) through (a)(1)(iv) of this section are met and provides access to those records for the purpose of verification.

(vi) The SEA monitors performance under the program to ensure that all requirements are met.

(2) In at least 95 percent of the LEAs in the State, not less than 50 percent of the funds expended under the State program, in the fiscal year preceding the fiscal year in which the State is to receive a payment for an additional grant under section 116 of Title I, is expended in school attendence areas that have been identified as eligible in accordance with § 116a.51.

(b)(1) A State that desires to have its LEAs be eligible to receive an additional grant shall develop a system for determining—

(i) The data required by paragraph (a)(2) of this section; and

(ii) The amount of State funds expended under the State program referred to in § 116a.21(a).

(2) The State shall submit to the Secretary information on the system developed in paragraph (b)(1) of this section.

(Sec. 116(a), 20 U.S.C. 2721(a); Sec. 116(b), 20 U.S.C. 2721(b))

§ 116a.21 State entitlements.

(a) Except as provided in paragraph (c) of this section, the aggregate amount of special incentive grants to which the LEAs in a State are entitled for any fiscal year is 50 percent of the amount of State funds expended, in the most recent fiscal year for which data are available, under a State program meeting the requirements in § 116a.20(a).

(b)(1) If the sums appropriated for a fiscal year are not sufficient to pay the total amounts to which all LEAs are entitled under this section, the SEA shall ratably reduce the amounts to be paid those agencies to the extent necessary to bring the payments within the limits of the amounts appropriated.

(2) If additional funds become available for making payments under this section for that year, the SEA shall increase the reduced amounts referred to in paragraph (b)(1) of this section on the same basis that they were reduced.

(c) The aggregate amount of special incentive grants that the LEAs in a State are eligible to receive for any fiscal year may not exceed 10 percent of the aggregate amount that LEAs in the State are eligible to receive for basic grants under section 111 of Title I for that fiscal year.

(d)(1) If, in any fiscal year, the expenditures made by a State under a program meeting the requirements of § 116a.20(a) equal or exceed expenditures under that program in the

preceding fiscal year, the amount paid to the State under this section is not less than the amount paid to the State under this section in the preceding fiscal year.

(2)(i) The total of any increases required under paragraph (d)(1) of this section is derived by proportionately reducing the amount paid to States that were not entitled to a payment under this section in the preceding fiscal year.

(ii) However, the amount paid to a State under this section for any fiscal year does not exceed the maximum amount to which the State is entitled for that fiscal year for basic grants under section 111 of Title I.

(Sec. 116(b), 20 U.S.C. 2721(b); Sec. 116(c), 20 U.S.C. 2721(c); Sec. 116(d), 20 U.S.C. 2721(d))

§ 116a.22 LEA entitlements.

For any fiscal year, (a) the amount of the additional grant for each LEA in a State under § 116a.21 shall bear the same ratio to (b) the amount allocated to the State under § 116a.21 as (c) the amount allocated to the LEA for that fiscal year under section 111 (referring to basic grants) of Title I bears to (d) the aggregate amount allocated to all LEAs in the State for that fiscal year under section 111.

(Sec. 116(b)(2), 20 U.S.C. 2721(b)(2))

§ 116a.23 Method of making special incentive grants.

The Secretary includes that amount of special incentive grant funds that a State is entitled to receive during a particular fiscal year, as determined under § 116a.21, in the amount paid to that State for that fiscal year under section 191 (Payment methods) of Title I.

(Sec. 116(c)(2), 20 U.S.C. 2721(c)(2))

§ 116a.24 Use of special incentive grant funds.

An LEA that receives special incentive grant funds shall use those funds—

(a) To carry out activities described in an approved project application for Title I funds that the LEA submits under section 121 (relating to the local program application for a basic grant) of Title I; and

(b) In accordance with the program requirements in Subpart 3 (Program requirements and applications) of Title I.

(Sec. 116(c)(4), 20 U.S.C. 2721(c)(4)

Concentration Grants

Note.—The regulatory provisions for Title I Concentration Grants (§§ 116a.30–116a.37) were published as final regulations on April 3, 1980 (45 FR 22654–57). Because these provisions are in effect, further comments are not being sought on them and will not be considered. They are included here as a convenience to the public.

§ 116a.30 States entitled to receive concentration grant funds.

Section 117(b) (relating to eligibility for and amount of special concentration grants) of Title I provides that a State—other than Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands—that is eligible for a grant under Title I for any fiscal year is entitled to concentration grant funds from the amount appropriated for that fiscal year under section 117(d) (relating to appropriations for concentration grants) of Title I.

(Sec. 117(b)(1), 20 U.S.C. 2722(b)(1))

§ 116a.31 Amount of concentration grant funds that each State receives.

(a) The Secretary determines the amount of concentration grant funds a State receives under section 117 (relating to the amount of the concentration grant) of Title I.

(b) However, each State that is entitled to concentration grant funds receives at least one-quarter of one percent of the total funds appropriated for that fiscal year under section 117(d) of Title I.

(c) The Secretary determines the minimum amount of concentration grant funds that each State is entitled to receive before setting aside any amounts for State administrative costs and evaluation.

(Sec. 117(b)(1), 20 U.S.C. 2722(b)(1); Sec. 117(b)(2), 20 U.S.C. 2722(b)(2); Sec. 117(b)(3), 20 U.S.C. 2722(b)(3))

§ 116a.32 Allocation of concentration grant funds to counties within a State in which at least one county meets the statutory eligibility criteria.

(a) *General rule.* (1) Except as provided in paragraph (b) of this section, concentration grant funds that are awarded to a State in which at least one county meets the eligibility criteria in section 117(b)(1) (relating to the eligibility for a concentration grant) of Title I are allocated to the eligible counties within the State by the Secretary in accordance with the formula in section 117(b)(3) of Title I.

(2) Under the formula referred to in paragraph (a)(1) of this section, a county that meets the statutory eligibility criteria and is located in a State that receives the minimum allocation of concentration grant funds is allocated the same proportion of the total concentration grant appropriation as an eligible county that is located in a State that receives more than the minimum allocation.

(b) *Exceptions.* (1) Except as provided in paragraph (b)(3) of this section, after all the eligible counties in a State that received the minimum grant have been allocated the amount of concentration grant funds to which they are entitled under the statutory formula, the Secretary, according to an approved allocation plan submitted by the SEA, allocates to counties within that State any concentration grant funds that remain unallocated.

(2) The allocation plan referred to in paragraph (b)(1) of this section must—

(i) Be submitted to the Secretary by the SEA according to the procedures described in § 116a.34; and

(ii) Have the approval of the Secretary, using the standards described in § 116a.35.

(3)(i) If the SEA does not submit an allocation plan, or the Secretary disapproves the plan that has been submitted and notifies the SEA of the reasons for disapproving the plan, the Secretary allocates the remaining concentration grant funds within the State to those counties that are receiving a basic grant under Part A of Title I.

(ii) The Secretary makes this allocation according to the basic grant allocation method in section 111(a) (relating to the amount of basic grants) of Title I.

(Sec. 117(a), 20 U.S.C. 2722(a); Sec. 117(b), 20 U.S.C. 2722(b))

§ 116a.33 Allocation of concentration grant funds to counties within a State in which no county meets the statutory eligibility criteria.

(a) *General Rule.* (1) Except as provided in paragraph (b) of this section, if no county in a State meets the eligibility criteria in section 117(b)(1) of Title I, the Secretary, according to an approved allocation plan submitted by the SEA, allocates to counties within the State concentration grant funds that are awarded to that State.

(2) The allocation plan referred to in paragraph (a)(1) of this section must—

(i) Be submitted to the Secretary by the SEA according the procedures described in § 116a.34; and

(ii) Have the approval of the Secretary, using the standards described in § 116a.35.

(b) *Exception.* (1) If the SEA does not submit an allocation plan or if the Secretary disapproves the plan that has been submitted and notifies the SEA of the reasons for disapproving the plan, the Secretary allocates the concentration grant funds within the State to those counties that are receiving a basic grant under Part A of Title I.

(2) The Secretary makes this allocation on the basis of the basic grant allocation method in section 111(a) of Title I.

(Sec. 117(a), 20 U.S.C. 2722(a); Sec. 117(b), 20 U.S.C. 2722(b))

116a.34 Submission of allocation plans.

(a) *States that may submit an allocation plan.* (1) If a State's concentration grant funds remain unallocated after all the eligible counties in that State have been allocated the amount of concentration grant funds to which they are entitled under the statutory formula, the State may submit, for the Secretary's consideration, a plan for allocation of these unallocated funds to eligible counties within the State.

(2) Only counties that are eligible to receive basic grants under Part A of Title I may receive concentration grant funds.

(b) *Submission through SEA.* A State that chooses to submit an allocation plan shall submit the plan through its SEA.

(c) *Elements of an allocation plan.* In order to be assured of consideration by the Secretary, an allocation plan must include—

(1)(i) A list of all counties in the State that meet the eligibility criteria in section 117(b)(1) of Title I; and

(ii) The amount of concentration grant funds that each of those counties receives under the formula in section 117(b)(3) of Title I;

(2)(i) A list of all counties in the State; and

(ii) The amount of concentration grant funds, if any, that each county would receive under the proposed allocation plan; and

(3) A description of the proposed method for allocating the concentration grant funds to the counties in the State. This description must include—

(i) The reasons why this method is being proposed;

(ii) How this method meets the statutory purpose of providing concentration grant funds to those counties with especially high concentrations of children from low-income families; and

(iii) The reasons why this method is reasonable in terms of local circumstances including the distribution of children from low-income families within counties.

(Sec. 117(a), 20 U.S.C. 2722(a); Sec. 117(b), 20 U.S.C. 2722(b))

§ 116a.35 Secretary's standards for approval of allocation plans.

In deciding whether to approve a proposed allocation plan, the Secretary considers the extent to which the proposed plan—

(a) Meets the requirements in § 116a.34;

(b) Would result in an allocation of concentration grant funds that meets the statutory purpose of providing concentration grant funds to those counties with especially high concentrations of children from low-income families; and

(c) Is reasonable in terms of local circumstances, including the distribution of children from low-income families within counties.

(Sec. 117(a), 20 U.S.C. 2722(a); Sec. 117(b), 20 U.S.C. 2722(b))

§ 116a.36 Method of awarding concentration grant funds.

(a) The Secretary includes the amount of concentration grant funds that a State is entitled to receive during a particular fiscal year, as determined under § 116a.31, in the amount paid to that State for that fiscal year under section 191 (payment methods) of Title I.

(b) Under § 116a.32 or § 116a.33, the Secretary allocates those concentration grant funds to eligible counties within a State that receives concentration grant funds.

(c)(1) The SEA shall distribute concentration grant funds—

(i) Among the LEAs in each county that is entitled to receive those funds; and

(ii) On the basis of the current distribution within each of those counties of children aged 5 through 17.

(2) In making this distribution, the State shall use either of the following procedures, as applicable:

(i) Each LEA in which 20 percent or more of the children are counted as being from low-income families under the Title I basic grant formula receives a portion of the country's concentration grant allocation based on the number of children counted under that basic grant formula.

(ii) Each LEA in which less than 20 percent of the children are counted as being from low-income families under the basic grant formula receives a portion of the county's concentration grant allocation based on (A) the number of children counted under the Title I basic grant formula multiplied by (B) a fraction in which the numerator is the percentage of children in the LEA that are counted under the basic grant formula and the denominator is 20.

(Sec. 117(b)(5), 20 U.S.C. 2722(b)(5); Sec. 117(c)(1), 20 U.S.C. 2722(c)(1))

§ 116a.37 Use of concentration grant funds.

An LEA that receives concentration grant funds under section 117 of Title I shall use those funds—

(a) To carry out activities that are described in an approved project application for Title I funds that the LEA submits under section 121 (relating to the local project application for a basic grant) of Title I; and

(b) In accordance with the Title I program requirements in Subpart 3 of Title I.

(Sec. 117(c)(2); 20 U.S.C. 2722(c)(2))

Reallocation

§ 116a.38 Reallocation of Title I funds by SEA's.

(a) By February 1 of each fiscal year, an SEA shall—

(1) Determine which, if any, LEAs have received allocations of Title I funds that exceed the amount required for the current Title I projects. The SEA shall make this determination after considering factors such as—

(i) The number of children being served;

(ii) The special educational needs of the children being served;

(iii) The availability of funds from non-Title I sources;

(iv) The rate of inflation;

(v) Increases in the salaries of Title I staff;

(vi) The future availability of Title I funds; and

(vii) The amount of funds carried over from the previous year; and

(2) Notify each LEA identified under paragraph (a)(1) of this section of—

(i) The amount of that LEA's Title I funds that the SEA is considering reallocating to other LEAs under paragraph (b) of this section; and

(ii) The opportunity for that LEA to amend its Title I application to include approvable proposals for use of the excess funds.

(b)(1) If the LEA fails to properly amend its Title I application in response to the opportunity provided under paragraph (a) of this section, the SEA shall reallocate the excess Title I funds to LEAs that have the greatest need for additional Title I funds due to increases, in the number of children from low-income families, that are not reflected in the formula for determining the Title I allocations for those LEAs in section 111 of Title I.

(2) The SEA shall notify the Secretary of those reallocations.

(Sec. 111, 20 U.S.C. 2711; Sec. 193, 20 U.S.C. 2843)

§ 116a.39 Reallocation of Title I funds by the Secretary.

If excess amounts of Title I funds remain after an SEA has completed the process in § 116a.38, the Secretary distributes those excess funds among other States on the basis of need.

(Sec. 111, 20 U.S.C. 2711; Sec. 193, 20 U.S.C. 2843)

Subpart C—Applying to the State for Title I Funds

§ 116a.40 LEAs that may receive Title I assistance.

An LEA that is alocated Title I funds for a fiscal year under Subpart B of this part may receive those funds through a grant from the SEA, if the LEA has on file with the SEA a current Title I project application that—

(a) Describes the projects to be conducted with the Title I funds; and

(b) Has been approved by the SEA.

(Sec. 121; 20 U.S.C. 2731)

§ 116a.41 Submission of Title I project applications to the SEA.

(a) *Frequency of submission.* An LEA shall submit a Title I project application to the SEA for a period of not more than three fiscal years, including the first fiscal year for which a grant is made under that application.

(b) *Contents of the application.* The Title I project application that is submitted under this subpart by the LEA must include—

(1) The information requested in the application forms and instructions provided by the SEA; and

(2) Any other information the SEA needs in order to determine whether the application meets the standards for approval in 45 CFR 116.110.

(c) *Amendments to the application.* The LEA shall update and amend its Title I project application as required by 45 CFR 116.113.

(Sec. 121, 20 U.S.C. 2731)

§§ 116a.42–116a.49 [Reserved]

Subpart D—Designating Schools and School Attendance Areas for Title I Projects

Identifying Eligible Schools and School Attendance Areas

§ 116a.50 Overview of the regulations in this subpart.

(a) Section 122 of Title I requires an LEA to concentrate the services funded under Title I on the educationally deprived children—

(1) In greatest need of assistance; and

(2) Residing in school attendance areas with the highest concentration of children from low-income families.

(b) The regulations in this subpart contain requirements for—

(1) Identifying school attendance areas and schools as being eligible to receive Title I assistance; and

(2) Selecting those eligible school attendance areas and schools that are to be project areas and project schools to receive Title I assistance.

(Sec. 122, 20 U.S.C. 2732; Sec. 123, 20 U.S.C. 2733)

§ 116a.51 Identifying eligible school attendance areas.

(a) *General rule.* Except as provided in §§ 116a.63–116a.65, an LEA may use Title I funds only in school attendance areas that the LEA has identified—using the procedures in this section—as having sufficiently high concentrations of children from low-income families to be eligible for Title I services.

(b) *Measures of low-income status.* (1) For purposes of making the eligibility determinations discussed in this subpart, the LEA shall select and use the best available measure—which may be a composite of several indicators—for determining what is a low-income family.

(2) Examples of the best available measures of low-income status may include:

(i) Data on children from families receiving Aid to Families with Dependent Children (AFDC); or

(ii) Data on families whose children are eligible to receive benefits under the National School Lunch Program.

(3) Regardless of the measure of low-income status that the LEA selects, the LEA shall use that same measure for purposes of determining the eligibility of all its school attendance areas and schools under this subpart.

(c) *Use of grade span groupings.* (1) The LEA may identify its eligible school attendance areas and eligible schools by—

(i) Applying the methods in paragraph (d) of this section to each school attendance area and school; or

(ii) Grouping its school attendance areas and schools according to the grade spans served by those schools and applying the methods described in paragraph (d) of this section to each school attendance area and school within each grouping.

(2) If an LEA uses grade span groupings for purposes of this subpart, the groupings must be consistent with the grade spans served by the LEA's schools. For example, common groupings include grades K–6, 7–9, and 10–12.

(3) The LEA may not use more grade span groupings for purposes of this subpart than the number of groupings permitted for the purposes of determining comparability under § 116a.117.

(d) *Methods for identifying eligible school attendance areas*—(1) *Percentage method*—(i) *General rule.* A school attendance area is eligible to receive Title I assistance if the percentage of children from low-income families in that school attendance area is at least equal to the percentage of children from low-income families in the LEA as a whole.

(ii) *25 percent rule.* (A) If the percentage of children from low-income families in the LEA as a whole exceeds 25 percent, the LEA may—subject to the conditions in paragraph (d)(1)(ii)(B) of this section—identify as eligible each school attendance area in which at least 25 percent of the children are from low-income families.

(B) An LEA may use the 25 percent rule in paragraph (d)(1)(ii)(A) of this section only if the aggregate per pupil amount of Title I funds and funds from a State program that meets the requirements in section 131(c) (State and local compensatory education programs similar to Title I programs) of Title I that are spent during the current fiscal year—in each school attendance area of the LEA in which Title I projects were carried out during the preceding fiscal year—equal or exceed the aggregate per pupil amounts spent from those sources in each of those areas in the preceding fiscal year.

(C) *Calculation of 25 percent rule.* In order to determine whether it has met the requirements for using the 25 percent rule in paragraph (d)(1)(ii)(B) of this section, the LEA may take the following steps:

Step 1. For each school attendance area of the LEA in which Title I projects were carried out during the preceding fiscal year, the LEA lists—

—The aggregate per pupil amount the LEA is spending during the current fiscal year from Title I funds; and

—The aggregate per pupil amount the LEA is spending during the current fiscal year from funds for a State program meeting the requirements of section 131(c) (referring to State and local compensatory education programs similar to Title I programs) of Title I.

Step 2. The LEA adds the two amounts listed in Step. 1.

Step 3. For each school attendance area referred to in Step 1, the LEA lists—

—The aggregate per pupil amount the LEA spent during the immediately preceding fiscal year from Title I funds; and

—The aggregate per pupil amount the LEA spent during the immediately preceding fiscal year from funds for a State program meeting the requirements of section 131(c) of Title I.

Step. 4. The LEA adds the two amounts listed in Step. 3.

Step. 5. The LEA compares the amount calculated in Step 2 with the

amount calculated in Step 4. If the amount calculated in Step 2 equals or exceeds the amount calculated in Step 4, the LEA has met the requirements of paragraph (B) for using the 25 percent rule.

(iii) *Special requirement if grade span groupings are used.* If the LEA groups its school attendance areas by grade spans under § 116a.51(c), the LEA shall determine the percentage of children from low-income families in the LEA as a whole for each grade span grouping. The LEA may use the 25 percent rule in paragraph (d)(1)(ii)(A) of this section for any or all of those groupings.

(2) *Numerical method*—(i) *General rule.* A school attendance area is eligible to receive Title I assistance if the number of children from low-income families in that school attendance area is at least equal to the average number of children from low-income families per school attendance area in the LEA as a whole.

(ii) *Special requirement if grade span groupings are used.* If the LEA groups its school attendance areas by grade spans under § 116a.51(c), the LEA shall determine an average number of children from low-income families per school attendance area in the LEA as a whole for each grade span grouping.

(3) *Combination of percentage and numerical method.* (i) Subject to the requirement in paragraph (d)(3)(ii) of this section, the LEA may identify some school attendance areas as eligible by using the percentage method and some by using the numerical method.

(ii) The total number of school attendance areas that the LEA identifies as eligible by using the combination method may not be more than the maximum number of school attendance areas, or school attendance areas plus schools, that the LEA would have identified if it had used one of the methods in paragraph (d)(1) or (d)(2) of this section.

(4) *Special rule if there is no wide variance in percentages of children from low-income families.* An LEA may identify all of the school attendance areas in the district or in a grade span grouping as eligible to receive Title I assistance if the variation between (i) the percentage of children from low-income families in the school attendance area with the highest concentration of children from low-income families, and (ii) the percentage of children from low-income families in the school attendance area with the lowest concentraion of children from low-income families is not more than the greater of—

(A) Five percent; or

(B) One-third of the percentage of children from low-income families in the LEA's district as a whole.

(Sec. 122(a)(1); 20 U.S.C. 2732(a)(1))

§ 116a.52 Identifying eligible schools.

(a) *Method for identifying eligible schools.* An LEA may identify a school as an eligible school if that school meets one or more of the conditions in paragraph (b) of this section and—

(1) Is located in an ineligible school attendance area; or

(2) Serves children from more than one school attendance area.

(b) *Conditions.* The LEA may identify a school as eligible under paragraph (a) of this section if the school meets one or more of the following conditions:

(1) The percentage of children from low-income families in ADA at the school is at least equal to the percentage of children from low-income families in the LEA as a whole.

(2) The percentage of children from low-income families in ADA at the school is at least equal to 25 percent of the total number of children in ADA at the school; or

(3) The number of children from low-income families in ADA at the school is at least equal to the average number of children from low-income families per school attendance area in the LEA as a whole.

(Sec. 122(b), 20 U.S.C. 2732(b))

§§ 116a.53–116a.59 [Reserved]

Selecting Schools and School Attendance Areas for Title I Projects

§ 116a.60 Overview of the process of selecting school attendance areas and schools for Title I projects.

(a) After an LEA determines which school attendance areas and schools are eligible under the procedures in §§ 116a.51–116a.52, the LEA determines whether it will select all of those eligible areas and schools as Title I project areas and project schools to receive Title I services during a fiscal year for a particular grade span. The LEA makes this determination on the basis of—

(1) The amount of Title I funds available; and

(2) The amount of Title I funds required to—

(i) Operate a Title I project that is of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children to be served, as required by 45 CFR 116.51; and

(ii) Provide Title I services to all children who satisfy the criteria developed under §§ 116a.70–116a.71 for selecting children to be served.

(b) If the LEA decides not to select all eligible school attendance areas and schools as Title I project areas and project schools, the LEA—using the methods in §§ 116a.61–116a.65—shall select which of the eligible school attendance areas and schools will receive Title I services.

(Sec. 122, 20 U.S.C. 2732)

§ 116a.61 Selecting project areas by ranking the eligible school attendance areas according to their concentration of children from low-income families.

(a) The LEA shall—

(1) Annually rank its eligible attendance areas from highest to lowest, according to their relative degrees of concentration of children from low-income families; and

(2) Except as provided in §§ 116a.63–116a.65, select eligible school attendance areas as Title I project areas, in rank order, beginning with the highest ranking eligible school attendance area, until the LEA lacks sufficient Title I funds to serve any additional school attendance areas.

(b) If an LEA used grade span groupings that complied with § 116a.51(c) for purposes of identifying eligible school attendance areas and schools, it may continue to use those groupings for purposes of ranking and selecting school attendance areas and schools.

(Sec. 122(a)(1), 20 U.S.C. 2732(a)(1))

§ 116a.62 Selecting project schools from among the schools that the LEA identified as eligible schools.

(a) If an LEA identifies a school or schools as eligible under the procedure in § 116a.52, the LEA may use the methods in § 116a.61 to rank its eligible schools.

(b) After ranking its eligible schools using the methods in § 116a.61, the LEA shall—

(1) Consolidate into a single ranking its rankings of eligible schools with its rankings of eligible school attendance areas; and

(2) Except as provided in §§ 116a.63–116a.65, select eligible schools and school attendance areas to receive Title I services, in rank order, beginning with the highest ranking eligible school or school attendance area until the LEA lacks sufficient funds to serve any additional schools or school attendance areas.

(Sec. 122, 20 U.S.C. 2732)

§ 116a.63 Selecting a limited number of project areas and project schools through the use of alternative rankings of school attendance areas and eligible schools according to their concentration of children from low-income families and according to the incidence of educational deprivation.

(a) Subject to the conditions in paragraph (d) of this section, an LEA may rank all its school attendance areas and eligible schools according to both—

(1) Their relative degree of concentration of children from low-income families, as required by §§ 116a.61–116a.62; and

(2) Their relative incidence of educational deprivation. The incidence of educational deprivation is determined by the percentage or number of children in each school attendance area or eligible school that are identified as educationally deprived through the use of objective measures of educatonal deprivation—such as standardized achievement tests or other objective tests—that the LEA uniformly applies in all of the school attendance areas and eligible schools.

(b) Except as provided in paragraph (c) of this section, the LEA shall select school attendance areas and eligible schools to be project areas and project schools, in rank order according to the ranking based on their relative degree of concentration of children from low-income families, as required by §§ 116a.61–116a.62.

(c) The LEA may select, as a Title I project area or project school, a school attendance area or eligible school that ranks lower than another school attendance area or eligible school on the basis of its relative concentration of children from low-income families if—

(1) The lower-ranking school attendance area or eligible school has an incidence of educationally deprived children, as determined under paragraph (a)(2) of this section, that is 1.2 times the percentage or number of children from low-income families in the higher-ranked school attendance area or eligible school; and

(2) The LEA that uses this alternative ranking and selection procedure does not provide Title I services in more school attendance areas or schools than the number that would have received Title I services under the procedures in §§ 116a.61–116a.62.

(d)(1) An LEA that desires to use the alternative ranking procedures in this section for selecting school attendance areas and schools shall, with the prior consent of the Title I district advisory council, apply to the SEA for permission to use the alternative ranking procedures.

(2) The SEA shall approve an application that is filed under paragraph (d)(1) of this section only if the SEA determines that the LEA's use of the alternative ranking procedures will not substantially impair the delivery of compensatory education to educationally deprived children from low-income families in the school attendance areas and schools that otherwise would be selected to receive Title I services under the procedures in §§ 116a.61–116a.62.

(3) For the purpose of making the determination referred to in paragraph (d)(2) of this section, the following terms are defined:

(i) The term "not substantially impair the delivery"—

(A) Means that the total number of children from low-income families in the school attendance areas and schools selected for Title I services under the alternative ranking procedures in this section is not less than 90 percent of the number of children from low-income families in the school attendance areas and schools that otherwise would be selected to receive Title I services under the procedures in §§ 116a.61–116a.62; or

(B) Is determined by an alternative standard developed by the SEA and approved by the Secretary as a more accurate measure.

(ii) The term "compensatory education" means Title I services and services provided under State compensatory education programs that meet the requirements of section 131(c) (State and local compensatory education programs similar to Title I programs) of Title I.

(Sec. 122(a)(2), 20 U.S.C. 2732(a)(2); Sec. 122(d), 20 U.S.C. 2732(d))

§ 116a.64 Continuation of eligibility for certain school attendance areas or schools.

(a) Except as provided in paragraphs (c) and (d) of this section, an LEA may select a school attendance area or school to receive Title I services—even though that area or school does not qualify under the procedures in §§ 116a.61–116a.63—if the area or school qualified and was selected as a Title I project area or project school in either of the two fiscal years preceding the fiscal year for which the funds will be granted.

(b) The eligibility conferred by paragraph (a) of this section is valid for one fiscal year only.

(c) If a school attendance area or school that was selected as a project area or project school in either of the two preceding years is substantially different from what it was during those years, the LEA may not select that school attendance area or school as a project area or project school on the basis of this section.

(d) The LEA may not use the provisions in this section to provide Title I services in more school attendance areas or schools that the number that could have received Title I services under the method of ranking used by the LEA during current fiscal year.

(Sec. 122(c), 20 U.S.C. 2732(c))

§ 116a.65 Skipping higher-ranked school attendance areas and schools receiving services of the same nature and scope from non-Federal sources.

(a) Subject to the requirements in this section, an LEA may skip an eligible school attendance area or school that ranks higher under the procedures in §§ 116a.61–116a.63 and select a lower-ranked eligible attendance area or school to be a project area or project school to receive Title I services. The LEA may do this if the higher-ranked school attendance area or school is already receiving, from non-Federal funds, services of the same nature and scope as the services that would otherwise be provided with Title I funds.

(b) As used in paragraph (a) of this section, the term "services of the same nature and scope" means non-federally funded services that—

(1) Meet the requirements in 45 CFR 116.51 concerning size, scope, and quality; and

(2) When measured on a per pupil basis by an objective measure such as per pupil expenditures, are provided at a level that is at least equal to the level of services that would otherwise be provided with Title I funds.

(c) If an LEA skips an eligible attendance area under this section, the LEA shall—

(1) Ensure that the eligible attendance area that is skipped receives State and locally funded services comparable to the State and locally funded services provided to ineligible school attendance areas in the LEA, as required by §§ 116a.112–116a.123; and

(2) Meet the requirements in section 122(e) (Skipping higher ranked school attendance areas or schools receiving services of the same nature and scope from non-Federal sources) of Title I concerning services that must be provided to children attending private schools.

(Sec. 122(e), 20 U.S.C. 2732(e))

§§ 116a.66–116a.69 [Reserved]

Subpart E—Identifying and Selecting Children To Be Served

§ 116a.70 General rules for identifying eligible children and selecting children to be served.

Except as provided in §§ 116a.71–116a.72, an LEA shall use Title I funds to serve children who—

(a) Reside in school attendance areas that the LEA selected as project areas or attend schools that the LEA selected as project schools;

(b) Are identified by the current annual assessment of educational needs, conducted by the LEA under §§ 116a.100–116a.105, as educationally deprived children; and

(c) Are identified and selected by the LEA, under the procedures in §§ 116a.102–116a.103, as currently having the greatest need of special assistance.

(Sec. 123(a), 20 U.S.C. 2733(a))

§ 116a.71 Special rules for identifying and selecting children to be served.

(a) *Continuation of eligibility for educationally deprived children who are no longer in greatest need of special assistance.* An LEA may use Title I funds, during the current fiscal year, to serve children not currently in greatest need of special assistance, as required in § 116a.70(c), if those children—

(1) Were in greatest need of special assistance in any previous fiscal year under the criteria that were used by the LEA for that year;

(2) Are currently in a school attendance area that the LEA selected as a project area or attending a school that the LEA selected as a project school under §§ 116a.60–116a.65; and

(3) Are identified, by the current annual assessment of educational needs conducted by the LEA under §§ 116a.100–116a.105, as educationally deprived children.

(b) *Continuation of eligibility for educationally deprived children who are transferred to school attendance areas or schools that are not selected as project areas or project schools.* (1) If it meets the conditions in paragraph (b)(2) of this section, an LEA may use Title I funds during the current fiscal year to serve children—

(i) Whom the LEA identified as eligible children under § 116a.102 and selected to serve under § 116a.103; but

(ii) Who are transferred—either voluntarily or involuntarily—to a school attendance area or school that was not selected to receive Title I services under §§ 116a.60–116a.65.

(2) The LEA may serve children referred to in paragraph (b)(1) of this section if—

(i) The transfer occurs during the same school year that the special rule in paragraph (b)(1) of this section is applied to the children involved; and

(ii) The special eligibility conferred by paragraph (b)(1) of this section does not continue after the end of the current school year, which may include a summer school program.

(c) *Skipping children determined to be in greatest need of special assistance but who are receiving services of the same nature and scope paid from non-Federal sources.* (1) If the children in greatest need of special assistance—as determined by an LEA under § 116a.103—are already receiving, from non-Federal funds, services of the same nature and scope as the services that would otherwise be provided with Title I funds, the LEA—

(i) May decide not to provide Title I services to those children; and

(ii) May select other educationally deprived children in the project areas or project schools to receive the Title I services.

(2) As used in paragraph (c)(1) of this section, the term "services of the same nature and scope" means non-federally funded services that—

(i) Meet the requirements in 45 CFR 116.51 concerning size, scope, and quality;

(ii) Are provided under a special program that meets the requirements in section 131(c) (State and local compensatory education programs similar to Title I programs) of Title I; and

(iii) When measured on a per pupil basis by an objective measure such as per pupil expenditures, are provided at a level that is at least equal to the level of services that would otherwise be provided with Title I funds.

(Sec. 123(b), 20 U.S.C. 2733(b); Sec. 123(c), 20 U.S.C. 2733; Sec. 123(d), 20 U.S.C. 2733(d))

(d) *Infrequent participation by a limited number of children who are not in greatest need of assistance or who have not been identified as educationally deprived.* An LEA may provide, on an incidental basis, a particular Title I service to children who have not been selected to participate in the LEA's Title I project, under §§ 116a.70–116a.71 and §§ 116a.102–116a.103, if—

(1) The Title I service is designed to meet the special educational needs of children who have been selected under §§ 116a.70–116a.71 and § 116a.103 and is focused on those children;

(2) It is impractical to exclude the children who have not been selected to participate in the LEA's Title I project from the particular Title I service, at the time that the service is provided;

(3) The children who have not been selected are in the same grade or age level as the children who have been selected;

(4) The inclusion in the group being served of the children who have not been selected does not—

(i) Decrease the effectiveness or quality of the Title I service received by the children who have been selected;

(ii) Increase the cost of providing the service; or

(iii) Result in the exclusion of children who have been selected and would otherwise receive the Title I service;

(5) The LEA indicates in its project application—

(i) The estimated number of children who have not been selected who may receive a particular Title I service;

(ii) The reasons why the inclusion of these children who have not been selected would not decrease the quality of Title I services received by the children who have been selected; and

(iii) The reasons why the inclusion of these children who have not been selected would not increase the cost of providing the service; and

(6) The number of children in each school of the LEA who have not been selected but who will receive a Title I service does not constitute more than 5 percent of the total number of children who are receiving that Title I service in that school.

(Sec. 101–198, 20 U.S.C. 2701–2854; Sec. 408 of GEPA, 20 U.S.C. 1221e–3(a))

§ 116a.72 Use of Title I Funds for a schoolwide project.

(a) *Eligibility of a school for a schoolwide project.* An LEA may select a school for a schoolwide project during a fiscal year if—

(1) The school serves a school attendance area that the LEA has identified under §116a.51 as eligible to receive Title I services during that fiscal year;

(2) At least 75 percent of the children in ADA at the school are from low-income families, as determined by using the measure of low income that the LEA uses during that fiscal year to identify eligible school attendance areas under §116a.51;

(3) The LEA develops for the school a plan that meets the requirements in §116a.73 and is approved by the SEA; and

(4) The LEA meets the financial requirements in §116a.74.

(b) *Effect of selection of a school for a schoolwide project.* For each school that is selected for a schoolwide project in

compliance with the requirements in paragraph (a) of this section, the LEA is not required to comply with—

(1) The requirements in sections 124(f) (Coordination with other programs) and 173 (Recordkeeping, fiscal control, and fund accounting) of Title I and 45 CFR 116.42 and 116.140, concerning the commingling of Title I funds with funds available for regular programs;

(2) The requirements in sections 123 (Children to be served) and 124(b) (Assessment of educational need) of Title I and §§ 116a.70–116a.71 and §§ 116a.102–116a.103, concerning the identification and selection of particular children to participate in Title I projects; and

(3) The requirements in section 126(c) (Federal funds to supplement, not supplant regular non-Federal funds) of Title I, 45 CFR 116.93, and §§ 116a.130–116a.143 that Title I funds must supplement, not supplant the services regularly provided in the school.

(Sec. 133, 20 U.S.C. 2753)

§ 116a.73 Required plan for each school selected for a schoolwide project.

(a) *Development and approval of the plan.* (1) An LEA may select a school for a schoolwide project only if the LEA develops for that school a plan that meets the requirements in paragraph (b) of this section and has been approved by the SEA.

(2) The SEA shall approve the plan referred to in paragraph (a)(1) of this section if the plan meets the requirements in paragraph (b) of this section.

(b) *Required plan.* The plan referred to in paragraph (a) of this section must—

(1) Provide for a comprehensive assessment of the educational needs of all students in the school—in particular, the special needs of educationally deprived children;

(2) Provide for an instructional program designed to meet the special needs of all students in the school;

(3) Be developed with the involvement of those individuals who will be involved in carrying out the plan, including parents, teachers, teacher aides, administrators, and secondary students if the plan relates to a secondary school;

(4) Provide for periodic consultation among the individuals referred to in paragraph (b)(3) of this section concerning the educational progress of all students in the school;

(5) Be approved by the project area advisory council that was established under §§ 116a.155–116a.157 for the school attendance area served by the school;

(6) Provide for appropriate training to enable teachers and teacher aides to carry out the plan effectively;

(7) Include procedures that the LEA will use to evaluate the effectiveness of the schoolwide project and that will involve in the evaluation the participation of the individuals referred to in paragraph (b)(3) of this section; and

(8) Include opportunities for periodic improvements in the plan based on the results of the evaluations referred to in paragraph (b)(7) of this section.

(Sec. 133(b), 20 U.S.C. 2753(b); Sec. 133(c), 20 U.S.C. 2753(c))

§ 116a.74 Financial requirements for a schoolwide project.

An LEA that selects a school for a schoolwide project under §§ 116a.72–116a.73 shall meet the following financial requirements:

(a) *Equitable distribution of Title I funds for educationally deprived children.* In each school selected for a schoolwide project, the LEA shall provide, per educationally deprived child served in that school, an amount of Title I funds that is at least equal to the amount of Title I funds that the LEA provides per educationally deprived child served in schools, if any, that serve project areas.

(b) *Special supplemental State and local funds required.* In each school selected for a schoolwide project, the LEA shall provide, per child served by the schoolwide project in that school who is not educationally deprived, an amount of special supplementary State and local funds that is at least equal to the amount of Title I funds that the LEA provides per educationally deprived child served in that school.

(c) *Maintenance of State and local effort.* During the fiscal year in which the plan approved under § 116a.73 is carried out, the LEA shall, in each school selected for a schoolwide project, spend per child an anount of State and local funds—excluding amounts spent under a State compensatory education program—that is at least equal to the amount of State and local funds that the LEA spent per child in that school during the preceding fiscal year.

(Sec. 133(b), 20 U.S.C. 2753(b))

§ 116a.75 Serving children in local institutions for neglected or delinquent children.

(a) An LEA whose allocation under § 116a.12 is based in part on the number of children residing within the LEA in local institutions for neglected or delinquent children—as defined in § 116a.4(b)—shall provide Title I services to meet the special educational needs of children currently residing in those institutions.

(b) In providing the services referred to in paragraph (a) of this section, the LEA shall comply with all requirements in the Title I statute and 45 CFR Parts 116 and 116a, except for the requirements contained in the following subparts of Part 116a and the statutory provisions on which they are based:

(1) Subpart D—Designating Schools and School Attendance Areas for Title I Projects.

(2) Subpart E—Identifying and Selecting Children to be Served (except for the requirements in this section).

(3) Subpart F—Participation of Children Enrolled in Private Schools.

(4) Subpart I—Parental involvement.

(5) Subpart J—Evaluations by Local Educational Agencies.

(c) The LEA may provide the services referred to in paragraph (a) of this section at the local institution or at any location under the LEA's administration and control.

(d) The LEA that is required to provide the services referred to in paragraph (a) of this section shall include the following information in its application for Title I funds;

(1) The number of children to be served.

(2) A description of the special educational needs of those children.

(3) A description of the services that will be provided to meet those special educational needs.

(4) Plans for evaluating the effectiveness of the project.

(Sec. 111, 20 U.S.C. 2711)

§§ 116a.76–116a.79 [Reserved]

Subpart F—Participation of Children Enrolled in Private Schools

General Requirements

§ 116a.80 Required opportunity for participation of private school children in title I projects.

(a) An LEA shall meet the requirements for participation of students enrolled in private schools contained in Subpart F of 45 CFR Part 100b, and the additional requirements contained in §§ 116a.81–116a.82 and §§ 116a.94–116a.99.

(b) In fulfilling the requirements referred to in paragraph (a) of this section, the LEA shall comply with—

(1) Section 122 (Designating school attendance areas) of Title I and §§ 116a.60–116a.65, concerning the selection of school attendance areas and schools for Title I projects.

(2) Section 123 (Children to be served) of Title I and §§ 116a.70–116a.71,

concerning the selection of children to be served by Title I projects;

(3) Section 124(a) (Purpose of program) of Title I, describing the purpose of Title I projects;

(4) Section 124(b) (Assessment of educational need) of Title I and §§ 116a.100–116a.105, containing requirements for the assessment of educational need;

(5) Section 124(d) (Sufficient size, scope, and quality) of Title I and 45 CFR 116.51, containing requirements concerning the size, scope, and quality of Title I projects;

(6) Section 124(l) (Training of education aides) of Title I and 45 CFR 116.60, containing requirements for the training of education aides; and

(7) Section 126(c) (Federal Funds to supplement, not supplant regular non-Federal funds) of Title I and §§ 116a.130–116a.135 requiring the use of Title I funds to supplement, not supplant non-Federal funds that would otherwise be available.

(Sec. 130(a), 20 U.S.C. 2740(a))

§ 116a.81 Determining the eligibility of private school children.

(a) Title 45 CFR Part 100b.651(a)(2) covers the responsibility of SEAs and LEAs to provide services to eligible private school children. Eligible students under Part 116a include educationally deprived children who reside in a project area selected under §§ 116a.60–116a.61 or §§ 116a.63–116a.65.

(b) An LEA shall adopt procedures for identifying and selecting for participation in a Title I project those private school children who satisfy criteria identical or comparable to those adopted by the LEA for public school children under §§ 116a.101–116a.103.

(c) If it is impractical for an LEA to conduct Title I projects for educationally deprived children from the project area who are enrolled in private schools located in other LEAs, the LEA may arrange with the other LEAs to provide Title I services for those children.

(Sec. 130(a), 20 U.S.C. 2740(a))

§ 116a.82 Prohibition concerning noninstructional duties.

Limitations on the use of personnel paid with program funds are contained in 45 CFR 100b.659–100b.660. In addition, Title I personnel who provide services in private schools may not perform the noninstructional duties permitted under 45 CFR 116.61.

(Sec. 130(a), 20 U.S.C. 2740(a); Sec. 1004 of ESEA, 20 U.S.C. 3384)

§§ 116a.83–116a.93 [Reserved]

Bypass Provisions

Note.—These by-pass provisions refer to "equitable services" which means the same as "comparable benefits" in 45 CFR 100b.654.

§ 116a.94 General standard for by-pass actions.

(a) Except as provided in paragraph (b) of this section, the Secretary by-passes an LEA responsible for providing Title I services to educationally deprived children in private schools if—

(1) The Secretary determines that the LEA has substantially failed to provide equitable Title I services to private school children; or

(2) The LEA is prohibited by law from providing those services.

(b) The Secretary does not implement a by-pass if it will result in the wasteful and extravagant expenditure of Title I funds. In deciding whether to implement a by-pass, the Secretary will consider factors such as the projected number of private school children to be served and the location of the children to be served.

§ 116a.95 Secretary's procedures for by-pass actions.

Before taking any final by-pass action under § 116a.97, the Secretary provides the LEA and SEA with—

(a) Written notice of the Secretary's intent to by-pass the LEA. This notice—

(1) Indicates the reasons for the by-pass;

(2) Advises the LEA and SEA that, within 45 days, they may—

(i) Submit written objections to the proposed by-pass; and

(ii) Request in writing the opportunity for a hearing to show cause why the by-pass should not be implemented; and

(3) Is sent by certified mail with a return receipt requested; and

(b) An opportunity to appear at a hearing before the Secretary to show cause why the by-pass should not be implemented.

(Sec. 130(b)(4)(A), 20 U.S.C. 2740(b)(4)(A))

§ 116a.96 Judicial review of by-pass actions.

If an LEA or SEA is dissatisfied with the Secretary's final action after a proceeding under § 116a.95, it may, within 60 days after receiving notice of that action, file a petition for review with the United States court of appeals for the circuit in which the State is located.

(Sec. 130(b)(4)(B), 20 U.S.C. 2749(b)(4)(B))

§ 116a.97 Effect of a by-pass action.

If, under the procedures in §§ 116a.94–116a.96, an LEA is found to have substantially failed to provide or is prohibited from providing equitable services to private school children, the Secretary—

(a) Waives the LEA's responsibility for providing the Title I services required under §§ 116a.80–116a.82;

(b) Arranges for alternative Title I services that meet the requirements in §§ 116a.80–116a.82; and

(c) Deducts the cost of these services, including the administrative cost of arranging for these services, from the Title I allocation of the LEAs in which the private school children reside and from the SEA, if the Secretary decides this deduction is appropriate.

(Sec. 130(b), 20 U.S.C. 2740(b))

§ 116a.98 Withholding funds pending final resolution of a by-pass action.

Pending the final resolution under §§ 116a.95–116a.96 of a proposed by-pass, the Secretary may withhold from the allocation of the affected SEA or LEA the amount the Secretary estimates is necessary to pay the cost of the alternative services referred to in § 116a.97.

(Sec. 130(b)(3)(B), 20 U.S.C. 2740(b)(3)(B))

§ 116a.99 Continuation of the by-pass until the LEA complies.

Any by-pass action by the Secretary continues until the Secretary determines that there will no longer be any failure of the LEA that is being by-passed to meet the requirements of §§ 116a.80–116a.82.

(Sec. 130(b)(3)(C), 20 U.S.C. 2740(b)(3)(C))

Subpart G—Needs Assessment

§ 116a.100 Purpose of the required needs assessment.

An LEA may receive Title I assistance only if it conducts an annual needs assessment, consistent with §§ 116a.101–116a.103, that generates data from which the LEA shall—

(a) Identify the general instructional areas on which the project will focus;

(b) Identify educationally deprived children, in all eligible attendance areas and schools, who have the greatest need for special assistance; and

(c) Determine, with sufficient specificity to result in the development of highly effective projects, the special educational needs of children who are selected to participate.

(Sec. 124(b), 20 U.S.C. 2734(b); H. Rept. 1137, 95th Cong., 2d Sess. 23 (1978))

§ 116a.101 Identification of general instructional areas and needs.

An LEA shall identify the general instructional areas on which the project will focus, including—

(a) The grade or age levels to be served; and

(b) The types of educational needs to be addressed.

(Sec. 124(b), 20 U.S.C. 2734(b); H. Rept. 1137, 95th Cong., 2d Sess. 23 (1978))

§ 116a.102 Identification of educationally deprived children.

Using existing and—to the extent possible—objective data, an LEA shall identify educationally deprived children in—

(a) All school attendance areas that are eligible to receive Title I assistance under § 116a.51; and

(b) All schools that are eligible to be project schools under § 116a.52.

(Sec. 124(b), 20 U.S.C. 2734(b))

§ 116a.103 Selection of children to participate in a project.

(a) After completing the procedures in §§ 116a.101–116a.102, and LEA shall use specified criteria and—to the extent possible—objective data to select for participation in a project those educationally deprived children who are in the greatest need of assistance in the instructional areas identified under § 116a.101.

(b) In selecting children, an LEA must also meet the supplement, not supplant requirements in §§ 116a.130–116a.143.

(c) The LEA may use Title I funds to obtain the objective data referred to in paragraph (a) of this section, but it may not use Title I funds for the cost of identifying children under § 116a.102.

(Sec. 124(b), 20 U.S.C. 2734(b))

§ 116a.104 Determination of the special educational needs of participating children.

After selecting children for participation in a Title I project, according to the provisions in § 116a.103, an LEA shall use specified criteria and—to the extent possible—objective data to—

(a) Identify in detail the precise educational needs of the children selected to participate in the project;

(b) Determine the types of specific services to be offered;

(c) Determine whether certain educational needs are best addressed through noninstructional support services; and

(d) Identify, to the extent possible, factors that have contributed to the educational deprivation of the children selected to participate.

(Sec. 124(b), 20 U.S.C. 2734(b))

§ 116a.105 Establishment of educational objectives and instructional strategies.

Based on the results of the procedures in §§ 116a.101–116a.104, an LEA shall develop specific—

(a) Educational objectives for its Title I project; and

(b) Instructional strategies to achieve those objectives.

(Sec. 124(b), 20 U.S.C. 2734(b))

§§ 116a.106–116a.109 [Reserved]

Subpart H—Fiscal Requirements

Maintenance of Effort

§ 116a.110 Maintenance of effort requirement.

An LEA must maintain fiscal effort as required by section 126(a) (Maintenance of effort) of Title I and 45 CFR 116.91, unless the LEA receives a waiver from the Secretary under 45 CFR 116.92.

(Sec. 126(a), 20 U.S.C. 2736(a))

Excess Costs

§ 116a.111 Excess costs requirement.

An LEA shall use Title I funds only for excess costs, as required by section 126(b) (Excess costs) of Title I and 45 CFR 116.94.

(Sec. 126(b), 20 U.S.C. 2736(b))

Comparability

§ 116a.112 Basic standards for determining comparability of services.

(a) Except as provided in paragraph (b) of this section and in the exclusions in § 116a.118, an LEA may receive Title I funds only if it uses State and local funds in project areas and in school attendance areas that have been skipped under § 116a.65 to provide services that, taken as a whole, are at least comparable to services being provided in school attendance areas in the LEA that are not receiving Title I assistance.

(b) If the LEA selects all its school attendance areas as project areas, the LEA may receive Title I funds only if it uses State and local funds—except those excluded under § 116a.118—to provide services that, taken as a whole, are substantially comparable in each school serving a project area.

(Sec. 126(e), 20 U.S.C. 2736(e))

§ 116a.113 Submission of comparability reports.

(a) An LEA, except one described in paragraph (b) of this section, shall submit to its SEA on or before December 1 of each fiscal year a report concerning its compliance with the comparability requirements in § 116a.112.

(b) The following types of LEAs are not required to submit the report referred to in paragraph (a) of this section:

(1) An LEA that receives at least 95 percent of its educational funds from Federal sources.

(2) An LEA that operates only one school serving children in the grade levels at which Title I services are provided.

(3) An LEA that was not required to file a report concerning comparability by December 1, 1978 because, at that time, all of its school attendance areas were Title I project areas. However, the fact that an LEA is relieved of the obligation to currently file such a report does not relieve it of the obligation to comply with the comparability requirements in § 116a.112 and §§ 116a.116–116a.122.

(Sec. 126(e), 20 U.S.C. 2736(e))

§ 116a.114 Data to be included in a comparability report.

(a) An LEA that is required to submit a comparability report under § 116a.113 shall submit a report that—

(1) Is in the form prescribed by the SEA;

(2) Contains the information that the SEA needs to make the comparability determinations required under § 116a.116; and

(3) Includes the data required under paragraphs (b) and (c) of this section.

(b)(1) If the LEA has both project area schools and nonproject area schools, the LEA's comparability report must include the data described in paragraph (c) of this section—

(i) For each school serving a project area, unless the school is exempt under paragraph (d) of this section; and

(ii) On a combined basis for all other schools—that is, nonproject area schools—serving corresponding grades.

(2) If all schools in the LEA serve project areas, the LEA's comparability report must include the data described in paragraph (c) of this section for each school serving a project area, unless the school is exempt under paragraph (d) of this section.

(c) Except as provided in § 116a.118, the LEA shall include the following data for each school serving a project area—unless the school is exempt under paragraph (d) of this section—and, on a combined basis, for all schools serving the same grades in school attendance areas that are not receiving Title I funds:

(1)(i) The number of children actually enrolled; or

(ii) If State or local law specifies that different amounts of State and local funds be spent on certain categories of children, age groupings, or grade levels and if the SEA approves, the number of children enrolled weighted by multiplying (A) the actual number of children enrolled by (B) the amount spent for each category of children, age grouping or grade level.

(2) The number of instructional staff, as defined in § 116a.4 who are regularly assigned to the school or schools and paid with State and local funds.

(3)(i) The total amount of the annual salaries of the instructional staff minus (ii) the amount of those salaries based on length of service.

(4)(i) The number of children enrolled, as reported under paragraph (c)(1) of this section, divided by (ii) the number of instructional staff, as reported under paragraph (c)(2) of this section.

(5)(i) The amount of the annual salaries for instructional staff, as reported under paragraph (c)(3) of this section, divided by (ii) the number of children enrolled, as reported under paragraph (c)(1) of this section.

(d) The LEA is not required to include in its comparability report a school with an enrollment of 100 or fewer children, if the LEA submits an assurance to the SEA that it will allocate its staff to that school without regard to the availability of Title I funds.

(Sec. 126(e), 20 U.S.C. 2736(e))

§ 116a.115 The date on which the data included in the comparability report must be collected.

The LEA shall collect the data required under § 116a.114 as of the date specified by the SEA. In any case, that date may not be later than November 1 of each year.

(Sec. 126(e), 20 U.S.C. 2736(e))

§ 116a.116 Criteria for determining comparability of services.

(a) *Criteria that apply if some schools serve project areas and other schools serve school attendance areas that do not receive Title I assistance.* An LEA meets the comparability requirement in § 116a.112(a) if the SEA properly determines, for schools serving corresponding grade levels as provided under § 116a.117, that—

(1) The average number of children enrolled per instructional staff member for each school serving a project area is not more than 105 percent of the average number of children enrolled per instructional staff member in schools serving school attendance areas in the LEA that are not receiving Title I assistance; and

(2) The average per child expenditure of State and local funds for instructional staff in each school serving a project area is not less than 95 percent of the average per child expenditure of State and local funds for instructional staff in schools serving school attendance areas in the LEA that are not receiving Title I assistance.

(b) *Criteria that apply if all schools serve project areas.* The LEA meets the comparability requirement in § 116a.112(b) if, for corresponding grade levels as provided under § 116a.117, both of the following conditions prevail:

(1) In each school serving a project area, the average number of children enrolled per instructional staff member is not more than 105 percent of the average number of children enrolled per instructional staff member in the group of schools serving those project areas with the lowest percentages or numbers of children from low-income families. This group of schools may not include more than one-half of all schools serving project areas.

(2) In each school serving a project area, the average per child expenditure of State and local funds for instructional staff is not less than 95 percent of the average per child expenditure of State and local funds for instructional staff in the group of schools serving those project areas with the lowest percentages or numbers of children from low-income families. This group of schools may not include more than one-half of all schools serving project areas.

(Sec. 126(e), 20 U.S.C. 2736(e))

§ 116a.117 Grouping schools by corresponding grade levels.

(a) For the purpose of demonstrating compliance with the comparability requirements in §§ 116a.112–116a.116, an LEA shall—subject to paragraphs (b), (c), and (d) of this section—group all of its schools by corresponding grade levels in up to three groups.

(b) If the LEA has schools that serve eight or more grades above kindergarten, the LEA may consider those schools to be a separate group in addition to the groups determined under paragraph (a) of this section.

(c)(1) Except as provided in paragraph (c)(2) of this section, if one school has an enrollment for a particular grade span that is at least two times that of another school, the LEA may divide—providing it can justify its division under paragraph (c)(3) of this section—the schools in that grade span into two groups:

(i) One group for the schools with the larger enrollments; and

(ii) One group for the schools with the smaller enrollments.

(2) An LEA that has schools with enrollments of 100 or fewer students shall exclude those schools in making a determination of the size of the smallest school.

(3) In justifying the division permitted in paragraph (c)(1) of this section, the LEA or SEA shall indicate why the different sizes of the schools require different expenditures or pupil-teacher ratios.

(d) Except as provided in paragraphs (b) and (c) of this section, in grouping its schools as required by paragraph (a) of this section, an LEA shall meet the following requirements:

(1) An LEA serving seven or fewer grade levels above kindergarten is limited to one group.

(2) An LEA serving eight or nine grade levels above kindergarten is limited to two groups.

(3) An LEA serving any levels from grades 6 through 12, but only those levels, is limited to two groups if the LEA serves five or more grade levels, and to one group if the LEA serves four or fewer grade levels.

(4) If a school serves grades in more than one group, the LEA shall include that school—

(i) In the group with which the school has the most grade levels in common; or

(ii) In the group that includes the lower grade levels, if the school has the same number of grade levels in common with two or more groups.

(Sec. 126(e), 20 U.S.C. 2736(e))

§ 116a.118 Exclusions from the excess costs and comparability requirements.

(a) *General standard.* Subject to the requirements in this section and advance determinations under paragraphs (e) or (f) of this section, an LEA may exclude State and local funds spent in carrying out a special program, as defined in paragraph (b) of this section, or a State phase-in program, as defined in paragraph (c) of this section, for the purpose of determining compliance with—

(1) The comparability requirements in section 126(e) (Comparability of services) of Title I and §§ 116a.112–116a.117; and

(2) The excess costs requirements in section 126(b) (Use of funds limited to excess costs) of Title I and 45 CFR 116.94.

(b) *Special program defined.* For purposes of this section, a special program is—

(1) A State compensatory education program that—

(i) The Secretary has determined in advance, under paragraph (e) of this section, meets the requirements of paragraph (d) of this section; and

(ii) The SEA determines is being implemented by the LEA in accordance with paragraph (d) of this section;

(2) A State compensatory education program that—

(i) The Secretary has determined in advance, under paragraph (e) of this section, does not satisfy the requirements of paragraph (d) of this section; but

(ii) The Secretary has determined permits the LEA to use the special State funds in accordance with paragraph (d) of this section, provided that—

(A) The LEA designs a program that the SEA determines in advance, under paragraph (f) of this section, meets the requirements of paragraph (d) of this section; and

(B) The SEA determines that the LEA will implement the program in accordance with paragraph (d) of this section;

(3) A local compensatory education program that—

(i) The SEA has determined in advance, under paragraph (f) of this section, meets the requirements of paragraph (d) of this section; and

(ii) The SEA determines is being implemented in accordance with paragraph (d) of this section; or

(4)(i) A bilingual program for children of limited proficiency in the English language; or

(ii) A special education program for handicapped children or children with specific learning disabilities.

(c) *State phase-in program defined.* (1) For purposes of this section, a State phase-in program is a program that—

(i) The Secretary has determined in advance, under paragraph (e) of this section, meets the requirements in paragraph (c)(2) of this section; and

(ii) The SEA determines will be implemented by the LEA in accordance with paragraph (c)(2) of this section.

(2) A State education program that is being phased into full operation meets the requirements of this section if—

(i) The program is authorized and governed specifically by State law;

(ii) The purpose of the program is to provide for the comprehensive and systematic restructuring of the total educational environment at the level of the individual school;

(iii) The program is based on objectives related to educational achievement and is evaluated in a manner consistent with those objectives;

(iv) Parents and school staff are involved in comprehensive planning, implementation, and evaluation of the program;

(v) The program will benefit all children in a particular school or grade span within a school;

(vi) Schools participating in a program describe, in an individual school plan, program strategies for meeting the special education needs of educationally deprived children;

(vii) At all times during the phase-in period, at least 50 percent of the schools participating in the program are the schools serving project areas that have the greatest number or concentration of educationally deprived children or children from low-income families;

(viii) State funds made available for the phase-in program will supplement, not supplant State and local funds that would, in the absence of the phase-in program, have been provided for schools participating in this program;

(ix) For purposes of complying with the preceding requirements in paragraphs (c)(2) (i) through (viii) of this section, the LEA is separately accountable to the SEA for any funds spent for the program;

(x) The LEAs carrying out the program are complying with the preceding requirements in paragraphs (c)(2) (i) through (ix) of this section; and

(xi) The phase-in period of the program is not more than six school years. However, if the phase-in period for a program began before November 1, 1978, the phase-in period is considered to have begun on November 1, 1978.

(d) *State and local compensatory education program that is similar to Title I.* A State or local educational program meets the requirements of this paragraph and is considered to be similar to the Title I program for an LEA if—

(1) All children participating in the program are educationally deprived;

(2) The program is based on performance objectives related to educational achievement and is evaluated in a way that is consistent with those objectives;

(3) The program provides supplementary services designed to meet the special educational needs of the children who are participating;

(4) The LEA keeps and affords access to whatever records are necessary to verify compliance with the preceding requirements in paragraphs (d) (1) through (3) of this section;

(5) The SEA monitors performance under the program to assure that the LEA meets the preceding requirements in paragraphs (d) (1) through (4) of this section.

(e) *Advance determination by the Secretary.* (1) If requested by an SEA, the Secretary makes an advance determination of whether—

(i) A State program described in paragraph (b)(1) or (b)(2) of this section meets the requirements in paragraph (d) of this section; or

(ii) A State phase-in program described in paragraph (c)(1) of this section meets the requirements in paragraph (c)(2) of this section.

(2) Before making an advance determination, the Secretary requires the SEA to submit copies of the applicable provisions of State law, together with all relevant rules, orders, guidelines, interpretations, and other information that the Secretary needs in order to make the determination.

(3) If there is a significant change in the applicable State law or implementation of the State program for which an advance determination is being sought or has been made, the SEA shall promptly submit a description of the changes to the Secretary.

(4) The Secretary makes an advance determination in writing and includes a statement of the reasons for the determination.

(f) *Advance determination by an SEA.* (1) If requested by an LEA, its SEA shall make an advance determination of whether—

(i) An LEA program described in paragraph (b)(2) of this section meets the requirements in paragraph (d) of this section; or

(ii) An LEA program described in paragraph (b)(3) of this section meets the requirements in paragraph (d) of this section.

(2) Before making an advance determination, the SEA shall require the LEA to submit copies of the applicable provisions of local law, together with all relevant rules, orders, guidelines, interpretations, and other information the SEA needs in order to make the determination.

(3) If there is a significant change in the applicable local law or implementation of the program for which an advance determination is being sought or has been made, the LEA shall promptly submit a description of those changes to the SEA.

(4) Each advance determination that the SEA makes must be in writing and must include a statement of the reasons for the determination.

(Sec. 131, 20 U.S.C. 2751)

§ 116a.119 Required annual assurance.

On or before July 1 of each year covered by a project application, an LEA shall submit to its SEA as part of the application an assurance that the LEA will maintain comparability of State and local services in schools serving attendance areas that were served by the LEA's Title I project during the preceding fiscal year.

(Sec. 126(e), 20 U.S.C. 2736(e))

§ 116a.120 Maintaining comparability.

During the school year, an LEA shall—

(a) Periodically determine whether it is maintaining the comparability required by §§ 116a.112–116a.119; and

(b) Make whatever adjustments are necessary to maintain that comparability.

(Sec. 126(e), 20 U.S.C. 2736(e))

§ 116a.121 Comparability data must be for the same date.

All data that an LEA uses in a given comparability report or request for an advance determination must reflect conditions as of the same date of which the LEA bases the comparability or during the year for which it requests the advance determination.

(Sec. 126(e), 20 U.S.C. 2736(e))

§ 116a.122 Retention of records concerning comparability.

An LEA that is required to file a comparability report under § 116a.113 shall—

(a) Keep all records and documents from which it derived the data included in each comparability report and request for determination for the period specified in 45 CFR 116.140; and

(b) Make the records and documents referred to in paragraph (a) of this section available to parents, teachers, and other persons in accordance with 45 CFR 116.141 and to State and Federal auditors in accordance with 45 CFR 116.142.

(Sec. 126(e), 20 U.S.C. 2736(e))

§ 116a.123 Actions to be taken by an SEA if an LEA violates the comparability requirements.

(a) Except as provided in paragraph (b) of this section, an SEA shall, within 30 days of discovering that any school serving a project area is in violation of the comparability requirements in section 126(e) of Title I and §§ 116a.112–116a.122, but not later than January 1 of the fiscal year involved—

(1) Initiate a withholding proceeding under 45 CFR 116.200 and suspend all further Title I payments to the LEA under 45 CFR 116.200(c); or

(2) Enter into a compliance agreement with the LEA under 45 CFR 116.210.

(b) The SEA may not take any compliance action against the LEA under paragraph (a) of this section if—

(1) The LEA files with the SEA before December 1 of the fiscal year involved a comparability report that shows that one or more shcools are in violation of the comparability requirements; and

(2) The LEA files a revised comparability report with the SEA showing that, as of a date no later than December 1 of that fiscal year, the violation has been corrected.

(c) If the LEA does not achieve comparability by December 1, the SEA shall ensure that none of the obligations incurred by that LEA during the period when the LEA is not in compliance with the comparability requirements is charged to Title I.

(d) If an LEA determined to be in violation of the comparability requirements fails to submit to its SEA by March 1 of the fiscal year involved a revised comparability report that demonstrates full compliance with the comparability requirements, the SEA shall, under the procedures in § 116a.38, reallocated the balance of the LEA's on obligated Title I funds to other LEAs in the State that are in full compliance.

(Sec. 126(e), 20 U.S.C. 2736(e))

§ 116a.124 Amount of funds that an SEA shall refund for a violation of the comparability requirement.

(a) Except as provided in paragraph (e) of this section, if the Secretary or an SEA finds, on the basis of an audit, that an LEA failed to comply with the comparability requirements in section 126(e) of Title I and §§ 116a.112–116a.123, the SEA shall refund to the Department the total amount of Title I funds spent to operate a project in each noncomparable school of the LEA during the period of noncomparability. These funds must include—

(1) All of the Title I expenditures directly attributable to the project in each noncomparable school; that is, direct costs, including salaries, fringe benefits, materials and supplies, equipment, and transportation;

(2) The prorated share, as computed under paragraph (b) of this section, of all the Title I expenditures that are made on a shared basis with other schools serving project areas;

(3) The prorated share, as computed under paragraph (b) of this section, of all the LEA's districtwide Title I costs; that is, costs not directly attributable to any particular school, including expenditures for supervision of instructional and support staff, monitoring, evaluation, and training; and

(4) The prorated share of all the indirect costs attributable to the project, as computed under paragraph (c) of this section.

(b)(1) The SEA shall base the amount of shared costs under paragraph (a)(2) of this section that is charged to each noncomparable school on the ratio of (i) the direct costs charged to Title I for that school—as determined under paragraph (a)(1) of this section—to (ii) the total amount of direct costs for all the schools involved in the shared aspect of the project.

(2) For example, if noncomparable school A with direct costs of $30,000 and noncomparable school B with direct costs of $20,000 shared in a Title I service costing $10,000, school A would be charged with $6,000 (that is, $30,000/$50,000 or 60 percent of $10,000) and school B would be charged with $4,000 (that is, $20,000/$50,000 or 40 percent of $10,000). School A would be charged with a total of $36,000 for expenditures under paragraphs (a)(1) and (a)(2) of this section ($30,000 for direct costs plus $6,000 in shared costs). School B would be charged with a total of $24,000 under those paragraphs ($20,000 for direct costs plus $4,000 in shared costs).

(c)(1) For each noncomparable school, the SEA shall base the sum of the prorated share of the LEA's districtwide Title I costs under paragraph (a)(3) of this section and the prorated share of the indirect costs under paragraph (a)(4) of this section on the ratio of (i) the total of the direct and shared costs under paragraphs (a)(1) and (a)(2) of this section for each noncomparable school to (ii) the total of the direct and shared costs for all project locations.

(2) For example, if noncomparable school A had a total of $36,000 in direct and shared costs, and if the total of the direct and shared costs for all project locations in the LEA was $500,000, school A would be charged with 7.2 percent ($36,000/$500,000) of the LEA's total districtwide expenditures under paragraph (a)(3) of this section, and 7.2 percent of the total indirect costs under paragraph (a)(4) of this section. Thus, if the LEA had districtwide Title I indirect costs of $50,000, school A would be charged $7,200 (7.2 percent of $100,000) for districtwide expenditures under paragraph (a)(3) of this section and $3,600 (7.2 percent of $50,000) for indirect costs under paragraph (a)(4) of this section.

(d) Thus, under the examples in paragraphs (b)(2) and (c)(2) of this section, the total amount of Title I funds that must be refunded because school A did not meet the comparability requirement would be $46,800 ($30,000 in direct costs, $6,000 in shared costs, $7,200 in districtwide expenditures, and $3,600 in indirect costs).

(e) The SEA is not required to refund any amounts that the LEA spent to operate a project in any noncomparable school of the LEA during the period of noncomparability if—

(1) The comparability violation was revealed in a comparability report that the LEA filed with the SEA before December 1 of the fiscal year involved; and

(2) The LEA filed a revised comparability report with the SEA showing that, as of a date no later than December 1 of that fiscal year, the violation had been corrected.

(Sec. 126(e), 20 U.S.C. 2736(e); Sec. 185(b), 20 U.S.C. 2835(b); Sec. 452 of GEPA, 20 U.S.C. 1234a)

§ 116a.125 SEA reports to the Secretary.

On or before May 1 of each year, an SEA shall report to the Secretary on—

(a) The number of LEAs that—

(1) Are operating Title I projects in the State;

(2) Submitted comparability reports under § 116a.113; and

(3) Were required to submit revised comparability reports.

(b) Any actions that the SEA has taken under § 116a.123(a);

(c) Any reallocations that the SEA has made under § 116a.123(d); and

(d) Any refunds that the SEA has made, or will make, under § 116a.124.

(Sec. 126(e), 20 U.S.C. 2736(e))

§§ 116a.126–116a.129 [Reserved]

Supplement, Not Supplant: General

§ 116a.130 Introduction.

An LEA that receives Title I funds shall meet the requirements in—

(a) Section 116a.132 (Assurance of equal opportunity);

(b) Sections 116a.133–116a.135 (Supplement, not supplant: regular State and local funds and State and local funds for State phase-in programs); and

(b) Sections 116a.136–116a.143 (Supplement, not supplant: special State and local programs).

(Sec. 126(c), 20 U.S.C. 2736(c); Sec. 126(d), 20 U.S.C. 2736(d); 42 U.S.C. 2000d–2000d–4; 20 U.S.C. 1681–1683; 29 U.S.C. 749)

§ 116a.131 Definitions.

(a) "Educational setting" refers to the time and location in which educational services are provided.

(b) "Handicapped children" includes learning disabled and other handicapped children who meet the definition in 45 CFR 84.3(j) or the definition in 45 CFR 121.5.

(c) "Intensity of instruction" refers to the following two elements in the provision of Title I instruction to a child in a particular class:

(1) The amount of time during which the child receives Title I instruction.

(2) The pupil-teacher ratio used in providing that instruction.

(d) "Limited proficiency in the English language" refers to children—

(1) Whose primary or home language is other than English; and

(2) Who lack sufficient proficiency in the English language to allow them the opportunity to participate effectively in school if the language of instruction is English.

(e) "Primary or home language other than English" means a language, other than English, to which any of the following applies:

(1) It is the first language of the child.

(2) It is the language normally used by the child.

(3) It is a language normally used in the child's home.

(f) "Regular funds" means those State and local funds that an LEA provides for the support of any educational program except the following—

(1) State phase-in programs; or

(2) Special programs defined in § 116a.118(b).

(g) "State phase-in program" means a program that satisfies the definition in § 116a.118(c).

(h) "Special programs" are programs defined in § 116a.118(b), including programs of the following types:

(1) State or local compensatory education programs.

(2) Bilingual programs for children with limited proficiency in the English language.

(3) Special education programs for handicapped children.

(Sec. 126(c), 20 U.S.C. 2736(c); Sec. 126(d), 20 U.S.C. 2736(d); Sec. 131(b), 20 U.S.C. 2751(b); Sec. 132, 20 U.S.C. 2752)

§ 116a.132 Assurance of equal opportunity.

(a) *General.* (1) An LEA may not, on the basis of race, sex, national origin, or handicap, exclude a child from participation in services provided with Title I funds.

(2) An LEA shall ensure that all children participating in a Title I project—including handicapped children and children with limited proficiency in the English language—are provided an equal opportunity to benefit from that project.

(b) *Services for handicapped children.* (1)(i) Except as provided in paragraph (b)(2) of this section, the LEA shall use Title I funds, as necessary, to provide assistance and materials needed to ensure handicapped children an equal opportunity to participate in and benefit from Title I services.

(ii) *Example.* The LEA may use Title I funds to provide to a visually impaired participant large-print books used in a Title I reading class.

(2)(i) However, the assistance provided by the LEA for handicapped children from Title I funds must be in addition to the assistance the LEA would otherwise be required to provide to accommodate the participation of handicapped children in non-Title I activities.

(ii) *Example.* If the LEA is required to provide a deaf child—under the child's individualized education program—with a sign language interpreter whose only job is to assist that one child's participation in the school's program, the LEA may not use Title I funds to pay for the services of an interpreter during the child's participation in a remedial class funded under Title I.

(c) *Services for children with limited proficiency in the English language.* (1) In providing Title I services, the LEA shall use Title I funds, as necessary, to provide assistance and materials needed to ensure participants with limited proficiency in the English language an equal opportunity to participate in and benefit from Title I services.

(2) *Example.* The LEA may use Title I funds to provide those children with a bilingual teacher or bilingual instructional materials for purposes of participation in the Title I project.

(42 U.S.C. 2000d-2000d–4, 20 U.S.C. 1681–1683; 29 U.S.C.794)

Supplement, Not Supplant: Regular State and Local Funds and State and Local Funds for State Phase-In Programs

§ 116a.133 Introduction.

(a) An LEA may use Title I funds only to supplement and, to the extent practical, increase the level of funds that would, in the absence of Title I funds, be made available from the following State and local sources for the education of children who participate in Title I projects:

(1) Regular funds; and

(2) Funds for State phase-in programs.

(b) In no case may the LEA use Title I funds to supplant the State and local funds referred to in paragraph (a) of this section.

(c) The LEA supplants State and local funds in violation of paragraph (b) of this section if it fails to comply with the requirements of either—

(1) § 116a.134 (Equitable distribution: regular funds and State phase-in programs); and

(2) § 116a.135 (Provision of services required by law: regular funds and State phase-in programs).

(Sec. 126(c), 20 U.S.C. 2736(c))

§ 116a.134 Equitable distribution: Regular funds and funds for State phase-in programs.

(a) An LEA shall distribute regular State and local funds and State and local funds for State phase-in programs in a way that does not discriminate against children who participate in Title I projects.

(b) *Presumption of violation.* An LEA is presumed to have violated the requirements of paragraph (a) of this section if it does any of the following:

(1) Uses Title I funds, in violation of § 116.94(b) (related to excess costs), to pay more than the excess cost of a Title I service that the LEA is providing as a

substitute for a non-Title I service that participating children would otherwise receive.

(2) Systematically assigns a greater number of pupils per teacher in classes that include children who are receiving Title I services.

(3) Denies children who receive Title I services opportunities to receive State and locally funded regular programs or State phase-in services on the same basis as other children.

(Sec. 126(c), 20 U.S.C. 2736(c))

§ 116a.135 Provision of services required by law: Regular funds and funds for State phase-in programs.

(a) *General rule.* (1) An LEA may not use Title I funds to provide services that the LEA is required to make available under—

(i) Federal, State, or local law; or

(ii) A court order.

(b) *Presumption of violation.* (1) The LEA is presumed to have violated the requirements of paragarph (a) if the LEA—

(i) Has been subject to a court order specifying its obligations under Federal, State, or local law; and

(ii) Uses Title I funds to provide services that it is required to provide under that court order.

(2) *Example.* An LEA that has been ordered by a court to provide specific remedial assistance to remedy the effects of past segregation is presumed to have violated the requirements of paragraph (a) of this section if it uses Title I funds for that purpose.

(Sec. 126(c), 20 U.S.C. 2736(c))

Supplement, Not Supplant: Special State and Local Programs

§ 116a.136 Introduction.

(a) An LEA may use Title I funds only to supplement and, to the extent practical, increase the level of funds that would, in the absence of Title I funds, be made available from State and local sources for special programs for the education of educationally deprived children in the aggregate in Title I eligible school attendance areas and schools.

(b) In no case may an LEA use Title I funds to supplant the State and local funds referred to in paragraph (a) of this section.

(c) An LEA supplants special State and local funds in violation of paragraph (b) of this section if it fails to comply with the requirements of both—

(1) Section 116a.137 (Equitable distribution: special State and local programs); and

(2) Section 116a.139 (Provision of services required by law: general).

(Sec. 126(d), 20 U.S.C. 2736(d))

§ 116a.137 Equitable distribution: special State and local programs.

(a) *General rule.* An LEA shall distribute State and local funds for special programs in a way that does not discriminate against educationally deprived children in the aggregate in Title I eligible school attendance areas or attending Title I eligible schools.

(b) *Demonstration of compliance.* In order to demonstrate that it has met the requirement of paragraph (a) of this section, the LEA shall—

(1) Provide the SEA with satisfactory assurances that it equitably distributes State and local funds for each special program at an appropriate level so as—

(i) To meet the special needs of educationally deprived children in Title I eligible school attendance areas and schools; and

(ii) To avoid discrimination against educationally deprived children in Title I eligible school attendance areas and schools; and

(2) Make available to its SEA and to others, on request—

(i) Evidence that it distributes a proportionate share of State and local funds available under each type of special program, as applicable, for the education of educationally deprived children in Title I eligible school attendance areas and schools (NOTE: The method for calculating proportionate share is contained in § 116a.138); or

(ii) Evidence of the extent to which it distributes a proportionate share of State and local funds referred to in paragraph (b)(2)(i) of this section and evidence that its failure to provide a full proportionate share results from—

(A) A disproportionate distribution, within the LEA, of children whose handicaps require particularly high expenditures;

(B) A disproportionate distribution, within the LEA, of children whose instruction related to their lack of proficiency in the English language requires particularly high expenditures; or

(C) Distribution of State and local funds in compliance with the limited exemption described in paragraph (c) of this section.

(c)(1) *Limited exemption.* The LEA may use State and local funds for special programs and projects that are solely for educationally deprived children residing in non-project areas or attending non-project schools, including school attendance areas and schools ineligible for assistance under Title I, so long as the requirements of paragraph (c)(2) of this section are met.

(2) The LEA qualifies for the exemption described in paragraph (c)(1) of this section if all of the following conditions are satisfied:

(i) The LEA uses special State and local funds to provide a special program, as defined in § 116a.118(b) (1) through (3), that qualifies under § 116a.118 or exclusion from the comparability and excess cost requirements of §§ 116a.111–116a.120.

(ii) The amount of State and local funds provided by the LEA during a particular fiscal year in eligible school attendance areas and schools for purposes of the special program referred to in paragraph (c)(2)(i) of this section, when added to the amount of funds provided for the LEA's Title I project during that year, does not exceed the amount the LEA is eligible to receive for that fiscal year under section 111(a)(2) of Title I (referring to how the amount of a grant is determined), without regard to adjustments under section 193 of Title I (Adjustments where necessitated by appropriations).

(3) The amount of limited exemption provided in paragraph (c)(1) of this section is calculated as follows:

(i) *Step 1.* The LEA adds the following:

(A) Title I funds provided to project areas in the LEA; and

(B) State and local funds provided to project areas in the LEA for the special program referred to in paragraph (c)(2)(i) of this section.

(ii) *Step 2.* The LEA divides the sum of the amounts in Step 1 by the number of children participating in Title I projects in project areas.

(iii) *Step 3.* The LEA determines the amount of State and local funds provided in non-project areas for the special program referred to in paragraph (c)(2)(i) of this section.

(iv) *Step 4.* The LEA divides the amount in Step 3 by the number of children in non-project areas who are eligible to participate in the special programs referred to in paragraph (c)(2)(i) of this section.

(v) *Step 5.* The LEA subtracts the amount in Step 4 from the amount in Step 2.

(vi) *Step 6.* The LEA multiplies the amount in Step 5 by the number of children in non-project areas who are eligible to participate in the special program described in paragraph (c)(2)(i) of this section.

(Sec. 126(c), 20 U.S.C. 2736(c); Sec. 126(d), 20 U.S.C. 2736(d); Sec. 131(b), 20 U.S.C. 2751(b); Sec. 132, 20 U.S.C. 2752)

§ 116a.138 Procedures for determining proportionate share.

(a) In order to calculate proportionate share for purposes of § 116a.137(b)(2)(i)

(related to equitable distribution), an LEA takes the following steps:

(1) *Step 1.* The LEA uses objective criteria, described in § 116a.143(a)(2)(ii) to identify the total number of children in all of its school attendance areas who are eligible for each of the following types of special programs, if applicable:

(i) State compensatory education programs.

(ii) Local compensatory education programs.

(iii) Bilingual programs for children with limited proficiency in the English language.

(iv) Special education programs for handicapped children.

(2) *Step 2.* The LEA then identifies, in all of its Title I eligible school attendance areas and schools, the total number of children who are eligible for each type of special program referred to in Step 1.

(3) *Step 3.* For each type of special program, the LEA divides the number of children identified in Step 2 by the number of children identified in Step 1. The result may be expressed as either a fraction or a percentage.

(4) *Step 4.* For each type of special program, the LEA lists the amount of funds that it proposes to distribute during the current fiscal year in all its school attendance areas.

(5) *Step 5.* For each type of special program, the LEA multiplies—

(i) The fraction or percentage calculated in Step 3; by

(ii) The amount of funds for that program listed in Step 4.

(iii) The result of this multiplication for each type of special program is the amount of funds that the LEA is obligated to provide, under that type of program, in Title I eligible school attendance areas and schools. This is the proportionate share.

(b) The LEA will be presumed to have provided a proportionate share of special funds for each type of special program so long as it expends, in Title I eligible school attendance areas, no less than an amount equal to (1) the amount calculated in Step 5 for that special program minus (2) an amount equal to (i) the number of children identified in Step 2 for that special program multiplied by (ii) $10.

(c) *Examples.* (1) There are 200 children in an LEA who fail to achieve a passing score on a State minimum competency test. Of these children, 150 (75 percent) are in Title I eligible school attendance areas. $40,000 in State funds are available to the LEA to provide compensatory education to children who fail to pass the State minimum competency test. The LEA must expend a proportionate share—at least $30,000 (that is, 75 percent of $40,000)—for the benefit of eligible children in Title I eligible school attendance areas.

(2) There are 1,000 handicapped children in an LEA. Of these children, 600 (60 percent) are in Title I eligible school attendance areas and schools. The LEA expends $500,000 in State and local funds on special education programs for handicapped children. The LEA must spend a proportionate share—at least $300,000 (that is, 60 percent of $500,000)—for the benefit of handicapped children in Title I eligible school attendance areas and schools, unless the LEA can demonstrate that its failure to do so results from a disproportionate distribution, within the LEA, of children whose handicaps require particularly high expenditures.

(3) There are 800 children with limited proficiency in the English language in an LEA. Of these children, 600 (75 percent) are in Title I eligible school attendance areas and schools and have Spanish as their primary or home language. Of the 200 children who are not in Title I eligible school attendance areas or schools, 150 have Vietnamese as their primary or home language, and 50, who have just arrived in the United States, have Korean as their primary language. State and local funds for bilingual programs total $160,000. The LEA must spend a proportionate share—at least $120,000 (that is, 75 percent of $160,000)—for the benefit of children with limited proficiency in the English language in Title I eligible school attendance areas and schools, unless the LEA can demonstrate that the costs of providing services to the Vietnamese and Korean children, for example, are disproportionately high.

(Sec. 126(c), 20 U.S.C. 2736(c); Sec. 126(d), 20 U.S.C. 2736(d); Sec. 131(b), 20 U.S.C. 2751(b); Sec. 20 U.S.C. 2752)

§ 116a.139 Provision of services required by law: General.

(a) An LEA may not use Title I funds to provide special services—

(1) That the LEA is otherwise required to make available under Federal, State, or local law; and

(2) For which the LEA is required to pay using State or local funds.

(b) The LEA shall comply with the requirements of §§ 116a.140–116a.142, as applicable.

(Sec. 126(c), 20 U.S.C. 2736(c); Sec. 126(d), 20 U.S.C. 2736(d); Sec. 131(b), 20 U.S.C. 2751(b); Sec. 132, 20 U.S.C. 2752)

§ 116a.140 Provision of services required by law: Handicapped children.

(a) *General rule.* An LEA may not use Title I funds to provide services that the LEA is required to make available under—

(1) Part B of the Education of the Handicapped Act, as amended by Pub. L. 94–142 (20 U.S.C. 1401);

(2) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93–112, 29 U.S.C. 706), as amended;

(3) The regulations governing the administration of either of those statutes; or

(4) A court order.

(b) *Models for compliance.* The SEA determines that the LEA does not violate the requirements in paragraph (a) of this section if the LEA uses Title I funds to provide services described in paragraphs (c) or (e) of this section.

(c) *Presumption of compliance.* The LEA is presumed not to have violated the requirements in paragraph (a) of this section if the LEA provides Title I services with all of the following characteristics:

(1) The LEA designs its Title I project to address special needs resulting from educational deprivation, not needs relating to a child's handicapping condition.

(2) The LEA sets overall project objectives that do not distinguish between handicapped and non-handicapped participants.

(3) The LEA—

(i) Through the use of uniform criteria, selects children for participation on the basis of educational deprivation, not on the basis of handicap; and

(ii) Selects as participating handicapped children only those who can reasonably be expected to make substantial progress toward accomplishing project objectives without the LEA substantially modifying the educational level of the subject matter or the intensity of instruction.

(4) The LEA provides Title I services in a common educational setting that includes significant numbers of non-handicapped children, as well as handicapped children, if any.

(5) LEA provides Title I services at intensities taking into account the needs and abilities of individual participants but without distinguishing generally between handicapped and non-handicapped participants with respect to the intensity of instruction provided.

(d) *Example.* An LEA plans a Title I project to increase children's reading proficiency by two grade levels. The LEA plans to accomplish this goal through intensified instruction in the form of tutorial assistance given several times a week in hour-long sessions using additional personnel. Children's eligibility for inclusion in the project is based on their classroom performance and reading achievement test scores. Of

the 100 children selected for participation in the project using these criteria, 10 (10 percent, a proportion approximately comparable to the percentage of handicapped children in the LEA's Title I eligible school attendance areas) are handicapped children with learning disabilities who receive special education in a resource room for portions of the school day. The LEA does not select for participation any child who would require substantial modification in the educational level of the subject matter of the intensity of instruction in order to make substantial progress toward accomplishing project objectives. None of the small groups in which instruction is provided consists solely of learning disabled children, since it is possible to group those children (by age and instructional needs) with non-handicapped participants. Although individual handicapped and non-handicapped children receive additional time and attention to assist them to meet project objectives, handicapped children do not generally receive more intensified instruction than non-handicapped children as part of their tutorial sessions. In this case, The LEA has designed its project to address special needs resulting from educational deprivation, not a handicapping condition, and has established project objectives that do not distinguish between handicapped and non-handicapped children. It has selected children using uniform criteria, and has not selected on the basis of handicap (as is indicated, in part, by the fact that the proportion of handicapped children selected does not substantially exceed the percentage of handicapped children in the district's Title I eligible school attendance areas). The Title I services are provided in a common educational setting, which includes non-handicapped as well as handicapped children, using intensities of instruction that vary from child to child but that are not substantially different for handicapped and non-handicapped children. The SEA in this case may therefore presume that the LEA has complied with the requirements of paragraph (a) of this section. However, a question might be raised as to the LEA's compliance with the requirements of paragraph (c)(3)(i) if, in this case, rather than including handicapped children in approximate proportion to the percentage of handicapped children in the LEA's Title I eligible school attendance areas, the LEA included as participants a substantially disproportionately greater number of handicapped children.

(e) *Demonstration of compliance.* An LEA may demonstrate that it has not violated the requirements of paragraph (a) of this section if it provides services that meet the requirements of either paragraph (e)(1) or (e)(2) of this section.

(1) The LEA provides services with all of the following characteristics:

(i) The services have those characteristics described in paragraphs (c) (1) through (3) of this section.

(ii)(A) The services are provided to handicapped participants in a separate educational setting that does not include non-handicapped children; and

(B) The LEA justifies the use of a separate educational setting in order to meet project objectives effectively.

(iii) The LEA—

(A) Provides instruction in the separate setting at an intensity comparable to that provided to other participants; or

(B) Demonstrates that its use of a different intensity of instruction is attributable to the limited number of participants for whom service in a separate educational setting is justified.

(2) The LEA provides services with all of the following characteristics:

(i) The services have those characteristics described in paragraphs (c)(1) through (4) of this section.

(ii) (A) The services are provided using different intensities of instruction for handicapped and non-handicapped participants; and

(B) The LEA justifies the use of a different intensity of instruction in order to meet project objectives effectively.

(f) *Example.* An LEA designs a Title I project to teach remedial math skills to children in grades 4 through 6 in order to increase their performance by two grade levels. As a criterion for selection, the LEA uses children's performance on a math achievement test. Of the 100 children selected to participate—in this case, those who scored between the 5th and the 16th percentile on a math achievement test—10 are emotionally disturbed and five are educable mentally retarded. The LEA determines that, in order to effectively meet project goals, the emotionally disturbed children, who could not tolerate instruction in a classroom with non-handicapped children at the usual 15-to-1 pupil-teacher ratio, must receive instruction in a different location or at a different time. The LEA has provided an adequate justification for serving the emotionally disturbed children in a separate educational setting and has demonstrated compliance with the requirements of paragraphs (e)(1)(ii) and (iii) of this section. However, a question might be raised as to whether the LEA satisfies the requirements of paragraph (e)(1)(i) of this section if the LEA selects for participation all children scoring below the 16th percentile (including those scoring less than the 5th percentile) on the math achievement test, including several children labeled as educable mentally retarded and having mental ages and performance levels of six-year-olds or first graders. Since these educable mentally retarded children need instruction at a very basic level—including number concepts and basic counting skills—with a 3-to-1 pupil-teacher ratio in order to make progress toward meeting project goals, their inclusion appears to be inappropriate.

(Sec. 126(c), 20 U.S.C. 2736(c); Sec. 126(d), 20 U.S.C. 2736(d); Sec. 131(b), 20 U.S.C. 2751(b); Sec. 132, 20 U.S.C. 2752; 20 U.S.C. 1401; 29 U.S.C. 706)

§ 116a.141 Provision of services required by law: children whose primary or home language is other than English.

(a) *General rule.* An LEA may not use Title I funds to provide services that the LEA is required to make available under—

(1) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d–4).

(2) The regulations governing the administration of that statute; or

(3) A court order.

(b) *Models for compliance.* The SEA determines that the LEA does not violate the requirements of paragraph (a) of this section if the LEA uses Title I funds to provide services described in paragraphs (c) or (e) of this section.

(c) *Presumption of compliance.* The LEA is presumed not to have violated the requirements of paragraph (c)(1) of this section under either of the following circumstances:

(1) The LEA—

(i) Has been subject to a court order, or has entered into a voluntary plan for compliance specifying its obligations under Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d–4); and

(ii) Uses Title I funds to provide only services other than those it is required to provide under this court order or voluntary plan for compliance.

(2) The LEA provides Title I services with all of the following characteristics:

(i) The LEA designs its Title I project to address special needs resulting from educational deprivation, not needs relating solely to a child's having a particular primary or home language.

(ii) The LEA sets overall project objectives that do not distinguish between participants whose primary or home language is other than English and participants whose primary or home language is English.

(iii) Through the use of uniform criteria, the LEA selects children for participation on the basis of educational deprivation, not on the basis of their primary or home language.

(iv) The LEA provides Title I services in a common educational setting that includes significant numbers of children whose primary or home language is English, as well as children, if any, whose primary or home language is other than English.

(v) The LEA provides Title I services taking into account the needs and abilities of individual participants but without distinguishing generally between children whose primary or home language is other than English and children whose primary or home language is English, with respect to the intensity of instruction provided.

(d) *Example.* An LEA designs a project to increase by two grade levels the reading proficiency of children in grades 3 and 4 who score below the 25th percentile on reading achievement tests. It selects 200 participants, 120 of whom have Spanish as their primary or home language and who have varying degrees of proficiency in English, and 80 of whom have English as their primary or home language. The proportion within the participant group of children with a Spanish-language background is approximately comparable to the proportion of similar children in the LEA's Title I eligible school attendance areas. The LEA provides instruction in a common educational setting that includes children of both language backgrounds and uses a bilingual education teacher. All of the children receive individualized attention, as needed, to assist them to benefit from the instruction. Since the LEA has designed its project, set common objectives, selected participants, and provided instruction at a comparable intensity in a common educational setting including children with Spanish and English language backgrounds, the SEA presumes that the LEA has complied with the requirements of paragraph (a) of this section.

(e) *Demonstration of compliance.* The LEA may demonstrate that it has not violated the requirements of paragraph (a) of this section under either of the following circumstances:

(1) The LEA—

(i) Has, within the previous five years, been the subject of a review for compliance and has been found in compliance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d–2000d–4);

(ii) Demonstrates that it continues to use non-Title I funds to provide services provided at the time of the compliance review.

(2) The LEA provides Title I services with all of the following characteristics:

(i) The services have those characteristics described in paragraphs (c)(2)(i) through (iii) of this section.

(ii)(A) The services are provided to participants whose primary or home language is other than English in a separate educational setting that does not inlcude participants whose primary or home language is English; and

(B) The LEA justifies the use of a separate educational setting in order to meet project objectives effectively.

(iii) The LEA—

(A) Provides instruction in the separate setting at an intensity comparable to that provided to other participants; or

(B) Demonstrates that its use of a different intensity of instruction is attributable to the limited number of participants for whom service in a separate educational setting justified.

(3) The LEA provides Title I services with all of the following characteristics:

(i) The services have those characteristics described in paragraphs (c)(2)(i) through (iv) of this section; and

(ii) The LEA justifies the use of a different intensity of instruction in order to meet project objectives effectively.

(f) *Example.* An LEA designs a Title I program, sets an overall project goal of bringing to grade level in mathematics students who score below the 25th percentile on a math achievement test, and selects among the participants some who are monolingual in Spanish. The LEA serves all participants in a single classroom. In order to ensure that the students who are monolingual in Spanish will have an equal opportunity to benefit from the Title I project, as required under § 116a.132(a), the LEA provides Title I services using a bilingual teacher or aide. In addition, the LEA demonstrates that in order to meet project objectives effectively, it is necessary to provide the monolingual Spanish students with more intensive instruction within the classroom to assist them to overcome language-related difficulties in mastering mathematical concepts. The SEA therefore concludes that the LEA has demonstrated compliance with the requirements of paragraph (e)(3) of this section.

(Sec. 126(c), 20 U.S.C. 2736(c); Sec. 126(d), 20 U.S.C. 2736(d); Sec. 131(b), 20 U.S.C. 2751(b); Sec. 132, 20 U.S.C. 2752; 42 U.S.C. 2000d–2000d—4; *Lau v. Nichols,* 414 U.S. 563 (1974))

§ 116a.142 Provision of services required by law: Compensatory education or other services required by State or local law.

(a) An LEA may not use Title I funds to provide compensatory education or other services that the LEA is required to make available under State or local law.

(b) However, the LEA may use Title I funds to supplement its expenditures for compensatory education or other required services if the LEA can demonstrate that—without the use of Title I funds—it is fully meeting its obligations under State or local law.

(c) The LEA can demonstrate that it is fully meeting its obligations under State law if—

(1) Apppropriate State and local officials certify to the SEA that the LEA is meeting those obligations; and

(2) The LEA has supporting documentation available for review.

(d) The LEA can demonstrate that it is fully meeting its obligations under local law if—

(1) An appropriate local official certifies to the SEA that the LEA is meeting those obligations; and

(2) The LEA has supporting documentation available for review.

(e) *Example.* An LEA designs a Title I project to provide intensive reading instruciton to children who have failed to pass a State minimum competency test. State law requires that special compensatory instruciton be provided to those children as part of a program meeting the definition of special program in § 116a.118(b). However, the law does not specify the level or intensity of instruction. The SEA, on the advice of the State Attorney General, certifies that LEAs within the State may satisfy the requirements of State law by providing children with a one-semester course in remedial English if that course meets at least three times per week and has a pupil-teacher ratio comparable to the LEA's normal pupil-teacher ratio. The LEA certifies that this type of special course is being provided for eligible children. The LEA may therefore use Title I funds to provide educationally deprived children in Title I eligible school attendance areas with additional class periods or remedial reading or to provide—to children selected for participation in the Title I project—instruction using a reduced pupil-teacher ration.

(Sec. 126(c), 20 U.S.C. 2736(c); Sec. 126(d), 20 U.S.C. 2736(d); Sec. 131(b), 20 U.S.C. 2751(b); Sec. 132, 20 U.S.C. 2752)

§ 116a.143 Coordination.

(a) An LEA may take into account and may coordinate State and local special programs with projects funded under

Title I if the LEA meets all of the following conditions:

(1) The LEA satisfies the requirements of—

(i) This part, including, but not limited to—

(A) §§ 116a.132–116a.143 (requirements that Title I funds be used to supplement, not supplant funds from State and local sources); and

(B) §§ 116a.65 and 116a.71 (requirements related to the skipping of higher-ranked school attendance areas and schools and the skipping of children determined to be in greatest need of special assistance but receiving services of the same nature and scope from non-Federal sources); and

(ii) Other applicable Federal requirements, such as the requiremets of Part B of the Education of the Handicapped Act, 20 U.S.C. 1401, as amended.

(2)(i) The LEA uses objective criteria, as defined in paragraph (a)(2)(ii) of this section, to determine, in each of the following categories, those who are eligible and those who are selected for assistance under the special State or local programs referred to in §116a.131(g):

(A) Children.

(B) Schools.

(C) Grade spans.

(D) School attendance areas.

(ii) Objective criteria include any one or combination of the following:

(A) Direct indicators of educational need.

(B) Indirect indicators of educational need.

(C) Level of poverty.

(3) The LEA ensures that educationally deprived children who satisfy the objective criteria described in paragraph (a)(2)(ii) of this section receive assistance under either Title I or under the special State or local program before any child who does not satisfy those objective criteria receives that type of assistance.

(b) *Example.* Under State law special funds are provided for the compensatory education of children from kindergarten through grade 6 who rank in the first quartile in reading achievement. The LEA desires to provide children eligible for assistance under this program with special reading instruction that costs $300 per participant. The LEA has four school attendance areas, two of which are eligible for Title I assistance, and two of which are not. Using the objective criteria specified by State law (reading achievement in the first quartile), the LEA determines that 200 children in each of the areas eligible for Title I and 50 children in each of the areas not eligible for Title I are eligible for services under the special State program. The LEA is allocated $75,000 in State funds under the special State compensatory education program. Since 80 percent of the children eligible for services under the special State program (400 of the 500 total) are in areas that are eligible for Title I and 20 percent (100 of the 500 total) are in areas that are not eligible for Title I, the LEA distributes $60,000 (that is, 80 percent of $75,000) for use in areas that are eligible for Title I. The $60,000 in State funds allocated to provide compensatory education services to children in the Title I eligible school attendance areas under the special State program is sufficient to allow 200 of the 400 eligible children to participate. These State funds may be distributed in several ways:

(1) For example, they may be used to provide services to 100 children in each Title I eligible school attendance area, with Title I funds used to provide comparable services to the additional 100 children in each area.

(2) Alternately, for example, they may be used to provide services to the 200 eligible children in one of the Title I eligible school attendance areas, with Title I funds used to provide comparable services to the 200 eligible children in the other Title I eligible area.

(3) In each case, the children in the school attendance area served using State funds must receive services of the same nature and scope as the services provided under Title I.

(4) In no case, however, may the LEA use title I funds to pay for this special program of reading instruction for children in school attendance areas not eligible for Title I.

(Sec. 126(d), 20 U.S.C. 2735(d))

§§ 116a.144–116a.149 [Reserved]

Subpart I—Parental Involvement

§ 116a.150 Purpose of advisory councils.

The purpose of the advisory councils that LEAs are required to establish under this subpart is to encourage the involvement of parents in the planning, implementation, and evaluation of projects operated by the LEAs.

(Sec. 125, 20 U.S.C. 2753)

§ 116a.151 Advisory councils that LEAs shall establish.

An LEA that receives Title I assistance—

(a) Shall establish, under the requirements in §§ 116a.152–116a.154, a district advisory council for the entire school district of the LEA; and

(b) Except as provided in § 116a.155(c), shall establish, under the requirements of §§ 116a.155–116a.158—

(1) A project area advisory council for each school attendance area that is selected as a project area under § 116a.61 and §§ 116a.63–116a.65; and

(2) A project school advisory council for each school that is selected as a project school under §§ 116a.62–116a.65.

(Sec. 125, 20 U.S.C. 2735)

§ 116a.152 Composition of membership on district advisory councils.

A district advisory council must—

(a) Have a majority of members who are parents of children to be served by the project, including—

(1) Parents of children who have been selected, under §§ 116a.70–116a.71 and § 116a.103, to participate in the Title I project during the current project year; and

(2) Parents of children who were not selected to participate in the Title I project during the current year, but who have been selected to participate in the Title I project during the next project year;

(b) Include at least two members—who may be any individuals that meet the requirements in paragraph (c) of this section—who represent—

(1) Children who were identified, under §§ 116a.70–116a.71 and § 116a.102, as eligible to receive Title I services during the current project year, but who were not selected, under §§ 116a.70–116a.71 and § 116a.103, to participate in the current Title I project; and

(2) Children in school attendance areas and schools that, under §§ 116a.51–116a.52, would be eligible to receive Title I assistance during the current project year, but that were not selected, under §§ 116a.60–116a.65, to receive that assistance; and

(c) Include any additional members, elected under the procedures in §§ 116a.153–116a.154, who are—

(1) Residents of the LEA; or

(2) Teachers in the LEA's project schools or schools serving project areas, but not necessarily residing in the LEA's district.

(Sec. 125(a), 20 U.S.C. 2735(a))

§ 116a.153 Models for electing district advisory councils.

(a) After consulting with the current district advisory council, an LEA shall select one of the following models for electing members of the district advisory council:

(1) Election by parents of children in project areas and project schools, including—

(i) Parents of children in project areas who attend private schools; and

(ii) Parents of preschool children, if the project provides preschool services.

(2) Election by members of the project area advisory councils and project school advisory councils elected under § 116a.157.

(b)(1) In addition to the members elected under one of the methods in paragraph (a) of this section, the LEA shall provide for the election of at least two representatives of the children referred to in § 116a.152(b).

(2) Except for the provision in paragraph (b)(2)(iii) of this section, the representatives referred to in paragraph (b)(1) of this section must be elected by—

(i) Parents of children who were identified as eligible to receive Title I services, but who were not selected to participate in a Title I project; and

(ii) Parents of children in school attendance areas and schools that were identified as eligible to receive title I assistance, but that were not selected to receive that assistance.

(iii) If it is not feasible for the parents referred to in paragraph (b)(2)(i) of this section to participate in the election, the representatives referred to in paragraph (b)(1) of this section may be elected solely by the parents referred to in paragraph (b)(2)(ii) of this section.

§ 116a.154 Procedures for electing district advisory councils.

(a) *Notice of procedures.* The LEA shall—

(1) Establish election procedures; and

(2) Provide appropriate and timely notice of these procedures to—

(i) Members of all of the LEA's advisory councils;

(ii) Parents of children in project areas and project schools;

(iii) Parents of eligible-but-not participating children and of children in eligible-but-not-participating school attendance areas and schools; and

(iv) The general public.

(b) *List of candidates.* (1) Except for the provisions in paragraph (b)(2) of this section, the LEA shall provide the electorate—those persons who will elect the members of the district advisory council according to one of the models in § 116a.153(a)—with a list of candidates that identifies each candidate as—

(i) A parent of a child to be served by the project, if the parent has consented to be identified in that manner;

(ii) A teacher in a project school or a school serving a project area; or

(iii) A resident of the school district of the LEA who is seeking membership on the district advisory council, but who does not qualify under paragraphs (b)(1)(i) or (ii) of this section.

(2) The LEA shall provide the parents referred to in § 116a.153(b)(2) (i) and (ii) with a list of candidates who are seeking election as representatives of the children referred to in § 116a.152(b).

(c) *Procedures to ensure required membership on the district advisory council.* The LEA shall establish procedures to ensure that—

(1) A majority of the candidates referred to in paragraph (b)(1) of this section who have been elected to serve on the district advisory council are parents of children to be served, as required in § 116a.152(a); and

(2) At least two representatives from the candidates referred to in paragraph (b)(2) of this section are elected to serve on the district advisory council, as required in § 116a.152(b).

(d) *Election of district advisory council members in a district with a single school attendance area.* An LEA with only one school attendance area may, without regard to the number of schools serving that area, have one project area advisory council that is also its district advisory council.

(Sec. 125(a), 20 U.S.C. 2735(a))

§ 116a.155 Required project area advisory councils and project school advisory councils.

(a) *General rule.* An LEA that receives Title I assistance shall establish project area advisory councils and project school advisory councils as required in § 116a.151(b).

(b) *Special application to private school children.* An LEA that has skipped an eligible school attendance area under § 116a.65, because that area is receiving services of the same nature and scope from non-Federal sources as would otherwise be provided with Title I funds, shall establish a project area advisory council for that school attendance area if there are private school children residing in the area who are receiving Title I services.

(c) *Exception.* An LEA is not required to establish an advisory council for any project area or project school in which—

(1) Not more than one full-time equivalent staff member is paid with Title I funds; and

(2) Not more than 40 students receive Title I services.

(Sec. 125(a), 20 U.S.C. 2735(a))

§ 116a.156 Membership of project area advisory councils and project school advisory councils.

(a) *Composition.* Each project area advisory council and project school advisory council must—

(1) Have a majority of members who are parents of children to be served, as described in § 116a.152(a); and

(2) Include any additional members elected by the parents of children in the project area or project school under the procedures in § 116a.157.

(b) *Eligibility of teachers.* Any teacher in a project school or school serving a project area in the LEA's district may, without regard to place of residence, be elected to serve as a member of a project area advisory council or project school advisory council for that area or school.

(c) *Requirements if 75 or more children are served.* If a project serves 75 or more children in a project area or project school, the advisory council for that area or school must be composed of at least eight members who shall—

(1) Serve for two-year terms, after which they may be reelected;

(2) Elect officers from among their membership;

(3) Determine a meeting schedule that provides for a sufficient number of meetings per year to enable the council to be involved effectively in the design and implementation of the project; and

(4) Determine the locations for council meetings.

(Sec. 125(a), 20 U.S.C. 2735(a))

§ 116a.157 Procedures for electing project area advisory councils and project school advisory councils.

In consultation with its district advisory council, an LEA shall establish procedures for the election of project area advisory councils and project school advisory councils, including procedures for—

(a)(1) Identifying the parents of—

(i) Children attending a project school;

(ii) Children attending a school serving a project area; and

(iii) Children who would attend a school described in paragraphs (a)(1)(i) or (ii) of this section if they were not attending a private school; and

(2) Notifying these parents of—

(i) Their opportunity to participate in the election; and

(ii) The date, time, and place of the election;

(b) Notifying the general public in each project area of the date, time, method, and place of the election;

(c) Providing the parents identified in paragraph (a) of this section with the names of the persons who desire to be candidates, and identifying each candidate as—

(1) A parent of a child to be served by the project, if the parent has consented to be identified in that manner;

(2) A teacher in a project school or a school serving a project area; or

(3) A resident of the school district of the LEA who does not qualify under paragraphs (c)(1) or (2) of this section; and

(d) Making the names of all members of the project area advisory councils and project school advisory councils available to the general public on request and through appropriate notices.

(Sec. 125(a), 20 U.S.C. 2735(a))

§ 116a.158 An LEA may not impose additional restrictions on the rights of parents to elect advisory council members.

(a)(1) The responsibility of an LEA to establish advisory councils does not authorize it to limit the freedom of elegible parents to elect advisory council members, except to ensure that the requirements in §§ 116a.150–116a.157 are met.

(2) The LEA may not impose any other restrictions on the rights of eligible parents to elect members of advisory councils.

(b) For example, the LEA is not authorized to—

(1) Restrict the number of terms individual parents may serve;

(2) Prevent a husband and wife from serving at the same time on the same advisory council; or

(3) Prevent school employees who are otherwise qualified from being elected.

(c) The LEA may not restrict advisory council members in their choice of individuals to serve as officers of their councils.

(Sec. 125, 20 U.S.C. 2735)

§ 116a.159 Responsibilities of advisory councils.

(a) *General responsibilities.* An LEA shall give each of the advisory councils established under § 116a.151 responsibility for advising the LEA in planning, implementing, and evaluating the project.

(b) *Alternative ranking based on educational deprivation.* If the LEA desires to use the alternative ranking procedures in § 116a.63, it must obtain the prior consent of its district advisory council.

(c) *Schoolwide projects.* If the LEA desires to seek SEA approval of a plan for a schoolwide project under § 116a.73, the project area advisory council for the school attendance area served by the school must first approve the plan.

(Sec. 122, 20 U.S.C. 2732; Sec. 125(b), 20 U.S.C. 2735(b); Sec. 133, 20 U.S.C. 2753)

§ 116a.160 Information that an LEA shall provide to advisory councils.

(a) *Basic requirement.* An LEA shall provide, without charge, to each advisory council and to each member of an advisory council who requests a copy—

(1) The Title I statute;

(2) Any Title I regulations, interpretive rules, and guidelines; and

(3) Any State regulations and guidelines that apply to Title I projects.

(b) *Auditing, monitoring, and evaluation reports.* The SEA shall provide to each LEA's district advisory council, a copy of any report resulting from State or Federal auditing, monitoring, or evaluation activities concerning the Title I project in that LEA.

(Sec. 125(c), 20 U.S.C. 2735(c))

§ 116a.161 Training for members of advisory councils.

(a) *Basic requirement.* An LEA shall develop, for training members of each advisory council, a program that—

(1) Is planned in consultation with the members of the advisory councils;

(2) Provides each member of the advisory councils with appropriate training materials; and

(3) Permits the use of Title I funds for expenses of the training program.

(b) *Training that involves travel.* The LEA shall provide training for advisory council members at convenient locations within the LEA. However, if it is cost effective, one or more LEA may provide training at a location outside those LEAs in conjunction with another LEA that is receiving Title I assistance.

(c) *Regional or national conferences.* (1) The LEA may not include attendance at a regional or national conference as part of its training program for advisory council members, unless—

(i) The Secretary determines in advance that attendance at the conference will provide unique and valuable experiences; and

(ii) The SEA determines in advance that the conference is relevant to the LEA's project and to the functions of each advisory council member who will attend the conference.

(2) The LEA shall limit the number of advisory council members attending a regional or national conference at Title I expense to the mimimum number of council members required to communicate effectively to other members the information presented at the conference.

(d) *Workshops on parental involvement.* (1) For each fiscal year for which Title I payments are made to the SEA and funds are appropriated under section 125(g) (Authorization of appropriations) of Title I, the Secretary sponsors, in the several regions of the United States, workshops that are designed to—

(i) Assist LEAs to work with and provide training to advisory councils; and

(ii) Promote parental involvement in the Title I projects.

(2) These workshops are planned and conducted in consultation with members of advisory councils in the region served by each workshop.

(Sec. 125, 20 U.S.C. 2735)

§ 116a.162 Allowable expenditures for advisory councils.

(a) The general standards governing the allowability of expenditures under Title I projects are contained in §§ 116.70–116.81.

(b) In addition to meeting the standards in §§ 116.70–116.81, an LEA may not pay or reimburse any expenditures relating to advisory councils unless those expenditures are—

(1) Authorized in advance by the LEA;

(2) Within the scope of the LEA's approved Title I project application; and

(3) In compliance with the specific standards in paragraph (c) of this section.

(c) The LEA shall comply with the following specific standards that apply to the use of Title I funds for expenditures related to advisory councils:

(1) *Advisory council elections.* The LEA may use Title I funds to pay for costs directly associated with advisory council elections.

(2) *Memberships in national organizations.* The LEA may not use Title I funds to pay for the individual membership of an advisory council member in any organization or group.

(3) *Registration fees.* The LEA may use Title I funds to pay registration fees for advisory council members at approved training conferences.

(4) *Travel.* The LEA may use Title I funds to pay the actual cost of travel—that is, transportation, food, lodging, and related expenses—incurred by advisory council members in connection with an approved Title I activity that is within the scope of the LEA's approved project. However, the LEA may not use Title I funds for additional payments on a per diem basis.

(5) *Salary for time away from job.* The LEA may not use title I funds to reimburse an advisory council member for salary lost because that member misses work to attend meetings, training sessions, or any other Title I related activity.

(6) *Expenses related to attendance at meetings.* The LEA may use Title I funds to pay expenses related to attendance by advisory council members at advisory council meetings. Examples of

these expenses include babysitting, transportation, and copying of minutes.

(Sec. 125, 20 U.S.C. 2735)

§§ 116a.163–116a.169 [Reserved]

Subpart J—Evaluations by Local Educational Agencies

Note.—The regulatory provisions for evaluation of Title I projects operated by LEAs (§§ 116a.170–116a.177) were published as final regulations on October 12, 1979 (44 F.R. 59152–59). Because these provisions are presently in effect, further comments are not being sought on them and will not be considered. They are included there as a convenience to the public.

§ 116a.170 General evaluation requirements.

To meet its Title I evaluation responsibilities, an LEA shall comply with—

(a) The evaluation provisions in 45 CFR 116.130; and

(b) The requirements in §§116a.171–116a.177.

(Sec. 124(g), 20 U.S.C. 2734(g); Sec. 183, 20 U.S.C. 2833)

§ 116a.171 Standards for evaluation by an LEA

An LEA shall explain in its application how its Title I evaluation procedures are consistent with the following technical standards. The SEA shall use these same standards to determine the adequacy of the LEA's procedures.

(a) *Representativeness of evaluation findings.* The evaluation results are computed so that the conclusions apply to the persons or schools served by the Title I project. This may be accomplished by including in the evaluation either all or a representative sample of the persons or schools served by the project.

(b) *Reliability and validity of evaluation instruments and procedures.* The proposed evaluation instruments—

(1) Consistently and accurately measure the objectives of the project; and

(2) Are appropriate, considering factors such as the age or background of the persons served by the project.

(c) *Evaluation procedures that minimize error.* The proposed evaluation procedures mininmize error by including—

(1) Proper administration of the evaluation instruments;

(2) Accurate scoring and transcription of data; and

(3) Use of analysis procedures whose assumptions are appropriate for the data.

(d) *Valid assessment of achievement gains in reading, language arts, and mathematics.* In assessing the effectiveness of regular school year Title I reading, language arts, and mathematics projects in grades 2 through 12, the proposed evaluation procedures yield a valid measure of (1) the Title I children's performance after receiving Title I services compared to (2) an estimate of what their performance would have been in the absence of Title I services.

(e) As use in §§ 116a.172–116a.174 and § 116a.176, a language arts project does not include a project designed to teach English to non-English-speaking children.

(Sec. 124(g), 20 U.S.C. 2734(g); Sec. 183, 20 U.S.C. 2833)

§ 116a.172 Use of models by an LEA.

An LEA shall use one of the models in § 116a.173—or an approved alternative (see § 116a.174)—in the evaluation of each regular school year Title I project that provides instructional services in reading, language arts, or mathematics in grades 2 through 12.

(a) The models require that the LEA administer a test—

(1) Before or at the beginning of services for the project period (pre-test); and

(2) After or at the end of the project period (post-test).

(b) The models compare the post-test scores of Title I children to an estimate of what their post-test scores would have been if they had not received Title I services ("expected performance").

(c) Each model provides a different method for estimating expected performance using the scores of children not receiving Title I services who are tested at the same time of year.

(d) With any of the three models, the LEA may use a test with or without national norms.

(Sec. 124(g), 20 U.S.C. 2734(g); Sec. 183, 20 U.S.C. 2833)

§ 116a.173 Model requirements.

(a) *Norm-Referenced Model.* An Lea using the Norm-Referenced Model shall—

(1) Administer a pre- and post-test to Title I children; and

(2) Estimate expected performance using the performance of children in a norm sample developed—

(i) Locally;

(ii) By the SEA; or

(iii) By a test publisher.

(b) *Comparison Group Model.* An LEA using the Comparison Group Model shall—

(1) Identify a comparison group of educationally deprived children who—

(i) Are similar to Title I children with respect to educationally relevant factors (such as age, socio-economic status, and previous achievement); and

(ii) Are not receiving Title I or similar compensatory education services;

(2) Administer a pre- and post-test to both the Title I children and the children in the comparison group; and

(3) Estimate expected performance for the Title I children by using the test scores of the children in the comparison group.

(c) *Regression Model.* An LEA using the Regression Model shall—

(1) Administer a pre-test to a group of children in Title I eligible schools at grade levels to be served by Title I. In the Regression Model only, the pre-test may consist of a test, teacher judgment of student performance, or a composite of these;

(2) Establish a cutoff score and provide Title I services to those children scoring below the cutoff. Children scoring above the cutoff are the comparison group for the evaluation; and

(3) Administer a post-test to both groups and estimate expected performance using the pre- and post-test scores for the comparison group.

(Sec. 124(g), 20 U.S.C. 2734(g); Sec. 183, 20 U.S.C. 2833)

§ 116a.174 Alternative models.

(a) An LEA may use an alternative to one of the three models in § 116a.173 for the evaluation of regular school year reading, language arts, or mathematics projects in grades 2 through 12. An alternative model would provide a method for estimating expected performance that differs from methods provided by the three models.

(b) The use of an alternative model must be approved first by the SEA and then by the Secretary.

(c) To be approved, an alternative model must yield a valid measure of—

(1) The Title I children's performance in reading, language arts, or mathematics;

(2) Their expected performance; and

(3) The results of the Title I project expressed in the common reporting scale established by the Secretary for SEA reporting.

(d) The request for using an alternative model may be submitted to the Secretary by the LEA or the SEA acting at the request of one or more LEAs.

(e) The request must indicate how the alternative model meets the three requirements in paragraph (c) of this section.

(f) The Secretary responds to the request in writing within 30 days.

(Sec. 124(g), 20 U.S.C. 2734(g); Sec. 183, 20 U.S.C. 2833)

§ 116a.175 Frequency of LEA evaluations.

(a)(1) An LEA shall evaluate the effectiveness of its Title I projects at least once every three years in accordance with a schedule established by the Secretary.

(2) This evaluation must include an assessment of achievement gains of Title I children compared to an estimate of their expected performance in the absence of Title I services.

(3) The LEA shall measure the achievement gains over a period of approximately either nine or twelve months. (Examples of appropriate testing intervals include fall-to-fall testing, fall-to-spring testing, and spring-to-spring testing.)

(b) At least once during the three-year period, the LEA shall collect additional information needed to determine whether the achievement gains measured over nine or twelve months are sustained over a longer period of time. (Examples of appropriate testing cycles for this long-term evaluation include fall-spring-fall testing, fall-fall-fall testing, and spring-spring-spring testing.)

(Sec. 124(g), 20 U.S.C. 2734(g))

§ 116a.176 Reports of evaluation results.

(a) *LEA reporting.* (1)(i) An LEA shall report to its SEA the results of its evaluations conducted in accordance with the schedule established by the Secretary.

(ii)(A) In reporting the results of measurements of educational achievement in regular school year projects in reading, language arts, or mathematics in grades 2 through 12, the LEA shall use the common reporting scale established by the Secretary unless the SEA approves some other form of local reporting.

(B) If the SEA approves another form of reporting, the LEA shall include sufficient information to enable the SEA to convert the achievement results to the common scale.

(2) Unless requested by the SEA, the LEA is not required to include in its evaluation report the results of the long-term evaluations required by § 116a.175(b).

(3)(i) The LEA shall retain all of the data used to develop its report to the SEA for a period of five years from the date of the report or until any pending Federal audit has been resolved.

(ii) The data to be retained must include—

(A) A record of all individual scores, with an identifying code so that pre- and post-test scores can be matched, in regular school year projects in reading, language arts, or mathematics in grades 2 through 12; and

(B) The name, form, level, and date of publication of any tests administered.

(b) *SEA reporting*—(1) *Sampling plan.* An SEA shall submit, for the approval of the Secretary, a proposed sampling plan designed to ensure that evaluations are conducted in a representative sample of its LEAs in any school year. The proposed plan shall be developed according to the schedule and criteria specified by the Secretary.

(2) *Annual performance report.* To provide nationwide information about the recipients of Title I services and the types of services delivered, the SEA shall provide in its annual performance report—for all or a representative sample of LEAs—the following information for all regular and summer projects of those LEAs included in the report:

(i) The number of participants, by type of services received.

(ii) The number of participants, by grade, who attend public schools.

(iii) The number of participants, by grade, who attend nonpublic schools.

(iv) Other information requested by the Secretary. This may include, for example, information about advisory councils and teacher training.

(3) *Biennial evaluation report.* The SEA biennial evaluation report (required by 45 CFR 116.160(a)) shall contain information about projects conducted since the last report. To provide nationwide information about the effectiveness of regular school year projects offering instructional services in reading, language arts, or mathematics in grades 2 through 12, the SEA shall include the following information for all or a representative sample of LEAs:

(i) A statewide average, by grade level of achievement gains resulting from Title I participation, expressed in the common reporting scales established by the Secretary.

(ii) For a sample of grade levels, information by grade level relating levels of achievement gain to—

(A) The number of hours of project exposure;

(B) The pupil-per-instructor ratio; and

(C) Project enrollment.

(iii) If applicable, the number of projects excluded because of erroneous or missing data and the reasons for their exclusion.

(iv) The SEA shall retain all the data used to develop its report for a period of five years from the date of the report or until any pending Federal audit has been resolved.

§ 116a.177 Allowable costs for evaluation.

(a) Title I funds may be used for evaluation activities to—

(1) Identify specific strengths and weaknesses of a project;

(2) Determine the results of a project; and

(3) Disseminate the results of Title I evaluations.

(b) In addition to the requirements concerning the supplementary nature of Title I funds (§§ 116a.130–116a.143) and other rules governing the allowability of Title I expenditures, the following rules apply to the use of Title I funds to support the purchase, administration, scoring, and analysis of evaluation instruments. Except for cases in which data meeting these needs are already available, Title I funds may be used—

(1) To test Title I participants for evaluation purposes;

(2) In the Comparison Group Model, to test an appropriate number of educationally disadvantaged children who are at the same grade level(s) as Title I participants, but who are not receiving Title I services;

(3) In the Regression Model, to test an appropriate number of children in Title I eligible schools who are at the grade level(s) served by Title I;

(4) To administer a nationally normed test to all, or a representative sample of, the Title I participants when a test without national norms has been used for evaluation purposes. This will permit the LEA or SEA to convert its evaluation results to the common scale; and

(5) To test an appropriate number of children no longer receiving Title I services to determine whether achievement gains measured over nine or twelve months are sustained over a longer period of time (as required by § 116a.175(b)).

(c) Title I funds may not be used for—

(1) General districtwide or statewide testing programs;

(2) Establishing local or State norms; or

(3) Research and development activities, such as the development and field testing of new instruments.

(Sec. 124(g), 20 U.S.C. 2734(g); Sec 183, 20 U.S.C. 2833)

§§ 116a.178–116a.179 [Reserved]

[FR Doc. 80-17591 Filed 6-10-80; 8:45 am]

BILLING CODE 4110-02-M

federal register

Wednesday
June 11, 1980

Part IV

Environmental Protection Agency

Organic Solvent Cleaners; Standards of Performance for New Stationary Sources; Proposed Rule and Notice of Public Hearing

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

FRL 1375-3]

Standards of Performance for New Stationary Sources Organic Solvent Cleaners

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The proposed standards would limit emissionsof volatile organic compounds (VOC) and trichloroethylene 1,1,1-trichloroethane, perchloroethylene, methylene chloride, and trichlorotrifluoroethane from new, modified, and reconstructed organic solvent cleaners (degreasers) in which solvents are used to clean (degrease) metal, plastic, fiberglass, or any other type of material. The proposed standards would specify several equipment designs and work practices for controlling emissions from cold cleaners, open top vapor degreasers, and conveyorized degreasers. When carbon adsorber control systems are used, a performance standard would also apply. To determine the emissions from carbon adsorbers, a new test method, Reference Method 23, is proposed to measure the concentration of the above mentioned halogenated compounds, and Reference Method 25 which was proposed on October 5, 1979 (44 FR 57792) would be used to measure emissions of VOC.

The proposed standards implement the Clean Air Act and are based on the Administrator's determination that organic solvent cleaners contribute significantly to air pollution. The intent is to require new, modified, and reconstructed organic solvent cleaners to use the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts.

It is also proposed that standards be developed under section 111(d) of the Clean Air Act, as amended, for the control of emissions from existing facilities of the five halogenated organic solvents listed above. EPA is not committed to developing section 111(d) standards unless, after review of public comments, standards for one or more of these five solvents are promulgated for new, modified, or reconstructed facilities. If such standards were promulgated, EPA would develop a guideline document that would require States to develop emission control regulations for existing organic solvent cleaners which use any of the five halogenated solvents to which the promulgated regulations would apply.

A public hearing will be held to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed standards.

DATES: *Comments.* Comments must be received on or before August 25, 1980.

Public Hearing. The public hearing will be held on July 24, 1980, beginning at 9:00 a.m.

Request to Speak at Hearing. Persons wishing to present oral testimony should contact EPA by July 17, 1980.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to the Central Docket Section (A-130), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Attention: Docket No. OAQPS-78-12.

Public Hearing. The public hearing will be held at Research Triangle Park, North Carolina, in the EPA Environmental Research Center auditorium (Room B-102). Persons wishing to present oral testimony should notify Deanna Tilley, Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541-5421.

Background Information Document. The Background Information Document (BID) for the proposed standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to *Organic Solvent Cleaners—Background Information for Proposed Standards* (EPA-450/2-78-045a).

Docket. Docket number OAQPS-78-12, containing supporting information used by EPA in development of the proposed standards, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, Room 2903B, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. John D. Crenshaw, Standards Development Branch, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5421.

SUPPLEMENTARY INFORMATION:

Proposed Standards

The proposed standards would limit the emissions of organic solvents from new, modified, and reconstructed degreasers in which solvents are used to clean and degrease metal, plastic, fiberglass, or any other type of material. Three types of degreasers would be regulated: cold cleaners, open top vapor degreasers, and conveyorized degreasers. The proposed regulations consist of a combination of design, equipment, work practice, and operational standards that allow for the best emission control and enforceability. Each type of degreaser would be required to have specific features for effectively reducing emissions. Pollution control devices for degreasers would include covers, raised freeboards, refrigerated freeboard devices and carbon adsorption systems. Work practices and operational procedures would also be required for each type of degreaser. These practices and procedures would assure the maximum effectiveness of a specific piece of control equipment, and would require use of techniques that reduce solvent emissions.

An inspection and maintenance program would also be required to prevent and correct solvent losses from leaks and equipment malfunctions. An operator training program is a proposed requirement because proper equipment operation and work practices play a significant role in effective control of solvent emissions from degreasers. Finally, owners and operators would be required to keep records on the amount and type of solvent purchased for a period of two years.

Summary of Environmental, Economic, and Energy Impacts

Environmental Impact. The proposed standards would reduce emissions of organic solvents (i.e., volatile organic compounds, trichloroethylene, 1,1,1-trichloroethane, perchloroethylene, methylene chloride, and trichlorotrifluoroethane) from all degreasing units for which construction was commenced after (date of proposal). Affected facilities that come on-line between 1980 and 1985 would emit an estimated 332,000 megagrams (366,000 tons) of organic solvents in 1985, if the degreaser units are uncontrolled. With implementation of the proposed regulations, controlled emissions from these facilities would be 120,000 megagrams (132,000 tons) in 1985, which constitutes a reduction of 64 percent.

The only potentially adverse impact on water quality of the proposed regulation would derive from the solvent dissolved in the steam condensate from regeneration (solvent desorption) of carbon adsorbers. Because the solubility of solvent in the condensate is very small, the amount of dissolved solvent is

slightly greater than one-tenth of one percent (0.1%) of the amount which would be discharged into the air if the proposed controls were not implemented. In a typical system, the carbon adsorber has a solvent capacity of 95 kilograms (210 pounds), and requires 3 kilograms (6.6 pounds) of steam to desorb each kilogram of solvent. Although desorption generates approximately 283 liters (10 cubic feet) of steam condensate per cycle, most solvent would be recovered by a water separator. Only 74 grams (0.16 pound) of solvent per day is expected to be lost in the waste stream from a typical carbon adsorber. The environmental impact of the disposal of this small amount of condensate is insignificant. Alternatives are under consideration by EPA for controlling the solvent in the effluent from desorption of a carbon adsorber. EPA may establish regulations pertaining to these effluents in the future.

The only solid waste impact due to implementation of the proposed standards would be disposal of the spent carbon from the carbon adsorbers used as air pollution control devices on certain types of degreasers. With replacement of spent carbon every 10 years, disposal of spent carbon from carbon adsorbers on affected facilities would amount to 243 megagrams (268 tons) nationwide starting in 1989 and would increase to 271 megagrams (299 tons) in 1995. Therefore, the solid waste impact from spent carbon would be minimal.

Economic Impact. The costs of compliance with the proposed standards are based on control equipment currently in use and commercially available. Economic analysis indicates that, under most conditions, the capital and annualized costs for the control equipment can be fully recovered by credits for the recovered solvent. Consequently, no adverse economic impact is anticipated to result from implementation of the proposed standards. The economic impact, may, in fact, be positive in the sense that net credits lead to lower production costs in most, if not all, industries. Methods to reduce solvent consumption and save money generally have not been accomplished in the past since degreasing costs generally average less than four-tenths of one percent of industry output.

Energy Impact. Energy consuming emission control devices for degreasing operations would include (1) refreigerated freeboard devices, (2) carbon adsorption systems, and (3) distillation equipment. Operation of these control devices in 1985 is estimated to require about 0.27 million kWh per day (equivalent to 440 barrels of oil per day); however, the proposed standards would result in the prevention or capture of degreaser emissions. Based upon the amount of energy that would have been required to manufacture replacement solvent, use of the required control devices on new organic solvent cleaners would conserve an estimated 3800 barrels of oil per day. Thus, the proposed standards in 1985 would result in a net conservation of energy equivalent to an estimated 3350 barrels of oil per day.

Rationale—Selection of Source for Control

Organic solvent cleaners (degreasers) have been identified as significant sources of air pollutant emissions which cause or contribute to the endangerment of the public health or welfare. Degreasing is not an industry but is an integral part of many manufacturing, repair, and maintenance operations. Volatile organic compounds, as well as 1,1,1–trichloroethane, trichlorotrifluoroethane, methylene chloride, trichlorethylene, and perchloroethylene constitute the emissions from organic solvent cleaners. There were an estimated 725,000 megagrams (800,000 tons) of organic solvents emitted from organic solvent cleaning operations in 1975. This represents about 4 percent of the total national volatile organic emissions from stationary sources, making organic solvent cleaners the fifth largest stationary source category for organic emissions. There are over 1,500,000 organic solvent cleaners currently in operation. If the current growth rate of 4.1 percent per year continues as expected, over 300,000 new organic solvent cleaners would be subject to these standards of performance by 1985.

Degreasing emissions include losses due to evaporation from the solvent bath, convection, carryout, leaks, and waste solvent disposal. Thus, the emissions from a degreaser are fugitive in nature. Many of the degreasers currently in use are operated without proper control emissions to the atmosphere. Emissions from degreasers may be controlled by the use of various equipment options (including a cover, extended freeboard, refrigerated freeboard device, and carbon adsorber) and specific work practices (involving parts handling, proper use and maintenance of equipment, preventing drafts, and controlling the rate of the degreasing operation).

Based on the large number of sources and their wide geographic distribution across the United States, the current sales and projected growth rate in the "industry" and the possible reduction in adverse environmental and health impacts which can be achieved, organic solvent cleaners have been selected for control through the development of standards of performance.

Selection of Affected Facilities

Organic solvent cleaning is not a specific industry but is an integral part of many manufacturing, repair, and maintenance operations. Practically every business that works metal or has maintenance or repair operations does some type of degreasing. Degreasing operations are often concentrated in urban areas where there are a large number of manufacturing facilities.

The solvents used in degreasing operations include halogenated hydrocarbons, petroleum distillates, ketones, ethers, and alcohols. These solvents are emitted as fugitive emissions from each of the three types of degreasers which would be regulated: (1) a cold cleaner, in which the article to be cleaned is immersed, sprayed or otherwise washed in a solvent at or about room temperature; (2) an open top vapor degreaser, in which the article is suspended in solvent vapor over a pool of boiling solvent and the solvent vapors condense on the article and dissolve or wash soil and grease from it; and (3) a conveyorized degreaser, in which articles are conveyed on a chain, belt or other conveying system either through a spray or pool of cold solvent, or through the vapor of a boiling solvent. In order to achieve significant reduction in volatile organic compound emissions from degreasing operations, all types of new, modified, or reconstructed degreasers would subject to control.

The mode of disposal of waste solvent can also contribute significantly to solvent emissions. In the past, disposal has generally been handled by the owners of organic solvent cleaners. If waste solvent disposal in 1985 were to follow the pattern of waste solvent disposal in 1974, about 43 percent of the waste solvent from new sources would be reclaimed, incinerated, landfilled and the remaining 57 percent could be an immediate source of air or water emissions.

A number of alternatives for regulating waste disposal have been considered. These include requiring incineration or reclamation, and establishment of standards under the Resource Conservation and Recovery Act (RCRA). Because of the impact on these small sources of requiring reclamation or incineration, regulation here is not now planned. Rather, the

Administrator is deferring at this time on waste disposal requirements and is pursuing this matter under RCRA. The section on waste disposal is being reserved, however, pending completion of the evaluation and resolution of the issues.

Selection of Pollutants and Regulatory Approach

Among the solvents used in degreasing operations, approximately 40 percent are non-halogenated hydrocarbons and 60 percent are halogenated hydrocarbons. Most of these solvents are also reactive volatile organic compounds (VOC), defined by this proposal as organic compounds which participate in atmospheric photochemical reactions or which may be measured by the applicable reference method specified under any subpart of 40 CFR Part 60. The proposed standards of performance apply to reactive VOC (ozone precursors) used as cleaning solvents and to five halogenated compounds for which there is a reasonable anticipation of public health endangerment.

Reactive Volatile Organic Compounds (VOC).

The proposed standards require control of any VOC demonstrated to be precursors to the formation of ozone and other photochemical oxidants in the atmosphere. While not all compounds are equally reactive, analysis of available data indicates that very few VOC are of such low photochemical reactivity that they can be ignored in oxidant control programs. EPA's "Recommended Policy on Control of Volatile Organic Compounds" (42 FR 35314; July 8, 1977) affirmed that many compounds which produced negligible oxidant concentrations during initial smog chamber tests were found to contribute appreciably to ozone levels when exposed to multiday irradiations in urban atmospheres. In those geographical areas where industrial and automotive emissions are subjected to long hours of sunlight, or where air stagnation occurs frequently, such low reactivity compounds may become significant source of photochemical oxidant.

EPA is developing standards of performance under section 111(b) for a number of categories of sources which emit these volatile organic compounds, which are ozone precursors. Ozone air pollution endangers the public health and welfare, as reflected in the Administrator's promulgation of a National Ambient Air Quality Standard for ozone (44 FR 8202; February 8, 1979). Emissions of ozone precursors from these source categories cause or contribute significantly to ozone air pollution. Trichloroethylene and, to a lesser extent, perchloroethylene react to form ozone and therefore would be subject to new source performance standards for reactive VOC.

The Administrator is also concerned about certain other possible health effects of perchloroethylene and trichloroethylene, apart from their role in ozone formation, and he believes that regulation of existing emission sources is necessary. Both substances have been found to induce a high incidence of hepatocellular carcinomas (liver tumors) in mice and have shown positive results in bacterial mutagencity assays (a screening technique for potential carcinogens). The Agency's initial evaluation of this information is that it presents "substantial evidence" (41 FR 21402; May 25, 1976) that both substances are human carcinogens. Consistent with EPA's proposed rules for regulating airborne carcinogens (44 FR 58642; October 10, 1979), if these initial evaluations are sustained after consideration of comments by EPA's Science Advisory Board, it is likely that perchloroethylene and trichloroethylene will be classified as high-probability carcinogens and, in light of the significant emissions of each, regulated as hazardous air pollutants under section 112 of the Act. This regulation would include both new and existing emission sources.

It is also possible that the Administrator will ultimately conclude that one or both of these chemicals is a moderate-probability carcinogen rather than a high-probability carcinogen. As the proposed airborne carcinogen rules explain, under the circumstances presented here, EPA could then "designate" the substance for regulation of existing organic solvent cleaners by the States under section 111(d) of the Clean Air Act. The Act provides for the designation of such substances for regulation under section 111(d) if the substances themselves have not been listed previously under section 108 or section 112. Because the evidence is clearly sufficient for the Administrator to conclude that both substances are at least moderate-probability carcinogens and that their emission by organic solvent cleaners causes air pollution which endangers public health and welfare, he is proposing designation of these two substances under section 111(d) at this time. Although a final determination by the Agency of the evidence of carcinogenicity would normally precede the selection of a regulatory alternative, the Administrator is proposing designation of perchloroethylene and trichloroethylene today for two reasons. First, this will put existing sources within the industry on notice that perchloroethylene and trichloroethylene would not be unregulated substitutes for the other three solvents for which designation is proposed today. Second, in the event that the Administrator ultimately concludes that perchloroethylene and trichloroethylene are moderate-probability rather than high-probability carcinogens, it will enable the section 111(d) process to proceed without delay as part of a coordinated regulatory program for the organic solvent cleaning industry. The Administrator intends to make a final carcinogenicity assessment for these two chemicals before promulgating today's proposals.

Negligibly Reactive Halogenated Compounds.

In addition to reactive halogenated compounds, the proposed new source regulations would apply to three additional halogenated solvents: 1,1,1-trichlorethane, methylene chloride, and trichlorotrifluoroethane. Since these chemicals are acknowledged by EPA to be negligibly reactive, they are not ozone precursors and must be designated under section 111(d) of the Act. As described above, the designation for the purpose of obtaining coverage under new source standards also requires the development under section 111(d) of standards for existing sources.

Both methylene chloride and 1,1,1-trichlorethane have scored positive as well as negative results in short-term mutagenicity and cell transformation tests. The weight of evidence has led the EPA Carcinogen Assessing Assessment Group to conclude in preliminary assessments that both chemicals exhibit suggestive evidence of human carcinogenicity. Under EPA's proposed airborne carcinogen policy, this finding would establish 1,1,1-trichlorethane and methylene chloride as candidates for regulation under section 111 as air pollutants "reasonably anticipated to endanger public health or welfare." In addition, trichlorotrifluoroethane and 1,1,1-trichlorethane have been implicated in the depletion of the stratospheric ozone layer, a region of the upper atmosphere which shields the earth from harmful wavelengths of ultraviolet radiation that increase skin cancer risks in humans.

The judgments of whether and to what extent 1,1,1-trichlorethane and methylene chloride are human carcinogens, and 1,1,1-trichlorethane and trichlorotrifluoroethane deplete the

ozone layer, are issues of considerable debate. While the scientific literature has been previously reviewed and summarized in the docket prepared for this rulemaking, more detailed health assessments are currently in preparation by EPA's Office of Research and Development. These assessments will be completed and submitted for external review, including review by the Science Advisory Board, prior to the promulgation of the regulations and the proposal of EPA guidance to States in developing existing source control measures. The extent to which the preliminary findings are affirmed by the review process may affect the final rulemaking for new as well as existing sources.

While the measure of concern is less for these latter three solvents than for perchloroethylene and trichloroethylene, the Administrator has chosen to proceed with the designation of 1,1,1-trichlorethane, methylene chloride, the trichlorotrifluoroethane at this time because emissions from these sources and the associated health risks can be reduced at a very low cost. This decision reflects EPA's concern that continued growth in uncontrolled emissions of 1,1,1-trichlorethane, methylene chloride, and trichlorotrifluoroethane from solvent cleaners may endanger public health, and is reinforced by projections that, were these chemicals exempted from regulation, the resulting substitution of exempt for non-exempt solvents could result in large increases in the emissions of these pollutants.

The designation of 1,1,1-trichlorethane, methylene chloride, and trichlorotrifluoroethane incorporates these chemicals under today's proposed new source standards and invokes section 111(d) which requires States to develop controls for existing sources. As described in detail below, the new source standards do not place unreasonable economic costs on the industry. While the impact of similar controls on existing sources could be more significant due to the technological problems associated with retrofit, this factor would be an important consideration in determining the appropriate control level for existing sources. In view of the substantial reduction in emissions which can be achieved at low cost, and the potential for substitution between these five compounds, the Administrator is persuaded that the present approach represents a prudent policy to protect public health. It should be emphasized that the health assessments discussed here are not final. The Administrator is aware of other relevant information that may become available. All applicable information will be carefully evaluated prior to making the final regulatory decision.

Summaries of the health basis for designating perchloroethylene, trichloroethylene, 1,1,1-trichloroethane, methylene chloride, and trichlorotrifluorethane are available in the public rulemaking docket described at the beginning of this notice.

Selection of Format for the Proposed Standards

Under the Clean Air Act, as amended, there are two regulatory alternatives available for establishing standards of performance for new stationary sources. Section 111(b) provides for establishing emission limitations or percentage reductions in emissions. However, when such standards are not feasible to prescribe or enforce, section 111(h) of the Clean Air Act provides that EPA may instead promulgate a design, equipment, work practice, or operational standard, or combination thereof. In either event, the standards prescribed would require new, modified, and reconstructed organic solvent cleaners to use the best demonstrated system of continuous emission reduction considering costs, nonair quality health and environmental impacts, and energy impacts. The emissions from organic solvent cleaners are unconfined (fugitive). Although techniques have been developed to measure the solvent lost from degreasing equipment (such as mounting entire organic solvent cleaners on scales), these methods are impractical for enforcement of regulations due to the length of time needed to accurately determine the solvent losses and because of the disruption this would cause in degreaser operations. For this reason, an equipment and work practice standard has been selected since it is not feasible to enforce emission limitations or percentage reductions in emissions for organic solvent cleaning operations.

Selection of the Best System of Emission Reduction

Emissions of volatile organic compounds from degreasers would be reduced significantly by the use of various pollution control devices, singly or in combination, as would be appropriate for each method of degreasing. These controls would include: cover, drain rack, raised freeboard, refrigerated freeboard device, downtime port covers, hanging flaps, and drying tunnel or lip exhaust in conjunction with a carbon adsorber. Degreaser emissions would be reduced further through the implementation of prescribed work practices. These work practices would include: closing the cover when work is not being lowered into or removed from the degreaser, storing solvent in covered containers, not exposing open degreasers to steady drafts with velocities exceeding 40m/min (131 ft/min), and not overloading the degreaser.

The best system of emission control for each type of degreaser was selected on the basis of EPA tests of the effectiveness of various controls used on degreasers operating under different conditions and using different solvents. These are described as follows:

Cold Cleaners.—The emission control system selected for cold cleaners (CC) would consist of both control equipment and a series of work practices. These controls used in combination would reduce solvent emissions from cold cleaners by about 80 percent. The equipment requirements would include a cover, a drain rack, and a visible fill line. The cover would be designed to be readily opened and closed at any time. External drain racks would lead the drainage back to the tank. If the CC is equipped with a parts basket, internal hooks to permit suspension of the basket above the solvent could be substituted for the drain rack. One of the work practices would require that the solvent level not exceed the visible internal maximum fill line. The proposed standards would require that the freeboard ratio for CC would be at least 0.7 if the solvent vapor pressure is greater than 4.3 kPa (33 mm Hg or 0.6 psi) measured at 38° C (100° F). The purpose for this is to prevent excessive volatilization, i.e. vaporization. Higher freeboard ratios impede excess vaporization of highly volatile solvents under normal operating conditions. However, many solvents used in cold cleaning operations do not volatilize as rapidly as others. For solvents with a vapor pressure of less than or equal to 4.3 kPa measured at 38° C (100° F), the proposed standards would require a freeboard ratio of 0.5.

The economic analysis for this emission control system for cold cleaners was based on a typical unit. The uncontrolled cold cleaner was assumed to be uncovered all the time, whereas the controlled unit had a cover that was used all but 2 hours per working day (20 loads cleaned per day). Based on these assumptions, the cover would reduce emissions by 349 kilograms (769 pounds) per year at a savings of $69.80. The drain rack would reduce emissions by 36 kilograms (79 pounds) per year with a savings of $7.92.

Remote Reservoir Cold Cleaner.—The emission control system selected for remote reservoir cold cleaners (RRCC) is less stringent than that proposed for conventional cold cleaners. During non-use periods, the solvent is enclosed in a reservoir and not subject to evaporation loss to the atmosphere. While parts are being cleaned, solvent is pumpted through a sink-like work area which drains back into the enclosed contaier. Because the reservoir is remote from the work area, this type of organic solvent cleaner is not subject to the evaporation losses suffered by conventional cold cleaners. Therefore, the proposed standards for remote reservoir cold cleaners would not require closable covers, provided the solvent used has a vapor pressure of less than or equal to 4.3 kPa (33 mm Hg or 0.6 psi) measured at 38° C (100° F), but would require covers if the solvent volatility was greater than 4.3 kPa.

Open Top Vapor Degreaser.—The emission control systems would be required for all new, modified, or reconstructed open top vapor degreasers (OTVD) consists of covers, raised freebacks, and refrigerated freeboard devices or carbon adsorption systems. EPA and industry tests have shown that covers are the most effective control device in reducing solvent emissions during nonoperating conditions. Raised freeboards have also been show to be effective at reducing these emissions. By raising the freeboard ratio from 0.5 to 0.75, solvent emissions are generally reduced 25–30 percent during idling conditions. Emission reductions are less during actual operating conditions due to the transference of loads through vapor/air interface. Freeboard ratios larger than 0.75 may yield greater emission reductions, however, higher freeboards tend to icrease the difficulty of transferring loads into and out of the degreaser. The demonstrated ability of covers and raised freeboards to reduce solvent emissions, and the minimal cost of these two control devices have been the primary reasons for requiring the use of covers during nonoperating periods and freeboards ratios of at least 0.75 for all new, modified, and reconstructed open top vapor degreasers.

Emission tests have also shown that refrigerated freeboard devices and lip exhausts connected to carbon adsorbers are more effective at reducing solvent emissions than raised freeboards. During operating conditions, emission reductions as high as 65 percent have been demonstrated with the use of carbon adsorbers, while refrigerated freeboard devices have been demonstrated to reduce solvent emissions by at least 40 percent. A raised freeboard ratio of 1.0 has also shown promise (55 percent reduction), but its effectiveness under cross-draft conditions has not been adequately evaluated. It is expected that the cold air blanket produced by a refrigerated freeboard device would provide greater control of cross-draft induced vapor losses. For these reasons, all new, modified, and reconstructed OTVD with vapor/air interface areas greater than one square meter would be required to use refrigerated freeboard devices, or have lip exhausts connected to carbon adsorbers.

Reference Method 23, "Determination of Halogenated Organics from Stationary Sources," would be the required test method to measure emissions of the regulated halogenated compounds from carbon adsorbers. The principle of the method is an integrated bag sample of stack gas that is subjected to gas chromatographic analysis, using flame ionization detection. The range of this method is 0.1 to 200 ppm. The emission limitation proposed by these standards of performance would be 25 ppm of any regulated halogenated organic compound measured over the length of the carbon adsorber cycle, or for three hours, whichever is less. The Administrator specifically requests comments on this proposed test method and emission limitation.

A cut-off size of one square meter was determined to be the most effective for OTVD, taking into consideration the absolute reduction in solvent emissions and economic analyses. Although the capital expenditures for refrigerated freeboard devices are greater than for raised freeboards, solvent savings would completely offset the added capital expenditures, provided the degreasers were operated properly. However, for small OTVD (less than 1 m^2 in open top area), refrigerated freeboard devices would not be a cost-effective alternative. Taking into consideration the small reduction in solvent emissions and economics, small open top vapor degreasers would not be required to have refrigerated freeboard devices.

EPA realizes that refrigerated freeboard devices with sub-zero (0°C) refrigerant temperatures are patented. If any degreaser manufacturer is unable to demonstrate alternative methods of control, and certifies that the licensing terms for sub-zero refrigerated freeboard devices are unreasonable, relief under section 308 of the Clean Air Act, as amended can be sought.

Although the proposed standards require specific control technologies, they do not preclude the use of other control options which are demonstrated to be equally effective in reducing solvent emissions. After proposal of these regulations, any person may request an equivalency determination. EPA expects to approve other methods of continuous emission reduction when they have been demonstrated to be as effective in reducing emissions as refrigerated freeboard devices. The Administrator will also welcome any additional data and information concerning the control efficiencies of raised freeboards and refrigerated freeboard devices. Tests are currently being conducted to investigate the effectiveness of refrigerated freeboard devices and increased freeboard ratios under cross-draft conditions. Preliminary results of these tests have shown varying test results for different solvents. Because of possible variation in test outcomes, additional tests are planned. Tests are also being conducted to evaluate the effectiveness of automated covers which close after the workload enters the degreaser. These test results and any additional information and data submitted to EPA during the public comment period will be used to further evaluate the appropriateness of the proposed emission control options. Expansion or deletion of these options will be evaluated prior to promulgation. All information obtained during the course of this investigation and received during the public comment period would be placed in the docket for public review and considered by EPA before taking final action to promulgate standards for new, modified, and reconstructed degreasers.

Conveyorized Degreasers.—There are two major types of conveyorized degreasers: conveyorized vapor degreaser (CVD) and conveyorized cold cleaners (CCC). Conveyorized vapor degreasers use the vapors of boiling solvent to clean and degrease surfaces, while conveyorized cold cleaners use non-boiling solvent in the liquid phase to clean surfaces. The emission control system selected for conveyorized degreasers consists of both control equipment and a series of work practices. Using these controls in combination will reduce solvent emissions from conveyorized degreasers by 60 percent.

The two major emission control requirements for CVD are carbon adsorbers or refrigerated freeboard devices, provided the CVD is greater than 2 square meters (21.6 ft^2) in vapor/air interface area. This cutoff size was determined to be the most effective, taking into consideration the absolute

reduction in solvent emission and economic analyses. For larger crossrod and monorail CVD, carbon adsorbers produce greater emission reductions at higher savings than do refrigerated freeboard devices. For owners or operators of small crossrod and monorail degreasers, the capital costs of a carbon adsorber could be prohibitive. Because of this, a refrigerated freeboard device may be used instead of a carbon adsorber. As with OTVD, the type of conveyorized vapor degreaser, the type of work being processed, and ambient conditions would determine which emission control system should be used.

For conveyorized cold cleaners, the major emission control requirement would be a carbon adsorber, provided the CCC is greater than 2 square meters (21.6 ft^2) in solvent/air interface area. Like CVD, this cutoff was determined to be the most effective, taking into consideration the absolute reduction in solvent emissions and economic analyses. Refrigerated freeboard devices would not be an option for CCC since they are only effective in reducing emissions of warm solvent vapors.

Equivalent Systems of Emission Reduction

These standards of performance do not preclude the use of other degreaser emission control equipment or procedures of operation which can be demonstrated to be equivalent, in terms of reducing solvent emissions, to those prescribed in the proposed regulation. For determination of equivalency, any person may write the Administrator of EPA and request approval of a test plan for demonstrating equivalency. The test plan must propose the use of specific equipment, test procedures, a date, and a U.S. location at which the person making the request wishes to demonstrate equivalency. In order to determine equivalency, the Administrator must find a substantial likelihood that the control technology used in normal operations would produce equivalent emission reductions as the standards would require, at approximately the same or less economic, energy, or environmental cost. An alternate equipment design would not be considered equivalent to the proposed requirements if it placed a greater burden upon the personnel operating the degreaser to manually operate the emission capture device (e.g., use of an automated cover could potentially be found equivalent to use of refrigerated freeboard devices, but a manually operated cover would not qualify). Automated operation of the emission control system is required because manual operation would be burdensome due to the frequency with which work enters and exits open top vapor degreasers (cycle times of only 6 minutes are not unusual) and because enforcement of these standards would primarily depend upon equipment certifications. Although work practices could not be substituted for equipment design requirements, alternatives to the work practices contained in the proposed standards could also be included in an equivalency determination.

Selection of Enforcement Methods

More than 325,000 new degreasers are expected to be in operation by 1985. The large number of degreasers precludes the inspection of all units on a periodic basis. Therefore, enforcement must be achieved through a combination of degreaser manufacturer certifications and EPA random inspections. Because EPA cannot inspect all degreasers that will be in operation, adherence to the work practices will basically depend upon voluntary compliance. Although the work practices are important, the equipment design requirements will be the primary mechanism for ensuring the control of organic solvent emissions from degreasing operations. A random inspection program would be designed to inspect all degreaser design types produced, but would cover only a sample of shops using degreasing equipment. To facilitate this program, the primary reporting burden would be place upon the manufacturers of degreasing equipment.

Under section 111(a)(5) of the Clean Air Act, as amended, manufacturers of degreasers would be considered owners until the degreasers are sold. Thus, the original manufacturer of a newly constructed degreaser would be responsible for making the proposed reports. Section 114(a)(1) of the Act specifies that the Administrator can require owners or operators to report information to EPA as may be reasonably required. Manufacturers of cold cleaners, remote reservoir cold cleaners, open top vapor degreasers, and conveyorized degreasers would be required to notify the Administrator of the date construction began on a new degreaser, certain equipment features, and the name, date and location to whom the ownership of the degreaser was transferred. This information would be reported once for each degreaser constructed, modified, or reconstructed and the reports would be submitted each quarter. If any manufacturer or other owner or operator feels that the information to be submitted is proprietary in nature, a request for confidential treatment can be submitted with the report. On September 1, 1976, EPA promulgated regulations (40 CFR part 2) which govern the treatment of confidential business information, including that obtained under section 114 of the Clean Air Act.

Under certain circumstances, the operator of the degreaser rather than the original manufacturer would be responsible for making the report. This would occur when a modification or reconstruction to an existing degreaser was made by any person other than the original manufacturer or when any affected degreaser is resold.

Certification would be supplemented by an EPA inspection program of representative types of models of degreasers from owners and operators selected at random. This program would determine compliance with the design requirements for all new degreasing equipment, and would determine compliance with the work practice and operational requirements by a random sample of degreasing operations. Inspection would include a visual check of the operation and an examination of the methods of waste solvent disposal.

This method of enforcement has been selected as the best option considering the savings in time and money for effective enforcement. As mentioned previously, the large number of new sources expected within the next five years prohibits inspection of each unit. Effort has been made to reduce the proposed reporting and recordkeeping burdens to the minimum needed to administer an effective enforcement program. EPA also considered requiring each degreaser operator to report directly to EPA upon installation of a new degreaser and to periodically report work practice methods in use. However, the reporting requirements would have caused an excessive burden to be placed on each degreaser operator and would have caused the generation of a large number of reports. For these reasons, the proposed reporting requirements are minimized to include a one-time report per degreaser of a few basic items. In addition, spot checks of representative types and models of degreasers in operation were selected as the best available option. Operators of degreasing equipment would only be required to keep records of solvent usage and disposition and would not be required to make written reports. These records can be discarded after a two year period. To further reduce the impact of these requirements, operators of small cold cleaners (less than 1 m^2), such as are commonly used in gasoline service stations, would be exempt from any recordkeeping or reporting except

for maintaining a simple record of the disposition of waste solvent.

Public Hearing

A public hearing will be held to discuss these proposed standards in accordance with section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the ADDRESSES Section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section (A–130), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Attention: Docket No. OAQPS–78–12.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section, Room 2903B, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460.

Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this proposed rulemaking. The principal purposes of the docket are: (1) to allow interested parties to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review [section 307(d)(7)].

Miscellaneous

As prescribed by section 111 of the Clean Air Act, as amended, establishment of standards of performance for organic solvent cleaners was preceded by the Administrator's determination (40 CFR 60.16, 44 FR 49222, dated August 21, 1979) that these sources contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare. In accordance with section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues on the proposed test methods.

It should be noted that standards of performance for new sources established under section 111 of the Clean Air Act reflect:

> . . . application of the best technological system of contunuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated [section 111(a)(1)].

Although there may be emission control technology available that can reduce emissions below those levels required to comply with standards of performance, this technology might not be selected as the basis of standards of performance due to costs associated with its use. Accordingly, standards of performance should not be viewed as the ultimate in achievable emission control. In fact, the Act requires (or has the potential for requiring) the imposition of a more stringent emission standard in several situations.

For example, applicable costs do not necessarily play as prominent a role in determining the "lowest achievable emission rate" for new or modified sources locating in nonattainment areas, i.e., those areas where statutorily-mandated health and welfare standards are being violated. In this respect, section 173 of the Act requires that new or modified sources constructed in an area which exceeds the National Ambient Air Quality Standard (NAAQS) must reduce emissions to the level which reflects the "lowest achievable emission rate" (LAER), as defined in section 171(3) for such category of source. The statute defines LAER as that rate of emissions based on the following, whichever is more stringent:

> (A) the most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or
>
> (B) the most stringent emission limitation which is achieved in practice by such class or category of source.

In no event can the emission rate exceed any applicable new source performance standard [section 171(3)].

A similar situation may arise under the prevention of significant deterioration of air quality provisions of the Act (Part C). These provisions require that certain sources [referred to in section 169(1)] employ "best available control technology" (BACT) as defined in section 169(3) for all pollutants regulated under the Act. Best available control technology must be determined on a case-by-case basis, taking energy, environmental and economic impacts and other costs into account. In no event may the application of BACT result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard established pursuant to section 111 (or 112) of the Act.

In all events, State implementation plans (SIP's) approved or promulgated under section 110 of the Act must provide for the attainment and maintenance of NAAQS designed to protect public health and welfare. For this purpose SIP's must in some cases require greater emission reduction than those required by standards of performance for new sources.

Finally, States are free under section 116 of the Act to establish even more stringent emission limits than those established under section 111 or those necessary to attain or maintain the NAAQS under section 110. Accordingly, new sources may in some cases be subject to limitations more stringent than standards of performance under section 111, and prospective owners and operators of new sources should be aware of this possibility in planning for such facilities.

In order to prevent duplicative regulatory reuirements, and in order to avoid conflicts in standard setting, EPA has been in contact with representatives of the Interagency Regulatory Liaison Group (IRLG). This group, composed of members from EPA, the Occupational Safety and Health Administration (OSHA), the Food and Drug Administration (FDA), and the Consumer Product Safety Commission (CPSC) was formed in August, 1977, to ensure that the agencies work closely together in areas of common interest and responsibility. In particular, EPA has been in contact with OSHA to ensure that the requirements for the proposed standard do not conflict with OSHA's requirements for ventilation of open surface tank operations (29 CFR 1910.94).

Under EPA's sunset policy for reporting requirements in regulations, the reporting requirements in this regulation will automatically expire five years from the date of promulgation unless EPA takes affirmative action to extend them. To accomplish this, a provision automatically terminating the reporting requirements at that time will be included in the text of the final regulations.

EPA will review this regulation four years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, and improvements in emission control technology.

Section 317 of the Clean Air Act requires the Administrator to prepare an

economic impact assessment for any new source standard of performance promulgated under section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to insure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the Background Information Document.

Dated: April 17, 1980.

Douglas M. Costle,

Administrator.

It is proposed to amend Part 60 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

1. By adding alphabetically a definition of the term "volatile organic compound" to § 60.2 of Subpart A—General Provisions as follows:

§ 60.2 Definitions

* * * * *

"Volatile organic compound" means any organic compound which participates in atmospheric photochemical reactions or is measured by the applicable reference methods specified under any subpart.

2. By adding Subpart JJ as follows:

Subpart JJ—Standards of Performance for Organic Solvent Cleaners

Sec.

60.360 Application and designation of affected facility.
60.361 Definitions.
60.362 Standards for volatile organic compounds, trichloroethylene, 1,1,1-trichloroethane, perchloroethylene, methylene chloride, and trichlorotrifluoroethane.
60.363 Equivalent method of control.
60.364 Reporting and Recordkeeping.
60.365 Waste disposal. (reserved).
60.366 Test method.

Authority: Sec. 111, 301(a) of the Clean Air Act as amended [42 U.S.C. 7411, 7601(a)], and additional authority as noted below.

Subpart JJ—Standards of Performance for Organic Solvent Cleaners

§ 60.360 Applicability and designation of affected facility.

The provisions of this subpart are applicable to all organic solvent cleaners for which construction was commenced after (date of proposal) which are used for organic solvent cleaning (degreasing) of any materials.

§ 60.361 Definitions.

All terms used in this subpart, but not specifically defined in this Section shall have the meaning given them in the Act and in Subpart A of this part.

"Adsorption cycle" means a solvent recovery process which begins when solvent laden air is directed through an activated carbon bed, resulting in the capture of solvent vapors. An adsorption cycle shall be considered complete when the activated carbon bed becomes saturated with solvent, resulting in breakthrough of solvent vapors.

"Carbon adsorber" means a device in which an organic compound is brought into contact with activated carbon and is retained.

"Certification" means a written statement signed by the owner or operator of the affected facility.

"Cold cleaner" means any device or piece of equipment which contains and uses an organic solvent in the liquid phase to clean surfaces.

"Conveyorized cold cleaner" means any conveyorizer degreaser which uses an organic solvent in the liquid phase to clean surfaces.

"Conveyorized degreaser" means any device which uses an integral, continuous, mechanical system for moving materials or parts to be cleaned into and out of an organic solvent liquid or vapor cleaning zone.

"Conveyorized vapor degreaser" means any conveyorizer degreaser which uses an organic solvent in the vapor phase to clean surfaces.

"Drain rack" means any basket, tray, or sink located in, on, or exterior to a degreaser, which permits excess or condensed solvent to drain from the parts after degreasing and to return to the solvent bath.

"Drying tunnel" means an enclosed extension of the exit from a conveyorized degreaser.

"Equivalent method of control" means any method that can be demonstrated to the Administrator to provide at least the same degree of emission control as the specified control.

"Extended freeboard" means an addition to the sides of a degreaser to increase the freeboard height.

"Fill line" means a permanent mark in a degreaser tank that indicates the maximum operating liquid level recommended by the manufacturer.

"Freeboard height" means, for a cold cleaner, the distance from the liquid solvent level in the degreaser tank to the lip of the tank. For an open top vapor degreaser it is the distance from the solvent vapor level in the tank during idling to the lip of the tank. For a conveyorized cold cleaner it is the distance from the liquid solvent level to the bottom of the entrance or exit opening, whichever is lower. For a conveyorized vapor degreaser, it is the distance from the vapor level to the bottom of the entrance or exit opening, whichever is lower.

"Freeboard ratio" means a ratio of the freeboard height to the smaller interior dimension (length, width, or diameter) of the degreaser.

"Lip exhaust" means a device installed around the lip of a degreaser that draws in air and solvent vapor emissions and ducts them away from the degreaser area.

"Open top vapor degreaser" means any open top device or piece of equipment that contains and uses an organic solvent, at the boiling point of the solvent, and solvent vapor to clean equipment surfaces.

"Organic solvent" means any liquid substance which contains carbon and has the power to dissolve, causing solution.

"Organic solvent cleaner" or "degreaser" means any cold cleaner, remote reservoir cold cleaner, open top vapor degreaser, and conveyorized degreaser equipment and their ancillary components.

"Organic solvent cleaning" or "degreasing" means those processes using organic solvents to clean and remove soils from the surfaces of materials being processed.

"Refrigerated freeboard device" means a device which is mounted above the water jacket and the primary condenser coils, consisting of secondary coils which carry a refrigerant to provide a chilled air blanket above the solvent vapor to reduce emissions from the degreaser bath. The chilled air blanket temperature, measured at the centroid of the degreaser at the coldest point, shall be no greater than 30 percent of the solvent's boiling point (°F).

"Remote reservoir cold cleaner" means any device in which liquid solvent is pumped through a sink-like work area which drains back into an enclosed container while parts are being cleaned and in which the solvent in the enclosed container is not subject to evaporation losses to the atmosphere during non-use periods.

§ 60.362 Standards for volatile organic compounds, trichloroethylene, 1,1,1-trichloroethane, perchloroethylene, methylene chloride, and trichlorotrifluoroethane.

(a) Except as provided in paragraph (d) of this section, an owner or operator shall operate a cold cleaner, or a remote reservoir cold cleaner only if it has a cover that may be readily opened and

closed. A fusible link shall not interfere with cover operation.

(b) An owner or operator shall operate a cold cleaner only if it conforms to the following design requirements:

(1) A drain rack. If an external drain rack is used, it must allow the drained solvent to return to the solvent bath in the cold cleaner. If the cold cleaner is equipped with a parts basket, internal hooks to permit suspension of the basket above the solvent may be substituted for the drain rack.

(2) A freeboard ratio of at least 0.5. If the solvent used has a volatility greater than 4.3 kPa (33 mm Hg or 0.6 psi), measured at 38°C (100°F), the freeboard ration shall be at least 0.7.

(3) A visible fill line.

(c) Except as provided in paragraph (d) of this section, an owner or operator shall not operate a cold cleaner without meeting the following work and operational practices:

(1) The solvent level shall not exceed the fill line.

(2) When a flexible hose or flushing device is used, the pressure of solvent delivered by the pump may not exceed 69 kPa (10 psi), measured at the pump outlet, and the pumped solvent shall be delivered in a continuous stream and not a droplet spray. Flushing shall be performed only within the confines of the cold cleaner.

(3) When an air- or pump-agitated solvent bath is used, the agitator shall be operated so as to produce a rolling motion of the solvent but not observable splashing against tank walls or parts being cleaned.

(4) The cover shall be closed when the cold cleaner is not in use and when parts are being cleaned by solvent agitation.

(5) When the cover is open, the cold cleaner may not be exposed to drafts greater than 40 m/min (131 ft/min), as measured between 1 and 2 meters upwind and at the same elevation as the tank lip.

(6) Solvent cleaned parts shall be drained for 15 seconds or until dripping has stopped, whichever is longer. Parts having cavities or blind holes shall be tipped or rotated while draining.

(7) Waste solvent, still, and sump bottoms shall be collected and stored in closed containers. The closed containers may contain a device that would allow pressure relief, but would not allow liquid solvent to drain from the container prior to disposal.

(8) Each owner shall provide a permanent label for each cold cleaner which states the required work and operating practices. If the freeboard ratio on a cold cleaner is less than 0.7, the label shall state the types of solvents which may be used in the cold cleaner. Such solvents include xylenes, mineral spirits, stoddard solvents, or other solvents with a volatility less than or equal to 4.3 kPa. The label shall be placed near the front of the degreaser in full view of the degreaser operator and written in English, and any other language that may be necessary for comprehension by personnel operating the degreaser. The label must be kept visible and legible at all times. The plant owner or operator shall ensure that each person who operates a cold cleaner understands the instructions on the label.

(9) Spills during solvent transfer shall be wiped up immediately. The wipe rags shall be stored in covered containers.

(d)(1) An owner or operator who operates a remote reservoir cold cleaner which uses solvent with a volatility of less than or equal to 4.3 kPa (0.6 psi or 33 mm Hg) measured at 38°C (100°F), and which has a drain area less than 100 cm^2 (15.5 in^2) shall be subject to the provisions of paragraph (c)(2), (c)(5), (c)(6), (c)(7), (c)(8), and (c)(9).

(2) An owner or operator who operates a remote reservoir cold cleaner which uses solvent with a volatility greater than 4.3 kPa (0.6 psi or 33 mm Hg) measured at 38° C (100° F), or has a drain area greater than or equal to 100 cm^2 (15.5 in^2) shall be subject to the provisions of paragraphs (d)(1), (c)(4), and (a).

(e) An owner or operator shall operate an open top vapor degreaser only if it conforms to the following design requirements:

(1) Each open top vapor degreaser shall be equipped with a cover that may be readily opened or closed. If the open top vapor degreaser is equipped with a lip exhaust, the cover shall be located below the lip exhaust.

(2) Each open top vapor degreaser shall have a freeboard ratio of at least 0.75.

(3) Each open top vapor degreaser shall be equipped with the following devices:

(i) A device which shuts off sump heat if sump liquid solvent level drops down to the height of sump heater coils, and

(ii) A vapor level control device which shuts off sump heat if the vapor level rises above the height of the primary condenser.

(4) Each open top vapor degreaser greater than 1.0 square meter (10.8 ft^2) shall be equipped with one or more of the following equipment controls:

(i) A refrigerated freeboard device, or

(ii) A lip exhaust connected to a carbon adsorber. The concentration of organic solvent in the exhaust from this device shall not exceed 25 ppm of any regulated halogenated organic compound as measured by Method 23 for the length of the carbon adsorber cycle or three hours, whichever is less. If other volatile organic compounds are used, then the emissions shall not exceed an average of 25 ppm as carbon, measured by Method 25 for the length of the carbon adsorber cycle or three hours, whichever is less.

(f) An owner or operator shall not operate an open top vapor degreaser without meeting the following required work and operational practices:

(1) The cover shall be closed when parts are not being degreased.

(2) When the cover is open, the open top vapor degreaser shall not be exposed to drafts greater than 40 m/min (131 ft/min), as measured between 1 and 2 meters upwind and at the same elevation as the tank lip.

(3) For any open top vapor degreaser equipped with a lip exhaust, the exhaust shall be turned off when the degreaser is covered.

(4) Parts being degreased shall not occupy more than 50 percent of the vapor-air interface area.

(5) The vertical speed of a powered hoist, if one is used, shall not be more than 3.3 m/min (10.8 ft/min) when lowering and raising the parts.

(6) Spraying operations shall be done within the vapor layer.

(7) Work shall not be lifted from the vapor layer until condensation or dripping has stopped. Parts having cavities or blind holes shall be tipped or rotated before being raised from the vapor layer.

(8) During start up, the primary condenser and the refrigerated freeboard device, if one is used, shall be turned on before the sump heater. During shutdown, the sump heater shall be turned off, and the solvent vapor layer allowed to collapse before the condenser water and refrigerated freeboard device are turned off.

(9) Porous or absorbent material shall not be degreased in an open top vapor degreaser.

(10) A routine inspection and maintenance program shall be implemented to reduce or prevent solvent losses from dripping drain taps, cracked gaskets and malfunctioning equipment. Leaks must be repaired as soon as they are discovered.

(11) Waste solvent, still, and sump bottoms shall be collected and stored in closed containers. The closed containers may contain a device that would allow pressure relief, but would not allow liquid solvent to drain from the container prior to disposal.

(12) Each owner shall provide a permanent label for each open top vapor degreaser which states the required work and operating practices. The label shall be placed near the front of the degreaser in full view of the degreaser operator and written in English, and in any other language that may be necessary for comprehension by personnel operating the degreaser. The label must be kept visible and legible at all times. The plant owner or operator shall ensure that each person who operates a degreaser understands the instructions on the label.

(13) When sumps are drained, solvent shall be transferred using threaded or other leakproof couplings.

(14) The carbon absorber bed shall not be bypassed during desorption.

(g) An owner or operator subject to the provisions of this subpart shall operate a conveyorized degreaser only if it conforms to the following design requirements:

(1) Each conveyorized degreaser shall have a freeboard ratio of at least 0.75.

(2) Each conveyorized degreaser shall be equipped with a drying tunnel, a rotating (tumbling) basked, hanging flaps, or other device to prevent cleaned parts from carrying out solvent liquid or vapor. When a drying tunnel is used, the air which moves through the tunnel to enhance drying shall be exhausted to a carbon adsorber. The concentration of organic solvent in the exhaust from this device may not exceed 25 ppm of any regulated halogenated organic compound as measured by Method 23 for the length of the carbon adsorber cycle or three hours, whichever is less. If other volatile organic compounds are used, then the emissions shall not exceed an average of 25 ppm as carbon, measured by Method 25 for the length of the carbon adsorber cycle or three hours, whichever is less.

(3) Each conveyorized degreaser shall be equipped with downtime port covers at the entrance and exit openings.

(4) Each conveyorized cold cleaner with a solvent-air interface area of 2.0m² (21.6 ft₂) or greater shall be equipped with a carbon adsorber. The concentration of organic solvent in the exhaust from this device may not exceed 25 ppm of any regulated halogenated organic compound as measured by Method 23 for the length of the carbon adsorber cycle or three hours, whichever is less. If other volatile organic compounds are used, then the emissions shall not exceed an average of 25 ppm as carbon, measured by Method 25 for the length of the carbon adsorber cycle or three hours, whichever is less.

(5) Each conveyorized vapor degreaser with a solvent-air interface of 2.0m² (21.6 ft²) or greater shall be equipped with one or more of the following equipment controls:

(i) A refrigerated freeboard device, or

(ii) A carbon adsorber. The concentration of organic solvent in the exhaust from this device shall not exceed 25 ppm of any regulated halogenated organic compound as measured by Method 23 for the length of the carbon adsorber cycle or three hours, whichever is less. If other volatile organic compounds are used, then the emissions shall not exceed an average of 25 ppm as carbon, measured by Method 25 for the length of the carbon adsorber cycle or three hours, whichever is less.

(6) Each conveyorized vapor degreaser shall be equipped with the following devices:

(i) A device which shuts off sump heat if sump liquid level drops down to the height of sump heater coils, and

(ii) A vapor level control device which shuts off sump heat if the vapor level rises above the height of the primary condenser coils.

(7) Each owner shall provide a permanent label for each conveyorized degreaser which states the required work and operating practices. The label shall be placed near the front of the degreaser in full view of the degreaser operator and written in English and in any other language that may be necessary for comprehension by personnel operating the degreaser. The label must be kept visible and legible at all times. The plant owner or operator shall ensure that each person who operates a degreaser understands the instructions on the label.

(8) Waste solvent, still, and sump bottoms shall be collected and stored in closed containers. The closed containers may contain a device that would allow pressure relief, but would not allow liquid solvent to drain from the container prior to disposal.

(9) The carbon adsorber bed shall not be bypassed during desorption.

§ 60.363 Equivalent methods of control.

Upon written application, the Administrator may approve the use of equipment or procedures after they have been demonstrated to his satisfaction to be equivalent, in terms of reducing solvent emissions to the atmosphere, to those prescribed for compliance within a specified paragraph of this subpart. The application must contain a complete description of the proposed testing procedure and the date, time, and location scheduled for the equivalency demonstration.

§ 60.364 Reporting and recordkeeping.

(a) The owner or operator of any degreaser affected by this subpart shall furnish the Administrator with a single report for each degreaser. These reports shall be submitted each quarter for all degreasers which were newly constructed, modified, or reconstructed and which were placed in operation or for which ownership was transferred in the previous quarter. Each report shall contain written notification (certification) of the following:

(1) Date construction, modification, or reconstruction of each degreaser was commenced.

(2) Make and model of degreaser (including the serial number if applicable).

(3) Name, date, and location to whom the ownership of the degreaser was transferred.

(4) Dimensions of the solvent-air interface area and the freeboard ratio.

(5) Specify whether a refrigerated freeboard device or carbon adsorber has been installed (if applicable) and certify that the required controls (design parameters), under section 60.362, are part of the degreaser for which this notification is required.

(6) The name, title, and signature of the individual making the certification.

(b) Each owner or operator of an affected facility subject to the provisions of this subpart, except as provided in paragraph (c) of this section, shall maintain records for a period of 2 years of the following:

(1) The amount and date of each purchase of new solvent.

(2) The name and/or type of solvent purchased.

(3) The amount, date, and method of disposal for spent solvent, sump bottoms, and/or still bottoms, as applicable.

(c) Each owner or operator of a cold cleaner with a solvent-air interface area of less than 1.0 m² (10.8 ft²) is not subject to the requirements of paragraph (b) of this section, but is required to maintain for a period of 2 years a record of the method of waste solvent disposal.

(d) The reporting and recordkeeping requirements under this section will automatically expire 5 years from the date of promulgation of this regulation unless affirmative action to extend them is taken by EPA. (Section 114 of the Clean Air Act as amended (42 U.S.C. 7414))

§ 60.365 Waste disposal [Reserved]

§ 60.366 Test method.

(a) Reference Method 23 or 25 of Appendix A, as applicable, shall be used to determine compliance with the

requirements under § 60.382 when carbon adsorbers are used. The results shall be reported as ppm of organics (Method 23) or ppm or carbon (Method 25). Each performance test shall consist of 3 separate samples, and the arithmetic mean of the 3 samples shall be used to determine compliance.

(Section 114 of the Clean Air Act as amended (U.S.C. 7414))

3. Appendix A to part 60 is amended by adding reference method 23 as follows:

Appendix A—Reference Methods

* * * * *

Method 23. Determination of Halogenated Organics From Stationary Sources

Introduction

Performance of this method should not be attempted by persons unfamiliar with the operation of a gas chromatograph, nor by those who are unfamiliar with source sampling because knowledge beyond the scope of this presentation is required. Care must be exercised to prevent exposure of sampling personnel to hazardous emissions.

1. *Applicability and Principle*

1.1 Applicability. This method applies to the measurement of halogenated organics such as carbon tetracholoride, ethylene dichloride, perchloroethylene, trichloroethylene, Methylene chloride, 1,1,1-trichloroethane, and trichlorotrifluoroethane in stack gases from sources as specifiedd in the regulations. It does not apply when the halogenated organics are contained in particulate matter.

1.2 Principle. An integrated bag sample of stack gas containing one or more halogenated organics is subjected to gas chromatographic (GC) analysis, using a flame ionization detector (FID).

2. *Range and Sensitivity.* The range of this method is 0.1 to 200 ppm. The upper limit may be extended by extending the calibration range or by diluting the sample.

3. *Interferences.* The chromatograph column with the corresponding operating parameters herein described normally provides an adequate resolution of halogenated organics; however, resolution interferences may be encountered in some sources. Therefore, the chromatograph operator shall select the column best suited to his particular analysis problem, subject to the approval of the Administrator. Approval is automatic provided that confirming data are produced through an adequate supplemental analytical technique, e.g. analysis with a different column or GC/mass spectroscopy. This confirming data must be available for review by the Administrator.

4. *Apparatus.*

4.1 Sampling (see Figure 23–1). The sampling train consists of the following components:

4.1.1 Probe. Stainless steel, Pyrex* glass, or Teflon* tubing (as stack temperature permits), each equipped with a glass wool plug to remove particulate matter.

4.1.2 Sample Line. Teflon, 6.4-mm outside diameter, of sufficient length to connect probe to bag. Use a new unused piece for each series of bag samples that constitutes an emission test, and discard upon completion of the test.

4.1.3 Quick Connects. Stainless steel, male (2) and female (2), with ball checks (one pair without), located as shown in Figure 23–1.

4.1.4 Tedlar or Aluminized Mylar Bags. 100-liter capacity, to contain sample.

4.1.5 Bag Containers. Rigid leakproof containers for sample bags, with covering to protect contents from sunlight.

4.1.6 Needle Valve. To adjust sample flow rate.

4.1.7 Pump. Leak-free, with minimum of 2-liters/min capacity.

4.1.8 Charcoal Tube. To prevent admission of halogenated organics to the atmosphere in the vicinity of samplers.

4.1.9 Flow Meter. For observing sample flow rate; capable of measuring a flow range from 0.10 to 1.00 liter/min.

4.1.10 Connecting Tubing. Teflon, 6.4-mm outside diameter, to assemble sampling train (Figure 23–1).

4.2 Sample Recovery. Teflon tubing, 6.4-mm outside diameter, to connect bag to gas chromatograph sample loop is required for sample recovery. Use a new unused piece for each series of bag samples that constitutes an emission test and discard upon conclusion of analysis of those bags.

4.3. Analysis. The following equipment is needed:

4.3.1 Gas Chromatograph. With FID, potentiometric strip chart recorder, and 1.0- to 2.0-ml sampling loop in automatic sample valve. The chromatographic system shall be capable of producing a response to 0.1 ppm of the halogenated organic compound that is at least as great as the average noise level. (Response is measured from the average value of the baseline to the maximum of the waveform, while standard operating conditions are in use.)

4.3.2 Chromatographic Column. Stainless steel, 3.05 m by 3.2 mm, containing 20 percent SP–2100/0.1 percent Carbowax 1500 on 100/120 Supelcoport. The analyst may use other columns provided that the precision and accuracy of the analysis of standards are not impaired and he has available for review information conforming that there is adequate resolution of the halogenated organic compound peak. (Adequate resolution is defined as an area overlap of not more than 10 percent of the halogenated organic compound peak by an interferent peak. Calculation of area overlap is explained in Appendix E, Supplement A: "Determination of Adequate Chromatographic Peak Resolution."

4.3.3 Flow Meters (2). Rotameter type, 0-to-100-ml/min capacity.

4.3.4 Gas Regulators. For required gas cylinders.

4.3.5 Thermometer. Accurate to 1°C, to measure temperature of heated sample loop at time of sample injection.

4.3.6 Barometer. Accurate to 5 mm Hg, to measure atmospheric pressure around gas chromatograph during sample analysis.

4.3.7 Pump. Leak-free, with a minimum of 100-ml/min capacity.

4.3.8 Recorder. Strip chart type, optionally equipped with either disc or electronic integrator.

4.3.9 Planimeter. Optional, in place of disc or electronic integrator (4.3.8), to measure chromatograph peak areas.

4.4 Calibration. Sections 4.4.2 through 4.4.6 are for the optional procedure in Section 7.1.

4.4.1 Tubing. Teflon, 6.4-mm outside diameter, separate pieces marked for each calibration concentration.

4.4.2 Tedlar or Aluminized Mylar Bags. 50-liter capacity, with valve; separate bag marked for each calibration concentration.

4.4.3 Syringe. 25-μl, gas tight, individually calibrated, to dispense liquid halogenated organic solvent.

4.4.4 Syringe. 50-μl, gas tight, individually calibrated to dispense liquid halogenated organic solvent.

4.4.5 Dry Gas Meter, with Temperature and Pressure Gauges. Accurate to ±2 percent, to meter nitrogen in preparation of standard gas mixtures, calibrated at the flow rate used to prepare standards.

4.4.6 Midget Impinger/Hot Plate Assembly. To vaporize solvent.

5. *Reagents.* It is necessary that all reagents be of chromatographic grade.

5.1 Analysis. The following are needed for analysis:

5.1.1 Helium Gas or Nitrogen Gas. Zero grade, for chromatographic carrier gas.

5.1.2 Hydrogen Gas. Zero grade.

5.1.3 Oxygen Gas or Air. Zero grade, as required by the detector.

5.2 Calibration. Use one of the following options: either 5.2.1 and 5.2.2, or 5.2.3.

5.2.1 Halogenated Organic Compound, 99 Mol Percent Pure. Certified by the manufacturer to contain a minimum of 99 Mol percent of the particular halogenated organic compound; for use in the preparation of standard gas mixtures as described in Section 7.1.

5.2.2 Nitrogen Gas. Zero grade, for preparation of standard gas mixtures as described in Section 7.1.

5.2.3 Cylinder Standards (3). Gas mixture standards (200, 100, and 50 ppm of the halogenated organic compound of interest, in nitrogen). The tester may use these cylinder standards to directly prepare a chromatograph calibration curve as described in Section 7.2.2, if the following conditions are met: (a) The manufacturer certifies the gas composition with an accuracy of ±3 percent or better (see Section 5.2.3.1). (b) The manufacturer recommends a maximum shelf life over which the gas concentration does not change by greater than ±5 percent from the certified value. (c) The manufacturer affixes the date of gas cylinder preparation, certified concentration of the halogenated organic compound, and recommended maximum shelf life to the cylinder before shipment from the gas manufacturer to the buyer.

5.2.3.1 Cylinder Standards Certification. The manufacturer shall certify the concentration of the halogenated organic compound in nitrogen in each cylinder by (a) directly analyzing each cylinder and (b)

*Mention of trade names or specific products does not constitute endorsement by the Environmental Protection Agency.

calibrating his analytical procedure on the day of cylinder analysis. To calibrate his analytical procedure, the manufacturer shall use, as a minimum, a three-point calibration curve. It is recommended that the manufacturer maintain (1) a high-concentration calibration standard (between 200 and 400 ppm) to prepare his calibration curve by an appropriate dilution technique and (2) a low-concentration calibration standard (between 50 and 100 ppm) to verify the dilution technique used. If the difference between the apparent concentration read from the calibration curve and the true concentration assigned to the low-concentration calibration standard exceeds 5 percent of the true concentration, the manufacturer shall determine the source of error and correct it, then repeat the three-point calibration.

5.2.3.2 Verification of Manufacturer's Calibration Standards. Before using, the manufacturer shall verify each calibration standard by (a) comparing it to gas mixtures prepared (with 99 Mol percent of the halogenated organic compounds) in accordance with the procedure described in Section 7.1 or by (b) having it analyzed by the National Bureau of Standards, if such analysis is available. The agreement between the initially determined concentration value and the verification concentration value must be within ±5 percent. The manufacturer must reverify all calibration standards on a time interval consistent with the shelf life of the cylinder standards sold.

5.2.4 Audit Cylinder Standards (2). Gas mixture standards with concentrations known only to the person supervising the analysis samples. The audit cylinder standards shall be identically prepared as those in Section 5.2.3 (the halogenated organic compounds of interest, in nitrogen). The concentrations of the audit cylinders should be: one low-concentration cylinder in the range of 25 to 50 ppm, and one high-concentration cylinder in the range of 200 to 300 ppm. When available, the tester may obtain audit cylinders by contacting: Environmental Protection Agency, Environmental Monitoring and Support Laboratory, Quality Assurance Branch (MD–77), Research Triangle Park, North Carolina 27711. If audit cylinders are not available at the Environmental Protection Agency, the tester must secure an alternative source.

6. *Procedure*

6.1 Sampling. Assemble the sampling train as shown in Figure 23–1. Perform a bag leak check according to Section 7.3.2. Join the quick connects as illustrated, and determine that all connections between the bag and the probe are tight. Place the end of the probe at the centroid of the stack and start the pump with the needle valve adjusted to yield a flow that will more than half fill the bag in the specified sample period. After allowing sufficient time to purge the line several times, connect the vacuum line to the bag and evacuate the bag until the rotameter indicates no flow. At all times, direct the gas exiting the rotameter away from sampling personnel.

BILLING CODE 6560-01-M

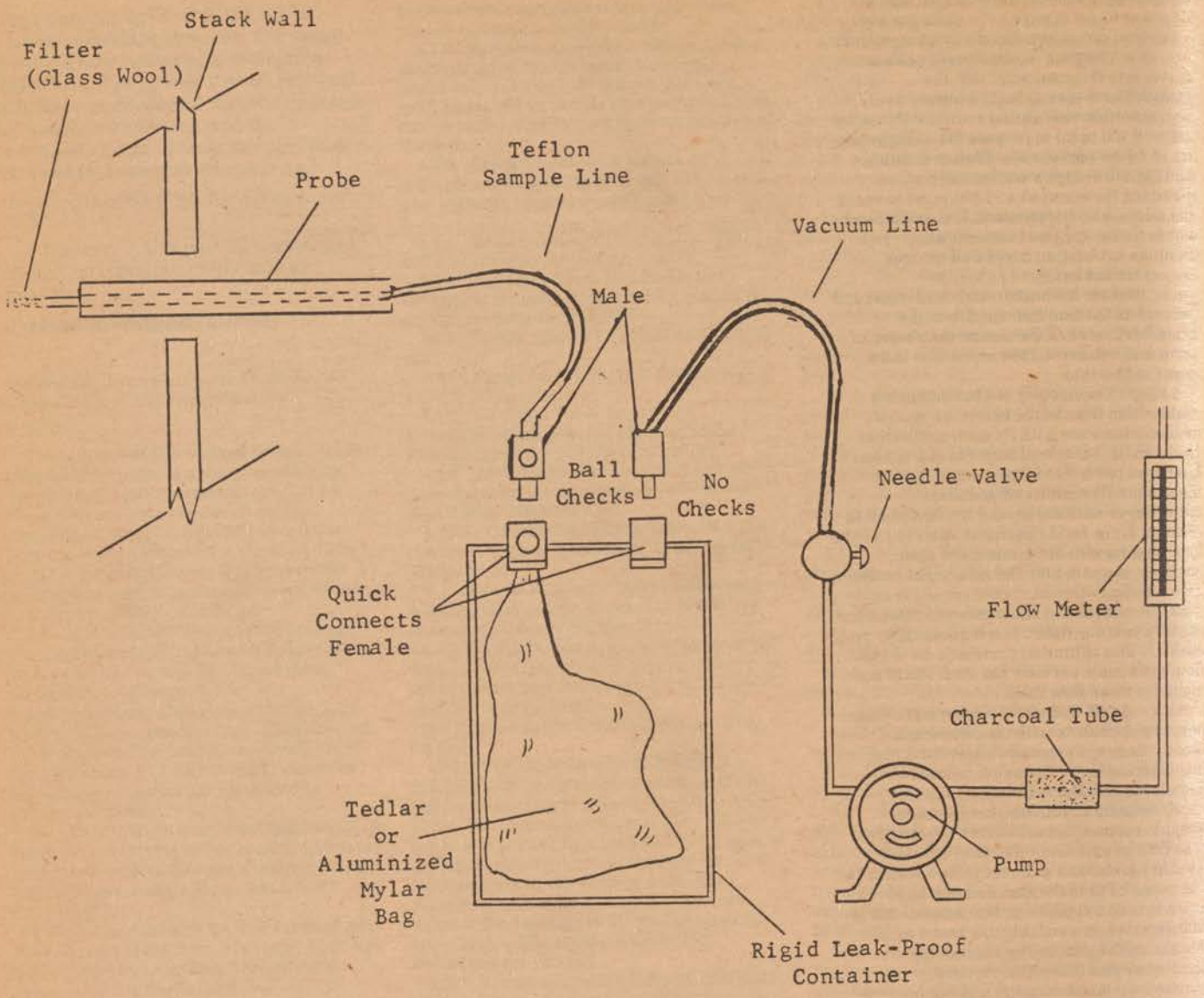


Figure 23-1. Integrated-bag sampling train. (Mention of trade names or specific products does not constitute endorsement by the Environmental Protection Agency.)

BILLING CODE 6560-01-C

Then reposition the sample and vacuum lines and begin the actual sampling, keeping the rate constant. At the end of the sample period, shut off the pump, disconnect the sample line from the bag, and disconnect the vacuum line from the bag container. Protect bag container from sunlight.

6.2 Sample Storage. Keep the sample bags out of direct sunlight and protect from heat. Perform the analysis within 1 day of sample collection for methylene chloride, ethylene dichloride, and trichlorotrifluoroethane, and within 2 days for perchloroethylene, trichloroethylene, 1,1,1-trichloroethane, and carbon tetrachloride.

6.3 Sample Recovery. With a new piece of Teflon tubing identified for that bag, connect a bag inlet valve to the gas chromatograph sample valve. Switch the valve to receive gas from the bag through the sample loop. Arrange the equipment so the sample gas passes from the sample valve to a 0-to-100-ml/min rotameter with flow control valve followed by a charcoal tube and a 0-to1-in. H_2O pressure gauge. The tester may maintain the sample flow either by a vacuum pump or container pressurization if the collection bag remains in the rigid container. After sample loop purging is ceased, allow the pressure guage to return to zero before activating the gas sampling valve.

6.4 Analysis. Set the colum temperature to 100°C and the detector temperature to 225°C. When optimum hydrogen and oxygen flow rates have been determined, verify and maintain these flow rates during all chromatograph operations. Using zero helium or nitrogen as the carrier gas, establish a flow rate in the range consistent with the manufacturer's requirements for satisfactory detector operation. A flow rate of approximately 20 ml/min should produce adequate separations. Observe the base line periodically and determine that the noise level has stabilized and that base-line drift has ceased. Purge the sample loop for 30 sec at the rate of 100 ml/min, then activate the sample valve. Record the injection time (the position of the pen on the chart at the time of sample injection), the sample number, the sample loop temperature, the column temperature, carrier gas flow rate, chart speed, and the attenuator setting. Record the barometric pressure. From the chart, note the peak having the retention time corresponding to the halogenated organic compound, as determined in Section 7.2.1. Measure the halogenated organic compound peak area, A_m, by use of a disc integrator, electronic integrator, or a planimeter. Record A_m and the retention time. Repeat the injection at least two times or until two consective values for the total area of the peak do not vary more than 5 percent. Use the average value for these two total areas to compute the bag concentration.

6.5 Determination of Bag Water Vapor Content. Measure the ambient temperature and barometric pressure near the bag. From a water saturation vapor pressure table, determine and record the water vapor content of the bag as a decimal figure. (Assume the relative humidity to be 100 percent unless a lesser value is known.)

7. *Preparation of Standard Gas Mixtures, Calibration, and Quality Assurance.*

7.1 Preparation of Standard Gas Mixtures. (Optional procedure—delete if cylinder standards are used.) Assemble the apparatus shown in Figure 23–2. Check that all fittings are tight. Evacuate a 50-liter Tedlar or aluminized Mylar bag that has passed a leak check (described in Section 7.3.2) and meter in about 50 liters of nitrogen. Measure the barometric pressure, the relative pressure at the dry gas meter, and the temperature at the dry gas meter. Refer to Table 23–1. While the bag is filling, use the 50-μl syringe to inject through the septum on top of the impinger, the quantity required to yield a concentration of 200 ppm. In a like manner, use the 25-μl syringe to prepare bags having approximately 100- and 50-ppm concentrations. To calculate the specific concentrations, refer to Section 8.1. (Tedlar bag gas mixture standards or methylene chloride, ethylene dichloride, and trichlorotrifluoroethane may be used for 1 day, trichloroethylene and 1,1,1-trichloroethane for 2 days, and perchloroethylene and carbon tetrachloride for 10 days from the date of preparation. (Caution: If the new gas mixture standard is a lower concentration than the previous gas mixture standard, contamination may be a problem when a bag is reused.)

BILLING CODE 6560-01-M

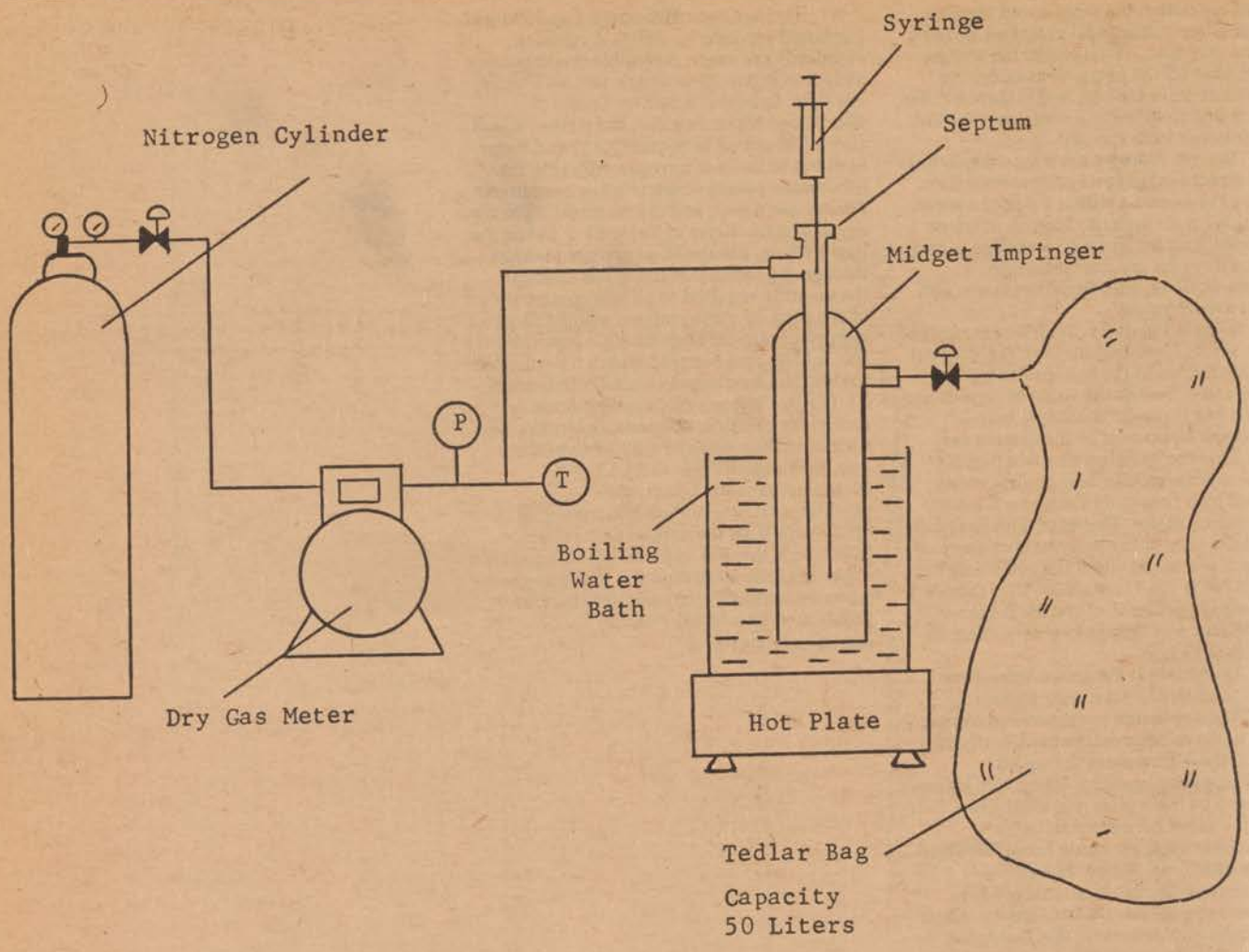


Figure 23-2. Preparation of Standards.
(optional)

TABLE 23-1. INJECTION VALUES FOR PREPARATION OF STANDARDS (Optional, See Section 7.1)

Compound	Molecular Weight g/g-mole	Density at 293°K g/ml	µl/50 liters of N_2 required for approximate concentration of: 200 ppm	100 ppm	50 ppm
Perchloroethylene C_2Cl_4	165.85	1.6230	42.5	21.2	10.6
Trichloroethylene C_2HCl_3	131.40	1.4649	37.3	18.6	9.3
1,1,1-Trichloroethane $C_2H_3Cl_3$	133.42	1.4384	38.6	19.3	9.6
Methylene Chloride CH_2Cl_2	84.94	1.3255	26.6	13.3	6.7
Trichlorotrifluoroethane $C_2Cl_3F_3$	187.38	1.5790	49.3	24.7	12.3
Carbon Tetrachloride CCl_4	153.84	1.5940	40.1	20.1	10.0
Ethylene Dichloride $C_2H_4Cl_2$	98.96	1.2569	32.7	16.4	8.2

BILLING CODE 6560-01-C

7.2 Calibration.

7.2.1 Determination of Halogenated Organic Compound Retention Time. (This section can be performed simultaneously with Section 7.2.2.) Establish chromatograph conditions identical with those in Section 6.4, above. Determine proper attenuator position. Flush the sampling loop with zero helium or nitrogen and activate the sample valve. Record the injection time, the sample loop temperature, the column temperature, the carrier gas flow rate, the chart speed, and the attenuator setting. Record peaks and detector responses that occur in the absence of the halogenated organic. Maintain conditions (with the equipment plumbing arranged identically to Section 6.3), flush the sample loop for 30 sec. at the rate of 100 ml/min with one of the halogenated organic compound calibration mixtures, and activate the sample valve. Record the injection time. Select the peak that corresponds to the halogenated organic compound. Measure the distance on the chart from the injection time to the time at which the peak maximum occurs. This distance divided by the chart speed is defined as the halogenated organic compound peak retention time. Since it is possible that there will be other organics present in the sample, it is very important that positive identification of the Halogenated organic compound peak be made.

7.2.2 Preparation of Chromatograph Calibration Curve. Make a gas chromatographic measurement of each Standard gas mixture (described in Section 5.2.3 or 7.1) using conditions identical with those listed in Sections 6.3 and 6.4. Flush the sampling loop for 30 sec at the rate of 100 ml/min with one of the standard gas mixtures and activate the sample valve. Record C_c, the concentration of halogenated organic injected, the attenuator setting, chart speed, peak area, sample loop temperature, column temperature, carrier gas flow rate, and retention time. Record the laboratory pressure. Calculate A_c, the peak area multipled by the attenuator setting. Repeat until two consecutive injection areas are within 5 percent, then plot the average of those two values versus C_c. When the other standard gas mixtures have been similarly analyzed and plotted, draw a straight line through the points derived by the least squares method. Perform calibration daily, or before and after each set of bag samples, whichever is more frequent.

7.3 Quality Assurance.

7.3.1 Analysis Audit. Immediately after the preparation of the calibration curve and prior to the sample analyses, perform the analysis audit described in Appendix E, Supplement B: "Procedure for Field Auditing GC Analysis."

7.3.2 Bag Leak Checks. While performance of this section is required subsequent to bag use, it is also advised that it be performed prior to bag use. After each use, make sure a bag did not develop leaks by connecting a water manometer and pressurizing the bag to 5 to 10 cm H_2O (2 to 4 in. H_2O). Allow to stand for 10 min. Any displacement in the water manometer indicates a leak. Also, check the rigid container for leaks in this manner. (Note: An alternative leak check method is to pressurize the bag to 5 to 10 cm H_2O (2 to 4 in. H_2O) and allow to stand overnight. A deflated bag indicates a leak.) For each sample bag in its rigid container, place a rotameter in line between the bag and the pump inlet. Evacuate the bag. Failure of the rotameter to register zero flow when the bag appears to be empty indicates a leak.

8. *Calculations.*

8.1 Optional Procedure Standards Concentrations. Calculate each halogenated organic standard concentration (C_c in ppm) prepared in accordance with Section 7.1 as follows:

BILLING CODE 6560-01-M

$$C_c = \frac{\frac{BD}{M}(24.055 \times 10^3)}{V_m Y \frac{293}{T_m} \frac{P_m}{760}} = 6.240 \times 10^4 \frac{BD\ T_m}{M\ V_m\ Y\ P_m}$$

Eq. 23-1

Where:

B = Volume of halogenated organic injected, µl.

D = Density of compound at 293°K, g/ml.

M = Molecular weight of compound, g/g-mole.

V_m = Gas volume measured by dry gas meter, liters.

Y = Dry gas meter calibration factor, dimensionless.

P_m = Absolute pressure of dry gas meter, mm Hg.

T_m = Absolute temperature of dry gas meter, °K.

24.055 = Ideal gas molal volume at 293° K and 760 mm Hg, liters/g-mole.

10^3 = Conversion factor. [(ppm)(ml)]/µl.

8.2 Sample Concentrations. From the calibration curve described in Section 7.2.2 above, select the value of C_c that corresponds to A_c. Calculate C_s, the concentration of halogenated organic in the sample (in ppm), as follows:

$$C_s = \frac{C_c P_r T_i}{P_i T_r (1-S_{wb})}$$

Eq. 23-2

Where:

C_c = Concentration of the halogenated organic indicated by the gas chromatograph, ppm.

P_r = Reference pressure, the laboratory pressure recorded during calibration, mm Hg.

T_i = Sample loop temperature at the time of analysis, °K.

P_i = Laboratory pressure at time of analysis, mm Hg.

T_r = Reference temperature, the sample loop temperature recorded during calibration, °K.

S_{wb} = Water vapor content of the bag sample, volume fraction.

BILLING CODE 6560-01 -C

9. *References.*

1. Feairheller, W. H., A. M. Kemmer, B. J. Warner, and D. Q. Douglas. Measurement of Gaseous Organic Compound Emissions by Gas Chromatography. EPA Contract No. 68–02–1404, Task 33 and 68–02–2818, Work Assignment 3. January 1978. Revised by EPA August 1978.

2. Supelico, Inc. Separation of Hydrocarbons. Bulletin 747. Belleforte, Pennsylvania. 1974.

3. Communication from Joseph E. Knoll. Percholoroethylene Analysis by Gas Chromatography. March 8, 1978.

4. Communication from Joseph E. Knoll. Test Method for Halogenated Hydrocarbons. December 20, 1978.

* * * * *

(Sections 111(b), 111(d), 114, and 301(a) of the Clean Air Act as amended (42 U.S.C. 7411, 7414, and 7601(a)))

[FR Doc. 80–13094 Filed 6–10–80; 8:45 am]

BILLING CODE 6560–01–M

federal register

Wednesday
June 11, 1980

Part V

Department of Energy

Economic Regulatory Administration

Gas and Electric Utilities Covered in 1980 by Titles I and III of the Public Utility Regulatory Policies Act of 1978 and Title II of the National Energy Conservation Policy Act

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-R-79-43]

Gas and Electric Utilities Covered in 1980 by Titles I and III of the Public Utility Regulatory Policies Act of 1978 and Title II of the National Energy Conservation Policy Act

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice.

SUMMARY: Section 102(c) and 301(d) of the Public Utility Regulatory Policies Act of 1978 (PURPA) and section 211(b) of the National Energy Conservation Policy Act (NECPA) require the Secretary of Energy to publish a list, before the beginning of each calendar year, identifying each gas utility and electric utility to which Titles I and III of PURPA and Part 1 of Title II of NECPA apply during such calendar year. The Notice containing the list for 1980 was published in the **Federal Register** on December 21, 1979. Because a determination had been made to include Citizens Utilities Company on the 1980 list, written comments were invited with respect to that issue. The Notice issued today sets forth the Department of Energy's determination to remove Citizens Utilities Company and CP National Corporation from the 1980 list.

FOR FURTHER INFORMATION CONTACT:

Nancy E. Tate, Office of Utility Systems, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W. (Room 4306), Washington, D.C. 20461, (202) 653-3920.

Mary Ann Masterson, Office of General Counsel, Conservation and Solar Energy, Department of Energy, 1000 Independence Avenue, SW (Room 1E258), Washington, D.C. 20585, (202) 252-9516.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to sections 102(c) and 301(d) of the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*) and section 211(b) of the National Energy Conservation Policy Act (NECPA), Pub. L. 95-619, 92 Stat. 3206 *et seq.* (42 U.S.C. 8211 *et seq.*), the Department of Energy (DOE) is required to publish a list of utilities to which Titles I and III of PURPA and Part 1 of Title II of NECPA apply in 1980. State regulatory authorities are required by the above cited sections of PURPA and NECPA to notify the Secretary of Energy as to their ratemaking authority over the listed utilities.

On September 24, 1979, DOE issued a notice containing a list of gas and electric utilities to which PURPA and NECPA apply in 1980 and requesting each State regulatory authority to notify DOE in writing of each utility on the list for which it has ratemaking authority (44 FR 56602, October 1, 1979). Public comments were requested on the accuracy of the list.

In response to issuance of the list, CP National Corporation (CP) submitted a comment requesting deletion from the list of covered utilities because it operates geographically separate distribution systems, none of which alone exceeds the coverage thresholds for PURPA and NECPA. In support of its request, CP cited an earlier determination by DOE to delete Citizens Utilities Company (Citizens) from the 1979 list. In response to this comment, DOE determined, after reconsideration of its determination not to include Citizens on the 1979 list, that both Citizens and CP should be included on the 1980 list.

On December 19, 1979, DOE issued the list of utilities covered by Titles I and III of PURPA and Title II of NECPA for 1980 (44 FR 76192, December 21, 1979). Since Citizens was not included on the list published with the October 1 Notice, written comments were invited with respect to DOE's determination to include Citizens on the 1980 list. Four written comments were received by DOE. In addition, on February 28, 1980, DOE held a meeting with representatives of Citizens and CP, at their request, to provide them an opportunity to clarify certain matters discussed in their written comments. The transcript of the meeting has been made part of the public record.

Following is a discussion of the comments received and DOE's response to them.

II. Discussion of Comments and DOE Response

The discussion of comments is organized according to major subjects addressed in the public comments.

A. Determination of Total Retail Sales.—Both Citizens and CP asserted in their comments that the sales of their individual operating divisions (in the case of Citizens) and distribution systems (in the case of CP), rather than company-wide sales, should be considered total retail sales for the purposes of determining inclusion on the PURPA and NECPA list.

Citizens contended that its operating divisions are so widely separated (Vermont, Idaho, Arizona and Hawaii) that, if subject to PURPA and NECPA compliance, each division would have to undertake the various statutory requirements as an independent utility, with virtually no company-wide economies. As a result, the customers served by Citizens' divisions would be burdened with large per customer costs as a result of PURPA and NECPA compliance. Further, Citizens asserted that neither PURPA NOR NECPA requires that retail sales be measured on a company-wide basis. Citizens noted that, in administering other statutes, DOE has taken into account the relevance of functional groups within a single company.

In a similar manner, CP asserted that it operates ten geographically separate and distinct electric utility distribution systems, each of which has separate operations and costs. (Although connections between systems do exist in two instances, none of the interconnected systems sells more than 59 million kilowatt-hours per year, according to CP.) It is CP's opinion that Congress did not intend to burden small separate utility systems with the cost of complying with PURPA and NECPA. CP, as did Citizens, submitted supporting data on per customer costs of compliance with the statutory requirements.

After consideration of the comments submitted by CP and Citizens and other available information, DOE has determined that, with respect to Citizens and CP, the total retail sales thresholds set by PURPA and NECPA should be determined by divisional or system-wide sales, rather than total company sales in compiling the 1980 list of covered gas and electric utilities. DOE has made this determination because Citizens and CP are comprised of divisions or systems which (1) are not interconnected and operated on a coordinated basis, and (2) are not joined for the purpose of rate filings and proceedings. In effect, each individual division or system of Citizens and CP is a "person" as that term is used in PURPA definitions of electric utility and natural gas utility and the NECPA definition of public utility.

B. Retail Sales Within a Single State.—The Arizona Corporation Commission and Peoples Natural Gas Division of Northern Natural Gas Company contended that the list of covered utilities should include only utilities which meet the threshold level of retail sales in a single State or regulatory jurisdiction. The Arizona Corporation Commission also suggested, in the alternative, that a covered utility should make at least 40 percent or a

majority of its sales within a State before that State regulatory authority is required to make PURPA considerations and determinations. It is DOE's opinion that there is no statutory basis for determining the threshold level of total retail sales with respect to a utility's activities in a single State or regulatory jurisdiction.

III. List of Electric Utilities and Gas Utilities.

The list of utilities to which Titles I and III of PURPA and Title II of NECPA apply in 1980 is that list published with the December 21, 1979, Notice, except that Citizens and CP are deleted from the list. This list is for 1980 only. The determination set forth in this Notice may be modified with respect to later lists.

It should be noted that the inclusion or exclusion of any utility on or from the list does not affect the legal obligations of such utility or the responsible State regulatory authority under PURPA and NECPA.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*); National Energy Conservation Policy Act, Pub. L. 95–619, 92 Stat. 3206 *et seq.* (42 U.S.C. 8211 *et seq.*))

Issued in Washington, D.C. on June 4, 1980.

Jerry L. Pfeffer,

Assistant Administrator for Utility Systems. Economic Regulatory Administration.

[FR Doc. 80–17588 Filed 6–10–80; 8:45 am]

BILLING CODE 6450–01–M

Reader Aids

Federal Register

Vol. 45, No. 114

Wednesday, June 11, 1980

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders and problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Index and Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Index and Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, JUNE

37175-37396.....2
37397-37680.....3
37681-37800.....4
37801-38022.....5
38023-38334.....6
38335-39236.....9
39237-39492.....10
39493-39788.....11

CFR PARTS AFFECTED DURING JUNE

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

465.....37397

3 CFR

Administrative Orders:

Presidential Determination:

No. 80-19 of May 28, 1980.....37681

Proclamations:

4762.....39237

5 CFR

213.....38023-38024

Proposed Rules:

Ch. 1.....37610
330.....39277
352.....37452
720.....38061

6 CFR

705.....37397, 38335

7 CFR

10.....37175
301.....38024
711.....37398
908.....37801, 38339
910.....37683, 38033
923.....38034
947.....37178
1004.....39239
1438.....39493
1701.....37399

Proposed Rules:

725.....39277
760.....37453
916.....38386
917.....38062, 38387
930.....38063
999.....39507
1493.....37854
1701.....37454, 38064
2842.....38064

8 CFR

207.....37392
208.....37392
209.....37392
238.....38339
245.....37392
343b.....38340

9 CFR

3.....37616
78.....38035
92.....38036

Proposed Rules:

83.....38071

10 CFR

32.....38340
73.....37399
95.....37410
140.....37410
205.....37683
212.....38038, 39240
445.....37685
500.....38276
501.....38276
502.....38276
503.....38302
505.....38302
507.....38276

Proposed Rules:

71.....39519
211.....37697
212.....37697
474.....39520

12 CFR

204.....39494
217.....37685
229.....39495
341.....37179
343.....37179
590.....38342
605.....39495
614.....39496
701.....39241
1204.....37801-37803

Proposed Rules:

618.....39507
701.....39279
1204.....38072, 38388

13 CFR

111.....39496
305.....39242

Proposed Rules:

Ch. III.....37972
Ch. V.....37972
120.....37454

14 CFR

11.....38342
21.....38342
25.....38342
29.....38342
37.....38342
39.....37179-37181, 37805-37811, 38349
71.....37811, 38352
73.....38352
91.....38342
97.....37181
121.....38342
127.....38342
135.....38342
249.....37812

Proposed Rules:

Ch. I.....38073
39.....37221, 37222, 38402
71.....37858, 38404

15 CFR

370.....37183
373.....37415
374.....37415
376.....37415
379.....37183, 37435
385.....37415
386.....37183
399.....37415

Proposed Rules:

Ch. I.....37972
Ch. II.....37972
Ch. III.....37972
Ch. VIII.....37972
Ch. XII.....37972
19.....37374
938.....39507, 39511

16 CFR

1.....39244
2.....39244
3.....39244
4.....39244
13.....37686, 38039, 38352
460.....37674
1508.....37418

Proposed Rules:

705.....37386
1405.....39434

17 CFR

240.....37687

Proposed Rules:

16.....39280
270.....38407

18 CFR

1.....38354
141.....37420, 38354
260.....37812
271.....37185
281.....39497
282.....37185
292.....38040

Proposed Rules:

281.....39283
282.....38080

19 CFR

22.....39244
54.....38040, 38355
353.....39498

20 CFR

651.....39454
653.....39454
658.....39454

Proposed Rules:

Ch. I.....37648
Ch. IV.....37648
Ch. V.....37648
Ch. VI.....37648
Ch. VII.....37648
404.....39309

21 CFR

101.....37420
102.....39247
103.....37422
146.....39251
175.....39251
177.....39252
207.....38042
510.....37424, 38048
522.....37425
558.....37424, 38048-38049
573.....38049

Proposed Rules:

310.....37455

22 CFR

41.....39499
208.....37688

Proposed Rules:

6.....37456
6f.....37456
171.....37456

24 CFR

220.....38356

Proposed Rules:

115.....37697
203.....38410

25 CFR

221.....37688

26 CFR

1.....38050
7.....38050
31.....39499

Proposed Rules:

1.....39512
48.....38411

27 CFR

Proposed Rules:

19.....38258
70.....38258
240.....38258
245.....38258
250.....38258
270.....38258, 38271
275.....38258, 38271

28 CFR

42.....37620

29 CFR

42.....39486
102.....37425

Proposed Rules:

Subtitle A.....37648
Ch. II.....37648
Ch. IV.....37648
Ch. V.....37648
Ch. XVII.....37648
Ch. XXV.....37648
1613.....38083
2550.....38084
2610.....38415

30 CFR

250.....37816-37817
715.....39443
816.....37818, 39446
817.....39446

Proposed Rules:

Ch. I.....37648
Ch. VII.....37223, 37697, 38088
55.....38087
56.....38087
57.....38087
70.....39310
71.....39310
90.....39310
716.....39448
785.....39448

31 CFR

103.....37818
535.....37679, 37688

32 CFR

536.....39253
562.....39502
888a.....39502
907.....39502

32A CFR

Proposed Rules:

Ch. VI.....37972

33 CFR

147.....37186
165.....37187

Proposed Rules:

183.....38417
235.....39412

34 CFR

5b.....37426
30.....37426
73.....37426
100.....37426
104.....37426
106.....37426

36 CFR

251.....38324
920.....38056

37 CFR

Proposed Rules:

Ch. I.....37972

38 CFR

17.....38356
36.....38056

39 CFR

111.....37426-37427

Proposed Rules:

111.....38419

40 CFR

52.....39503
62.....37431
80.....37197
81.....39255
180.....39257, 39503
418.....37198
423.....37432
426.....37198
432.....37198

Proposed Rules:

51.....37466
52.....37224, 37699, 38419, 39310
60.....39766
80.....37225
86.....38422
162.....38087, 39311
180.....37700

41 CFR

Ch. 1.....39504
Ch. 14.....39504
Ch. 101.....37199, 37432
3-4.....37693
101-11.....37433
101-17.....37199
101-18.....37199
101-19.....37199
101-45.....37693, 38369
105-61.....39258

42 CFR

59.....37433

Proposed Rules:

405.....37858
441.....37858
447.....37466

43 CFR

2710.....39416
2730.....39416
2750.....39416
2760.....39416

Public Land Orders:

5726.....37438
5727.....37439
5728.....37837
5729.....38369

44 CFR

64.....37207
65.....37442, 37694, 39258
67.....37208-37209
70.....38370-38379
205.....37440

Proposed Rules:

67.....37226, 37227, 37861, 39312-39315

45 CFR

74.....37666, 38380
100c.....37442
1211.....39270

Proposed Rules:

63.....37700
100b.....39708
116.....39712
116a.....39712
1050.....37867
1336.....39316

46 CFR

66.....38384
283.....37442
527.....37694
536.....38057

Proposed Rules:

Ch. II.....37972
Ch. IV.....37703

47 CFR

73.....37210, 37838, 38057
74.....37839

Proposed Rules:

2.....37237
22.....37237
68.....37704
73.....37238-37246, 37468 37868-37869
90.....37237

49 CFR

450.....37212
451.....37212
452.....37212
453.....37212
571.....38380
800.....37842
1033.....37219, 37220, 37843-37845, 38057-38059, 38382, 39275

1041 37218
Proposed Rules:
Ch. X 39316, 39317
71 38423
575 37870
1100 39317
1056 39519
1320 39519
1321 39519
1322 39519
1323 39519
1324 39519

50 CFR

20 37847
230 37451
255 37852
260 39275
611 37695
Proposed Rules:
Ch. II 37972
Ch. VI 37972
91 39317
661 37870

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

REMINDERS

The "reminders" below identify documents that appeared in issues of the **Federal Register** 15 days or more ago. Inclusion or exclusion from this list has no legal significance.

Rules Going Into Effect Today

ENERGY DEPARTMENT

Federal Energy Regulatory Commission—

31294 5–13–80 / Rate schedules; limits on percentage address in electric rates for transmission services

ENVIRONMENTAL PROTECTION AGENCY

30626 5–9–80 / Approved of revisions to the California State Implementation Plan

30630 5–9–80 / Trade-mounted solid waste compactors; technical amendments to noise emission control provisions

Deadlines for Comments on Proposed Rules for the Week of June 15 through June 21, 1980.

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

26340 4–18–80 / Cotton sampling regulations; comments by 6–17–80

24167 4–9–80 / Filbert imports; amendment to regulation; comments by 6–16–80

Animal and Plant Health Inspection Service—

26342 4–18–80 / Requirements for importation of horses; comments by 6–17–80

Foreign Agricultural Service—

33640 5–20–80 / Dairy products; "pricebreak" system elimination, quota shares allocation; comments by 6–20–80

CIVIL AERONAUTICS BOARD

26084 4–17–80 / Foreign charter operations; deregulation; comments by 6–16–80

31411 5–13–80 / New pre-filing tariff approval procedures for all U.S. certificated air carriers in domestic transportation so that fare reductions can be implemented within one day; comments by 6–19–80

25817 4–16–80 / Prescribed airline counter and ticket notices; comments by 6–16–80

26083 4–17–80 / Prorata and single entity charters; travel agent commissions and other matters; comments by 6–16–80

28342 4–29–80 / Revision and simplification of prescribed airline counter and ticket notices; comments by 6–16–80

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

25815 4–16–80 / Commercial tanner crab fishery off the Coast of Alaska amendment to Fishery Management Plan and final regulations; comments by 6–19–80

COMMUNITY SERVICES ADMINISTRATION

26102 4–17–80 / Rural Development Loan Fund Program; governing policies, comments by 6–16–80

EDUCATION DEPARTMENT

[*See* Health, Education, and Welfare Department]

ENERGY DEPARTMENT

Federal Energy Regulatory Commission—

31418 5–13–80 / Natural gas; interim, retroative and refund filing requirements; comments by 6–16–80

34264 5–22–80 / Transportation certificate for natural gas for the displacement of fuel oil; comments by 6–16–80

ENVIRONMENTAL PROTECTION AGENCY

32333 5–16–80 / Amendments to Youngstown, Ohio State Implementation plan; results of review; comments by 6–16–80

29589 5–5–80 / National Pollutant Discharge Elimination System Best Management Practices Guidance Document; comments by 6–19–80

[*See also* 44 FR 32955, 6–7–79; 44 FR 47063, 8–10–79, and 45 FR 17997, 3–20–80]

33656 5–20–80 / Pennsylvania nonattainment area plan; comments by 6–19–80

26373 4–18–80 / Pesticide programs; "good laboratory practices" guidelines; comments by 6–17–80

26721 4–21–80 / Petroleum refining point source category effluent limitations guidelines, pretreatment standards and new source performance standards; comments by 6–19–80

32338 5–16–80 / Proposed exemption from requirement of a tolerance for 2, 2, 5-Trimethyl-3-Dichloroacetyl-1,3-Oxazolidine; comments by 6–16–80

34018 5–21–80 / Proposed revision of the Virginia State implementation plan; comments by 6–20–80

26910 4–21–80 / Review of standards of performance for new stationary sources; electric arc furnaces (steel industry); comments by 6–20–80

32337 5–16–80 / Review of revisions to Vermont State Implementation Plan; comments by 6–16–80

26304 4–17–80 / Secondary lead smelters; review of standards of performance for new stationary sources; comments by 6–16–80

26934 4–21–80 / Women's Business Enterprise Participation in EPA's Construction Grants Program; intent to issue policy guidance; comments by 6–20–80

FEDERAL COMMUNICATIONS COMMISSION

28779 4–30–80 / FM broadcast stations in Alameda and Albuquerque, N. Mex.; proposed changes in table of assignments; comments by 6–16–80

24213 4–9–80 / FM broadcast station in Allendale, S.C.; proposed changes in table of assignments; reply comments by 6–16–80

37466 6–3–80 / FM Broadcast Station in Ashland, Oreg.; comments by 6–20–80

[*See also* 45 FR 23483, 4–7–80]

28771 4–30–80 / FM broadcast station in Eagle, Colo.; proposed changes in table of assignments; comments by 6–16–80

28777 4–30–80 / FM broadcast station in Falmouth, Mass.; proposed changes in table of assignments; comments by 6–16–80

28768 4–30–80 / FM broadcast stations in Lewisburg and Roncevert, W. Va.; proposed changes in table of assignments; comments by 6–16–80

24214 4–9–80 / FM broadcast station in Memphis, Mo.; proposed changes in table of assignments; reply comments by 6–16–80

29870 5–6–80 / FM broadcast station in Quincy, Calif.; proposed changes in table of assignments; comments by 6–16–80

28769 4–30–80 / FM broadcast stations in Rohnert Park and Sebastopol, Calif.; proposed changes in table of assignments; comments by 6–16–80

29871 5–6–80 / FM broadcast station in Stephenville, Tex.; proposed changes in table of assignments; comments by 6–16–80

29323 5–2–80 / Frequency allocation to the Instructional TV Fixed Service; Multipoint Distribution Service and private Operational fixed Microwave Service; comments by 6–16–80

28770 4–30–80 / Television broadcast stations in Santa Barbara, Calif.; proposed changes in table of assignment; comments by 6–16–80

FEDERAL RESERVE SYSTEM

33644 5–20–80 / Increased tolerance for annual percentage rates in irregular mortgage transactions; comments by 6–20–80

30081 5–7–80 / International banking operations; additional investments under general consent procedures; comments by 6–16–80

FEDERAL TRADE COMMISSION

26344 4–18–80 / Dancer-Fitzgerald—Sample, Inc.; consent agreement with analysis to aid public comment; comments by 6–20–80

HEALTH AND HUMAN SERVICES DEPARTMENT

See Health, Education, and Welfare Department]

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

17159 3–18–80 / Nitrates and nitrites in poultry products; proposed declaration that no prior sanction exists; comments by 6–18–80

Social Security Administration—

26719 4–21–80 / Supplemental security income for the aged, blind, and disabled; interim assistance provisions; comments by 6–20–80

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Community Planning and Development Office of the Secretary—

26981 4–22–80 / Comprehensive Planning and Assistance; Work-Study Program; rulemaking procedure; comments by 6–20–80

Neighborhoods, Voluntary Associations and Consumer Protection, Office of Assistant Secretary—

26908 4–21–80 / Mobile home construction and safety standards; comments by 6–20–80

INTERIOR DEPARTMENT

Geological Survey

29309 5–2–80 / Air quality provisions relating to oil and gas and sulfur operations in the Outer Continental Shelf; comment period extended to 6–20–80

[*See also* 45 FR 15147, Mar. 7, 1980]

Land Management Bureau—

27456 4–23–80 / Surface management and mining claims located on the public lands; comments extended to 6–16–80

[*See also* 45 FR 13597, 3–3–80]

27456 4–23–80 / Surface management of public lands under the U.S. Mining Laws; Draft environmental impact statement; comments extended to 6–16–80

[*See also* 45 FR 13788, 3–3–80 and 45 FR 28380, 4–29–80]

Surface Mining Reclamation and Enforcement Office—

32328 5–16–80 / Intent to develop Federal programs on surface coal mining reclamation and enforcement; comments by 6–16–80

INTERSTATE COMMERCE COMMISSION

29104 5–1–80 / Passes and free transportation for railroads, water carriers and motor carriers; elimination of regulation; comments by 6–16–80

LABOR DEPARTMENT

Pension and Welfare Benefit Programs Office—

25404 4–15–80 / Alternative method of compliance with reporting and disclosure requirements of Part 1 of Title 1 of the Employee Retirement Income Security Act of 1974 for certain simplified employee pensions; comments by 6–15–80

NATIONAL CREDIT UNION ADMINISTRATION

26073 4–17–80 / Classification of loans; deregulation; comments by 6–16–80

NUCLEAR REGULATORY COMMISSION

26071 4–17–80 / Metropolitan Area Planning Agency, Citizens Advisory Board; petition for rulemaking; comments by 6–16–80

26072 4–17–80 / Nuclear power operations; environmental radiation protection standards; comments by 6–16–80

18023 3–20–80 / Standards for protection against radiation; comments by 6–18–80

SECURITIES AND EXCHANGE PROGRAM

33650 5–20–80 / Ratio of earnings to fixed charges; concept release; comments by 6–15–80

TRANSPORTATION DEPARTMENT

Coast Guard—

29594 5–5–80 / Reynolds Channel, N.Y., drawbridge operation regulations; comments by 6–19–80

29593 5–5–80 / Shelburne Bay, Vt., special anchorage area; comments by 6–19–80

29593 5–5–80 / St. Croix River, Wis. and Minn.; drawbridge operation regulations; comments by 6–19–80

29087 5–1–80 / Tank vessels transferring Outer Continental Shelf oil; design and equipment standards; comments by 6–16–80

Federal Aviation Administration—

27775 4–24–80 / Crewmember clothing; flammability standards; comments by 6–16–80

Federal Highway Administration—

26280 4–17–80 / Accommodation of utilities; comments by 6–16–80

National Highway Traffic Safety Administration—

29102 5–1–80 / Federal motor vehicle safety standards; seat belt assemblies; comments by 6–16–80

Research and Special Programs Administration—

25083 4–14–80 / Shipment of hazardous materials; comments by 6–15–80

Urban Mass Transportation Administration—

32699 5–19–80 / Public hearing requirements for service and fare changes; comments by 6–20–80

Deadlines for Comments on Proposed Rules for the Week of June 22 through June 28, 1980

AGRICULTURE DEPARTMENT

Agriculture Marketing Service—

38063 6–6–80 / Cherries; proposed revision of diversion fees; comments by 6–23–80

38062 6–6–80 / Fresh California peaches; proposed extension of grade and size requirements; comments by 6–23–80

Commodity Credit Corporation—

28148 4–28–80 / Determinations and regulations for 1980 crop peanuts adjusting loan and purchase rates for quota and additional peanuts for differences in type, quality, location, and other factors; comments by 6–24–80

Farmers Home Administration—

35782 5–27–80 / Economic emergency loans; comments by 6–26–80

27453 4–23–80 / Servicing and collections account servicing policies; comments by 6–23–80

Rural Electrification Administration—

34898 5–23–80 / Specification for plastic-insulated ground wires; comments by 6–23–80

CIVIL AERONAUTICS BOARD

26976 4–22–80 / Provision for "no-smoking" areas aboard air carriers; comments by 6–23–80

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

36460 5–30–80 / Foreign fishing regulations; fees; comments by 6–27–80

ENERGY DEPARTMENT

35788 5–27–80 / Emergency building temperature restrictions; comments by 6–26–80

35764 5–27–80 / Privacy Act; records maintained on individuals; comments by 6–26–80

Federal Energy Regulatory Commission—

28345 4–29–80 / Advance payment regulations under Natural Gas Policy Act of 1978; comments by 6–23–80

28162 4–28–80 / Public Utility Regulatory Policies Act; electric energy or capacity, shortages; reporting requirements and contingency plans (section 206); comments by 6–23–80

36094 5–29–80 / Revision of Commission's rules on *ex parte* and separation of functions; comments by 6–27–80

ENVIRONMENTAL PROTECTION AGENCY

35841 5–28–80 / Arizona State Implementation Plan; Maricopa County Urban Planning Area Nonattainment Plan for Total Suspended Particulates; comments by 6–27–80

30089 5–7–80 / Indiana State implementation plan; comments extended to 6–27–80

[Originally published at 45 FR 20432, 3–27–80]

27366 4–22–80 / Interim cleanup standards for inactive uranium processing sites; comments by 6–23–80

34917 5–23–80 / Ohio implementation plan emergency episode revision; comments by 6–23–80

34921 5–23–80 / Proposed approval of revisions to State of Oregon's program for regulating open burning of grass and seed fields; comments by 6–23–80

27370 4–22–80 / Proposed cleanup standards for inactive uranium processing sites; comments by 6–23–80

FEDERAL COMMUNICATIONS COMMISSION

28780 4–30–80 / Adding frequency channelling requirements and restrictions and to require monitoring for signal leakage from cable television systems; comments extended to 6–25–80

[*See also* 45 FR 19578, 3–26–80]

32025 5–15–80 / Domestic public land mobile radio service; one-way signaling on the 35 MHz frequency band; reply comments by 6–27–80

25414 4–15–80 / FM Broadcast assignment to Elkins, W. Va.; comments by 6–24–80

29876 5–6–80 / FM Broadcast Station in Bullhead City, Ariz.; Proposed changes in table of assignments; comments by 6–23–80

31139 5–12–80 / FM Broadcast Stations in Carson City, Garderville-Minden and Sparks, Nev.; reply comments by 6–27–80

[*See also* 45 FR 16217, 3–13–80]

31139 5–12–80 / FM Brodcast Stations in Chilton, Clintonville, and Manitowac, Wis.; reply comments by 6–26–80

[*See also* 45 FR 17598, 3–19–80

30094 5–7–80 / FM Broadcast Station in Lawton, Okla.; Proposed changes in table of assignments; comments by 6–24–80

29868 5–6–80 / FM Broadcast Station in Missoula, Mont.; Proposed changes in table of assignments; comments by 6–23–80

30656 5–9–80 / FM Broadcast Station in Pecos, N. Mex.; changes in table of assignments; comments by 6–24–80

30656 5–9–80 / FM Broadcast Stations in Santa Fe, N. Mex.; changes in table of assignments; comments by 6–24–80

29865 5–6–80 / FM Broadcast Stations in Springdale, Ark. and Washburn, Mo.; Proposed changes in table of assignments; comments by 6–23–80

29872 5–6–80 / FM Broadcast Station in West Salem, Wis.; Proposed changes in table of assignments; comments by 6–23–80

33657 5–20–80 / Regulatory policies concerning resale and shared use of common carrier international communcations services; comments by 6–23–80

35818 5–28–80 / Small Market Exemption; ascertainment of community problems by broadcast applicants; comments by 6–25–80

FEDERAL TRADE COMMISSION

27777 4–24–80 / Bob Rice Ford, Inc., et al.; consent agreement with analysis to aid public comment; comments by 6–23–80

28154 4–28–80 / Chrysler Corp.; consent agreement with analysis to aid public consent; comments by 6–27–80

27949 4–25–80 / Clinigue Laboratories, Inc.; consent agreement with analysis to aid public comment; comments by 6–24–80

28158 4–28–80 / Genstar Ltd.; consent agreement with analysis to aid public comments; comments by 6–27–80

HEALTH AND HUMAN SERVICES DEPARTMENT

[*See also* Health, Education, and Welfare Department]
Office of the Secretary—

35359 5–27–80 / Refugee Resettlement Program; Plan and Reporting Requirements for States; comments by 6–26–80

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

[*See also* Health and Human Services Department]
Education Office—

28288 4–28–80 / Vocational education; handicapped and disadvantaged national priority programs, data collection and matching requirements; comments by 6–27–80

Food and Drug Administration—

20666 3–28–80 / Establishment of monograph on anticaries drug products for over-the-counter human use, comments by 6–26–80

27204 4–22–80 / Microbiology and immunology devices; general rules applicable to classification (161 documents); comments by 6–23–80

Social Security Administration—

27783 4–24–80 / Supplemental Security Income; referral of eligible persons to other agencies; comments by 6–23–80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

19007 3–24–80 / Proposed threatened status for the Leopard in Sub-Saharan Africa; comments by 6–24–80

National Park Service—

34759 5–22–80 / Mount McKinley National Park; mining climbing and vehicle regulations; comments by 6–23–80

Surface Mining Reclamation and Enforcement Office—

37697 6–4–80 / Wyoming permanent regulatory program; resubmission; comments by 6–24–80

INTERSTATE COMMERCE COMMISSION

34316 5–22–80 / Commercial zones and terminal areas; Tacoma, Wash.; comments by 6–23–80

30659 5–9–80 / Elimination of requirement that railroads file BV Form 588; comments by 6–23–80

31140 5–12–80 / Operational practices of property brokers; comments by 6–26–80

LABOR DEPARTMENT

Employment Standards Administration—

34877 5–23–80 / Labor standards for Federal Service contracts; comment period extended to 6–26–80

[*See also* 44 FR 77036, Dec. 28, 1979]

NATIONAL CREDIT UNION ADMINISTRATION

35346 5–27–80 / Premiums, Finders Fees and the Payment of Dividends in merchandise; comments by 6–23–80

NUCLEAR REGULATORY COMMISSION

31118 5–12–80 / Certification of personnel dosimetry processors; comments extended to 6–27–80

[*See also* 45 FR 20493, 3–28–80]

26973 4–22–80 / Liability insurance for licensed operators of large commercial nuclear power plants; petition for rulemaking; comments by 6–23–80

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

34752 5–22–80 / General guidelines and uniform standards for urban planning and design of development within the Pennsylvania Avenue development area; comments by 6–23–80

[Comment period extended at 45 FR 38056, 6–6–80]

POSTAL RATE COMMISSION

34309 5–22–80 / Annual review of regulations; comments by 6–23–80

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

25355 4–14–80 / Aircraft Operating Noise Limits; Proposed Requirements for Compliance With Part 36 Noise Limits for Certain Turbojet Airplanes Engaged in Domestic or Foreign Air Commerce in the United States; comments by 6–28–80

25350 4–14–80 / SFAR 27—Fuel Venting and Exhaust Emission Requirements for Turbine Engine Powered Airplanes; Proposed Amendment to Ensure Compliance with EPA Smoke Emissions Standards for in-Use JT3D Engines; comments by 6–28–80

National Highway Traffic Safety Administration—

35408 5–27–80 / Consumer Information Regulations, Uniform Tire Quality Grading; comments by 6–26–80

35403 5–27–80 / Light Truck Average Fuel Economy Standards; comments by 6–26–80

TREASURY DEPARTMENT

Alcohol, Tobacco, and Firearms Bureau—

26982 4–22–80 / Sales of firearms by licensees at organized gun shows; comments by 6–23–80

Internal Revenue Service—

18957 3–23–80 / Income tax; treatment of certain interests in corporations as stock or indebtedness; comments by 6–23–80

Next Weeks Meetings

AGING, FEDERAL COUNCIL

35424 5–27–80 / Meeting, Washington, D.C. (open); 6–16 and 6–17–80

AGRICULTURE DEPARTMENT

Forest Service—

32032 5–15–80 / Lincoln National Forest Grazing Advisory Board, Mayhill, N. Mex. (open), 6–17–80

ALCOHOL FUELS, NATIONAL COMMISSION

37785 6–4–80 / Issues affecting near term production of alcohol fuels in U.S., Washington, D.C. (open), 6–18–80

ARTS AND HUMANITIES, NATIONAL FOUNDATION

36567 5–30–80 / Expansion Arts Panel, Washington, D.C. (partially open), 6–17 through 6–19–80

31241 5–12–80 / Humanities Panel, Wash., D.C. (closed), 6–16–80

36231 5–29–80 / Humanities Panel, Washington, D.C. (closed), 6–16 through 6–20–80

35455 5–27–80 / Media Arts Panel (Media Art Centers), Washington, DC (closed), 6–16 and 6–17–80

37311 6–2–80 / Museum Panel, Washington, D.C. (partially open), 6–17 and 6–18–80

CIVIL RIGHTS COMMISSION

37715 6–4–80 / Colorado Advisory Committee, Denver, Colo. (open), 6–19–80

36102 5–29–80 / Delaware Advisory Committee, New Castle, Del. (open), 6–17–80

35413 5–27–80 / Indiana Advisory Committee, Indianapolis, Ind. (open), 6–19 and 6–20–80

[Changed at 45 37715, 6–4–80]

34320 5–22–80 / New York Advisory Committee, New York, N.Y. (open), 6–19–80

[*See also* 45 FR 31148, 5–12–80]

COMMERCE DEPARTMENT

International Trade Administration—

36105 5–29–80 / Computer Systems Technical Advisory Committee, Foreign Availability Subcommittee, Washington, D.C. (partially open), 6–18–80

36105 5–29–80 / Computer Systems Technical Advisory Committee, Hardware Subcommittee, Washington, D.C. (closed), 6–17–80

36106 5–29–80 / Computer Systems Technical Advisory Committee, Licensing Procedures Subcommittee, Washington, D.C. (open), 6–18–80

36105 5–29–80 / President's Export Council, East-West Trade Subcommittee, Washington, D.C. (open), 6–16–80

37249 6–2–80 / Subgroup of the Subcommittee on Export Administration of the President's Export Council, Washington, D.C. (closed), 6–17–80

National Oceanic and Atmospheric Administration—

36466 5–30–80 / Gulf of Mexico Fishery Management Council's Scientific and Statistical Committee, Tampa, Fla. (open), 6–19 and 6–20–80

33676 5–20–80 / Inter-Council Billfish Steering Committee, Atlanta, Ga. (open), 6–16 through 6–18–80

37250 6–2–80 / New England Fishery Management Council's Scientific and Statistical Committee, West Boothbay Harbor, Maine (open), 6–18–80

DEFENSE COMMUNICATIONS AGENCY

34033 5–21–80 / Scientific Advisory Group, Arlington, Va. (closed), 6–19 and 6–20–80

DEPARTMENT OF DEFENSE

Office of the Secretary—

34340 5–22–80 / Cruise Missiles Task Force, Offutt Air Force Base, Nebraska (closed), 6–18 and 6–19–80

27973 4–25–80 / DOD Wage Committee, Washington, D.C. (closed), 6–17–80

32363 5–16–80 / Defense Science Board Task Force on Acquisition Policy, Arlington, Va. (closed), 6–18 and 6–19–80

EDUCATION DEPARTMENT

34340 5–22–80 / Adult Education National Advisory Council, Washington, D.C. (open), 6–18 through 6–21–80

36467 5–30–80 / Women's Educational Programs, National Advisory Council, Washington, D.C. (open), 6–16 through 6–18–80

36468 5–30–80 / Women's Educational Programs National Advisory Council and the Vocational Education National Advisory Council, Washington, D.C. (open), 6–16–80

Assistant Secretary for Postsecondary Education—

334340 5–22–80 / Black Higher Education and Black Colleges and Universities, Washington, D. C. (open), 6–19 and 6–20–80

FEDERAL COMMUNICATIONS COMMISSION

35910 5–28–80 / Radio Technical Commission for Marine Services, Executive Committee, Washington, D.C. (open), 6–19–80

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

31492 5–13–80 / Meeting, Washington, D.C. (open), 6–19–80

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service—

35423 5–27–80 / National Archives and Records Service Advisory Committee on Preservation, Washington, D.C. (open), 6–19 and 6–20–80

HEALTH AND HUMAN SERVICES DEPARTMENT

Alcohol, Drug Abuse, and Mental Health Administration—

34427 5–22–80 / Alcohol Abuse Prevention Review Committee, Silver Spring, Md. (open), 6–16 through 6–18–80

34427 5–22–80 / Community Alcoholism Services Review Committee, Rockville, Md. (open), 6–18 through 6–23–80

34427 5–22–80 / Life Course Review Committee, Bethesda, Md. (open), 6–18 through 6–20–80

34427 5–22–80 / Mental Health Services Manpower Development Review committee, Rockville, Md. (open), 6–16 and 6–17–80

34427 5–22–80 / Mental Health Small Grant Review Committee, Washington, D.C. (open), 6–19 through 6–21–80

35423 5–27–80 / Minority Advisory committee, ADAMHA, Rockville, Md. (open), 6–18 through 6–20–80

35424 5–27–80 / Rape Prevention and Control Advisory Committee, Rockville, Md. (open), 6–19 and 6–20–80

36523 5–30–80 / Research Scientist Development Review Committee, Berkeley Springs, W.Va. (partially open), 6–18 through 6–20–80

National Institutes of Health—

30697 5–9–80 / Cause and Prevention Scientific Review Committee, Bethesda, Md. (partially open), 6–19 and 6–20–80

32781 5–19–80 / Division of Research Grants, various study sections (partially open), 6–16 thru 6–20–80

28504 4–29–80 / National Institute of Dental Research Special Grants Review Committee, Bethesda, Md. (partially open), 6–18–80

28502 5–29–80 / Pharmacology-Toxicology Review Committee, Bethesda, Md. (partially open), 6–19–80 and (closed) 6–20–80

Office of the Assistant Secretary for Health—

34068 5–21–80 / Health Service Research Review Subcommittee, Washington, D.C. (partially open), 6–19 and 6–20–80

Office of the Secretry—

36169 5–29–80 / White House Conference on Families, Minneapolis, Minn. (open), 6–19 through 6–21–80

IMMIGRATION AND REFUGEE POLICY, SELECT COMMISSION

36575 5–30–80 / Reform of the Immigration and Nationality Act, Washington, D.C. (open), 6–18–80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

36038 5–28–80 / Coachella Valley fringe-toed lizard, reproposal of critical habitat, Palm Springs, Calif. (open), 6–20–80

Land Management Bureau—

31803 5–14–80 / Arizona, Phoenix District, Kingman Resource Area Grazing Advisory Board, Kingman, Ariz. (open), 6–17–80

30550 5–8–80 / Grand Junction District, Grazing Advisory Board, Silt, Colo. (open), 6–18–80

35018 5–23–80 / Salt Lake District Grazing Advisory Board, Randloph, Utah (open), 6–18 and 6–19–80

34429 5–22–80 / Unita–South–Western Utah Regional Coal Team, Salt Lake City, Utah, (open), 6–17–80

National Park Service—

37535 6–3–80 / Cuyahoga Valley National Recreation Area Advisory Commission, Peninsula, Ohio (open), 6–19–80

37535 6–3–80 / Indiana Dunes National Lakeshore Advisory Commission, Beverly Shores, Indiana (open) 6–20–80

36181 5–29–80 / San Antonio Missions Advisory Commission, San Antionio, Tex. (open), 6–17–80

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development—

25972 4–16–80 / Research Advisory Committee, Washington, D.C. (open), 6–17 and 6–18–80

JUSTICE DEPARTMENT

37311 6–2–80 / Seventh Circuit Panel of the United States Circuit Judge Nominating Commission, Chicago, Illinois (open), 6–18–80

31835 5–14–80 / United States Circuit Judge Nominating Commission, Second Circuit Panel, New York, N.Y. (closed), 6–19 and 6–20–80

LABOR DEPARTMENT

37568 6–3–80 / Steel Tripartite Advisory Committee, Washington, D.C. (closed), 6–18–80

METRIC BOARD

35967 5–28–80 / Budget meeting, Washington, D.C. (open), 6–19 and 6–20–80

35947 5–28–80 / Public forum, Seattle, Wash. (open), 6–19–80

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

35948 5–28–80 / Aeronautics Advisory Committee, Hampton, Va. (open), 6–16 and 6–17–80

NATIONAL SCIENCE FOUNDATION

36567 5–30–80 / Advisory Council Steering Committee, Washington, D.C. (open), 6–17–80

36568 5–30–80 / Engineering and Applied Science Advisory Committee, Washington, D.C. (open), 6–16–80

36568 5–30–80 / Ocean Sciences Advisory Committee, Ad Hoc Subcommittee for Review of Warm Core Rings, Washington, D.C. (closed), 6–19 and 6–20–80

33748 5–20–80 / Ocean Sciences Advisory Committee, Ad Hoc Subcommittee on Ocean Acoustic Tomography Project, Washington, D.C. (closed), 6–17 and 6–18–80

NUCLEAR REGULATORY COMMISSION

36568 5–30–80 / Reactor Safeguards Advisory Committee, General Electric Test Reactor Subcommittee, Sunol, Calif. (partially open), 6–16 and 6–17–80

37311 6–2–80 / Reactor Safeguards Advisory Committee, Subcommittee on Metal Components, Washington, D.C. (open), 6–17 and 6–18–80

OCEANS AND ATMOSPHERE, NATIONAL ADVISORY COMMITTEE

37799 6–4–80 / Meeting, Washington, D.C. (partially closed), 6–19 and 6–20–80

PRESIDENT'S EXPORT COUNCIL

34948 5–23–80 / Executive Committee, Washington, D.C. (open), 6–17–80

SMALL BUSINESS ADMINISTRATION

29654 5–5–80 / Region IV Advisory Council Executive Board, Atlanta, Ga. (open), 6–18–80

30200 5–7–80 / Region VI Advisory Council Executive Board Meeting, Dallas, TX., (open) 6–19–80

STATE DEPARTMENT

34492 5–22–80 / International Radio Consultative Committee, Washington, D.C. (open), 6–17–80

32155 5–15–80 / Overseas Schools Advisory Council, Washington, D.C. (open), 6–17–80

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

34493 5–22–80 / Aeronautics Radio Technical Commission, (open), 6–19 and 6–20–80

29654 5–5–80 / Special Aviation Fire and Explosion Reduction (SAFER) Advisory Committee and Technical Groups, Atlantic City, N.J. (open), 6–19 and 6–20–80

Federal Railroad Administration—

37323 6–2–80 / Minority Business Resource Center Advisory Committee, Washington, D.C. (open), 6–17–80

National Highway Traffic Safety Administration—

35458 5–27–80 / National Highways Safety Advisory Committee, Washington, D.C. (open), 6–17 through 6–19–80

Research and Special Programs Administration—

36254 5–29–80 / Technical Pipeline Safety Standards Committee, Washington, D.C. (open), 6–17 through 6–20–80

UNEMPLOYMENT COMPENSATION, NATIONAL COMMISSION

35948 5–28–80 / Meeting, Washington, D.C., 6–16 and 6–17–80

VETERANS ADMINISTRATION

32828 5–19–80 / Station Committee on Educational Allowances, Portland, Oregon (open), 6–18–80

Next Week's Public Hearings

ALCOHOL FUELS, NATIONAL COMMISSION

37785 6–4–80 / Issues affecting near term production of alcohol fuels in U.S., Washington, D.C., 6–19–80

CIVIL RIGHTS COMMISSION

32359 5–16–80 / Hearings to collect information on response of legal system to needs of women victims of domestic violence, Harrisburg, Penn., beginning 6–17–80

COMMERCE DEPARTMENT

International Trade Administration—

34320 5–22–80 / Certain Fasteners from India, Washington, D.C., 6–16–80

[*See also* 45 FR 28786, 4–30–80]

National Oceanic and Atmospheric Administration—

37252 6–2–80 / Draft Environmental Impact on Looe Key National Marine Sanctuary, Miami, Key West, Big Pine Key, Fla. (open), 6–17 and 6–18–80

33649 5–20–80 / Looe Key, Fla. Marine Sanctuary designation; Miami, Fla., 6–17–80; Key West, Fla., 6–18–80; Big Pine Key, Fla., 6–18–80

ENERGY DEPARTMENT

Bonneville Power Administration—

32752 5–19–80 / Public Utility Regulatory Policies Act, Portland, Oregon, 6–18–80

Economic Regulatory Administration—

29234 5–1–80 / Voluntary guideline for automatic adjustment clauses standard under Public Utility Regulatory Policies Act of 1978, Washington, D.C., 6–19–80

Federal Energy Regulatory Commission—

34264 5–22–80 / Transportation certificate for natural gas for the displacement of fuel oil, Washington, D.C., 6–16–80

INTERIOR DEPARTMENT

Fish and Wildlife Service—

13630 2–29–80 / Proceeding on early season 1980–81 migratory game bird hunting regulations, Washington, D.C., 6–20–80

Land Management Bureau—

30703 5–9–80 / Hearings on proposed OCS oil and gas lease sale No. 53, various cities in California, 6–16, 6–18 and 6–20–80

Surface Mining Reclamation and Enforcement Office—

37223 6–2–80 / Resubmitted Mississippi Permanent Regulatory Program, Meridian, Miss., 6–17–80

37697 6–4–80 / Wyoming permanent regulatory program; resubmission, Cheyenne, Wyo., 6–19–80

Water and Power Resources Services—

33738 5–20–80 / Auburn Dam, seismicity and dam safety, Central Valley Project, Calif., Sacramento, Calif., 6–18–80

LIBRARY OF CONGRESS

Copyright Office—

27588 4–23–80 / Report of the Register of Copyrights on the Rights of Creators and the needs of users of works reproduced by certain libraries and archives, Wash., D.C., 6–20–80

List of Public Laws

Last Listing June 10, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

H.R. 7428 / Pub. L. 96-264 To extend the present public debt limit through June 30, 1980. (Passed over veto—June 6, 1980; 94 Stat. 439) Price: $1.00.

H.R. 3236 / Pub. L. 96-265 Social Security Disability Amendments of 1980. (June 9, 1980; 94 Stat. 441) Price: $2.25.

H.J. Res. 445 / Pub. L. 96-266 To provide for designation of the week of September 21-27, 1980, as "National Cystic Fibrosis Week". (June 9, 1980; 94 Stat. 482) Price: $1.00.

H.R. 6727 / Pub. L. 96-267 To establish the Bon Secour National Wildlife Refuge. (June 9, 1980; 94 Stat. 483) Price: $1.00.

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the **Federal Register** during the previous week.

DEADLINES FOR COMMENTS ON PROPOSED RULES

37700 6-4-80 / HHS/Sec'y—Grant programs administered by the Office of Assistant Secretary for Planning and Evaluation; technical revision to regulations; comments by 7-21-80

APPLICATIONS DEADLINES

38097 6-6-80 / Commerce/MBDA—Financial assistance for Gary Business Development Center; application closing date changed from 9-1-80 to 7-15-80

37715 6-4-80 / Commerce/MBDA—Michigan; financial assistance application announcement; apply by 8-1-80

37530 6-3-80 / HHS/HDSO—Advocacy model program Demonstration Grants funds; apply by 8-4-80

37914 6-5-80 / Justice/BJS—Program JS-1: Solicitation regarding a grant and cooperative agreement program to establish State-level capability for statistical analysis in criminal justice; apply by 5-31-81

37914 6-5-80 / Justice/BJS—Program JS-2: Solicitation regarding a cooperative agreement program to provide State and local governments with access to Federal information resources in criminal justice; apply by 5-31-81

37915 6-5-80 / Justice/BJS—Program JS-3: Solicitation regarding a cooperative agreement program to collect State-level offender based transaction statistics (OBTS) data; apply by 5-31-81

37915 6-5-80 / Justice/BJS—Program JS-4: Solicitation regarding a cooperative agreement program to collect Statewide data on audit probation; apply by 5-31-81

37915 6-5-80 / Justice/BJS—Program JS-5: Solicitation regarding a competitive cooperative agreement program to develop statistical techniques and methods for the analysis of specific topics in criminal justice; apply by 5-31-81

37916 6-5-80 / Justice/BJS—Program JS-6: Solicitation regarding a competitive cooperative agreement program to investigate issues in criminal justice for future multistate statistical programs; apply by 5-31-81

MEETINGS

37302 6-2-8 / HHS/NIH—General Clinical Research Centers Committee, Bethesda, Md. (partially open), 6-29 through 7-1-80

37311 6-2-80 / NFAH—Museum Panel, Wash., D.C. (partially open), 6-17 and 6-18-80

OTHER ITEMS OF INTEREST

37568 6-3-80 / LSC—Announcement of consideration of grant application submitted by legal services organization

Slip Laws

Subscriptions Now Being Accepted

96th Congress, 1st Session, 1979

Separate prints of Public Laws, published immediately after enactment, with marginal annotations, legislative history references, and future Statutes volume page numbers.

Subscription Price: **$130.00 per session**

(Individual laws also may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Prices vary. See Reminder Section of the Federal Register for announcements of newly enacted laws and prices).

SUBSCRIPTION ORDER FORM
ENTER MY SUBSCRIPTION TO: PUBLIC LAWS. [PULA-File Code 1L]

☐ $130.00 Domestic; ☐ $162.50 Foreign.

PLEASE PRINT OR TYPE

NAME—FIRST, LAST

COMPANY NAME OR ADDITIONAL ADDRESS LINE

STREET ADDRESS

CITY | STATE | ZIP CODE

(or) COUNTRY

MAIL ORDER FORM TO:
Superintendent of Documents
Government Printing Office
Washington, D.C. 20402

☐ Remittance Enclosed (Make checks payable to Superintendent of Documents)

☐ Charge to my Deposit Account No.....